



2014

SERVICE LEVEL AGREEMENT

SETSOTO LOCAL MUNICIPALITY AND NAKENI PROJECTS

PROJECT:- PROFESSIONAL SERVICE FOR THE CONSTRUCTION OF 3KM
PAVED ROADS AND STORMWATER DRAINAGE IN
SENEKAL/MATWABENG

TENDER NO:- T27(13/14)

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GENERAL CONDITIONS OF CONTRACT

1. DEFINITIONS

In the contract, the following words and expressions shall have meanings indicated, except where the context otherwise requires. Defined terms and words are signified in the text of the Contract by the use of capital initial letters.

Contract

The contract signed by the Parties and of which these General Conditions of Contract form part.

Contract Data

Specific data, which together with these General Conditions and annexed Appendices, collectively describe the risks, liabilities and obligations of the contracting Parties and the procedures for the administration of the Contract.

Contract Price

The price to be paid for the performance of the Services in accordance with Pricing Data.

Day

A calendar day.

Defect

A part of the Services, as performed, which does not comply with the requirements of the Contract.

Deliverable

Any measurable, tangible, verifiable outcome, result or item that must be produced or completed;

Employer

Setsoto Local Municipality as the contracting party named in the Contract who employs Nakeni Projects.

Force Majeure


An event which is beyond the reasonable control of a party and which makes a Party's performance of its obligation under the Contract impossible or so impractical as to be considered impossible under the circumstances.

Key Personnel

Persons who are named as such in the Contract Data who will be engaged in the performance of the Services.

Others

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Persons and organisations who are not Setsoto Local Municipality, Nakeni Projects or any employee, Subcontractor, or supplier of Nakeni Projects.

Parties

Setsoto Local Municipality and Nakeni Projects.

Period of Performance

The period within which the services are to be performed and completed, commencing from the Start Date.

Personnel

Persons hired by Nakeni Projects as employees and assigned to the performance of the Service or any part thereof.

Personnel Schedule

A schedule naming all personnel and Key persons.

Pricing Data

Data that establishes the criteria and assumptions that were taken into account when developing the Contract Price and record of the components that make up the Contract price.

Project

The project named in the Contract Data for which the Services are to be provided.

Scope of work

The document which defines Setsoto Local Municipality's objectives and requirements and specifies the Services which must, or may, be provided under the Contract.

Service Provider

The contracting party named in the Contract Data who is employed by Setsoto Local Municipality to perform the services described in the Contract, and legal successors to Nakeni Projects and legally permitted assignees.

Services


The work to be performed by Nakeni Projects pursuant to the Contract as described in the scope of Work.

Start Date


The date on which the Services are to commence as stated in the Contract Data.

Subcontractor

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A person or body corporate who enters into subcontract with Nakeni Projects to perform part of the Services.

2. INTERPRETATION

- 2.1 Unless inconsistent with the context, an expression which denotes:
- a) any gender includes the other genders;
 - b) a natural person includes a juristic person and vice versa;
 - c) the singular includes the plural and vice versa.
- 2.2 If there is any conflict between the provisions of these General Conditions of Contract Data, the provisions of the Contract Data shall prevail.
- 2.3 The clause shall not limit, alter or affect the meaning of the Contract.

3. GENERAL

3.1 Governing law

Law governing the Contracts shall not be the law of Republic of South Africa.

3.2 Change in legislation

If after the commencement of the Contract, the cost or duration of the Service is altered as a result of change in, or additions to, any statute, regulation or bye-law, or the requirements of any authority having jurisdiction over any matter in respect of the Project, then the Contract will also change.

Price and time for completion shall be adjusted in order to reflect the impact of those changes, provided that, within 14 Days of first having become aware of the change, Nakeni Projects furnished Setsoto Local Municipality with detailed justification for the adjustment to the Contract Price or Period of Performance (or both).

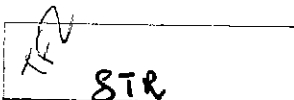
3.3 Language

- 3.3.1 The language of the contract and of all communications between Parties shall be English.
- 3.3.2 All reports, recommendations and reports prepared by Nakeni Projects under the contracts shall be in English.

3.4 Notices

- 3.4.1 Any notice, request, consent, approvals or other communications made between the Parties pursuant to the Contract shall be in writing and forwarded to the address specified in the Contract data. Such communication shall be deemed to have been made when delivered in person to an authorised representative of the party to whom the communication is addressed, or one week after having been sent by registered post, or unless otherwise indicated in the Contract Data, when sent by e-mail or advance notice of such change.

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3.4.2 A Party may change its address for receipt of communications by giving the other Party 30 Days advance notice of such change.

3.5 Location

The Services shall be performed at such locations as are specified in the Contract Data, and where the location of a particular task is not so specified, at such locations as Setsoto Local Municipality may approve.

3.6 Publicity and publication

Unless otherwise stated in the Contract Data, Nakeni Projects shall not release public or media statements or publish material related to the Services or Project within two (2) years of completion of the Services without the written approval of Setsoto Local Municipality, which approval by Setsoto Local municipality shall not be unreasonably withheld.

3.7 Confidentiality

Both parties shall keep all sensitive information obtained by them in the context of the Contract confidential and shall not divulge it without the written approval of the other Party.

3.8 Variations

3.8.1 Setsoto Local Municipality may, without changing the objectives or fundamental scope of the Contract, order variations to the Services in writing or may request Nakeni Projects to submit proposals, including the time and cost implications, for variations to the Services.

3.8.2 The reasonable cost of preparation and submission of such proposals and the incorporation into the Contract of any variations to the Services ordered by Setsoto Local Municipality, including any change in the Contract Price, shall be agreed between Nakeni Projects and Setsoto Local Municipality.


3.8.3 Where a variation is necessitated by default or breach of Contract by Nakeni Projects, any additional cost attributed to such variation shall be borne by Nakeni Projects.

3.9 Changes to the Contract Price or Period of Performance


3.9.1 Nakeni Projects is entitled to apply to Setsoto Local Municipality for a change in the Contract Price or the Period of Performance in the event that:

- a) a change in legislation takes place in accordance with the provisions of Clause 3.2;
- b) a variation to the services is made in accordance with the provisions of Clause 3.8;
- c) Setsoto Local Municipality or Others do not perform an action, provide access to people, places, or things or perform work in accordance with the programme (see Clause 3.15);
- d) the contract is suspended in accordance with the provisions of Clause 8.5;

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- e) the contract is restarted following a suspension; or
- f) an event occurs which neither Party could prevent and which Prevent Nakeni Projects from completing the Services or a part thereof.

3.9.2 Nakeni Projects shall submit proposals to change the Contract Price or the Period for Completion (or both) to Setsoto Local Municipality within 6 weeks of becoming aware of an event described in 3.9.1 occurring, failing which, Nakeni Projects shall not be entitled to a change in the Contract Price or Period of Performance.

3.9.3 Setsoto Local Municipality shall assess the changes to the Contract Price on the effect of the event on the Services based on time-based fees.

3.9.4 Setsoto Local Municipality shall assess the changes to the Period of Performance on the basis of the time that planned completion as shown on the latest approved programme delayed.

3.10 Sole agreement

The Contract constitutes the sole agreement between the Parties for the performance of the Services and any representation not contained therein shall not be of any force or effect unless reduced to writing and signed by both Parties.

3.11 Indemnification

Nakeni Projects shall, at its own expense, indemnify, protect and defend Setsoto Local Municipality, its agents and employees, from and against all actions, claims, losses and damage arising from any negligent act or omission by Nakeni Projects in the performance of the Services, including any violation of legal provisions, or rights of others, in respect of patents, trade-marks and other forms of intellectual property such as copyrights.

3.12 Penalty


3.12.1 If due to its negligence, or for reasons within its control, Nakeni Projects does not perform the Services within the Period of Performance or fail to submit draft reports and documents within the prescribed dates for submission, Setsoto Local Municipality shall not without prejudice to its other remedies under the Contract of law, be entitled to levy a penalty of R2000.00 per day for every day or part thereof, which shall elapse between the end of the period specified for performance or submission, or an extended Period of Performance or submission, and the actual date of completion or submission.

3.12.2 If Setsoto Local Municipality has become entitled to the maximum penalty amount referred to in 3.12.1, the later may after giving notice to Nakeni Projects:


- a) terminate the Contract;
- b) complete the Services at Nakeni Projects' cost.

3.13 Equipment and materials furnished by Setsoto Local Municipality

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3.13.1 Equipment and material made available to Nakeni Projects by Setsoto Local Municipality, or purchased by Nakeni Projects with funds provided by Setsoto Local Municipality for the performance of the Services shall be the property of Setsoto Local Municipality and shall be marked accordingly. Upon termination or expiration of the Contract, Nakeni Projects shall make available to Setsoto Local Municipality an inventory of such equipment and materials and shall dispose of them in accordance with Setsoto Local Municipality's instructions.

3.13.2 Nakeni Projects shall, at its own expense, insure the equipment and materials referred to in 3.13.1 for their full replacement value.

3.14 Illegal and impossible requirements

Nakeni Projects shall notify Setsoto Local Municipality immediately, on becoming aware that the Contract requires the latter to undertake anything which is illegal or impossible.

3.15 Programme

3.15.1 Nakeni Projects shall, within the time period set out in the Contract Data and whenever a programme is amended or revised, submit for Setsoto Local Municipality's approval a programme for the performance of the Services which shall, inter alia, include:

- a) the order and timing of operations by Nakeni Projects and any actions, access to people places and things and work required of Setsoto Local Municipality and others;
- b) the dates by which Nakeni Projects plans to complete work needed to allow Setsoto Local Municipality and Others to undertake work required of them;
- c) provisions for float;
- d) the planned completion of the Services or part thereof in relation to a Period of Performance; and
- e) other information as required in terms of the Scope of Work or Contract Data.

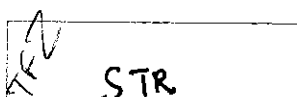
3.15.2 Setsoto Local Municipality may, during the course of the Contract, request Nakeni Projects to amend the programme. Where this is not practicable, Nakeni Projects shall advise Setsoto Local Municipality accordingly and advise the latter of alternative measures, if any, which might be taken.

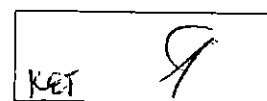
3.15.3 A programme shall be deemed to be approved if Setsoto Local Municipality fails to approve such programme or give reasons for not approving a programme within three weeks of receipt of request by Nakeni Projects to approve a programme.

3.15.4 Nakeni Projects shall update the programme:

- a) unless otherwise stated in the Contract Data, every three months to reflect actual progress to date;
- b) whenever a change in Period of Performance or Contract Price is applied for; and

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- c) Whenever a change in the Period of Performance is changed by Setsoto Local Municipality and submit such revised programme to Setsoto Local Municipality for approval.

3.16 Price adjustment to time-based fees for inflation

3.16.1 Time-based fees which are stated in the Pricing Data as a unique rate and are not calculated by multiplying the total annual cost of employment contained, shall unless otherwise stated in the Contract Data, be adjusted in terms of 3.16.2 on each anniversary of the Starting Date.

3.16.2 The adjustment to the time-based fees shall be equal to:

$(CPI_n - CPI_s) / CPI_s$

where CPI_s = the indices specified in the Contract Data during the month in which the start date falls

CPI_n = the latest indices specified in Contract Data during the month in which the anniversary of the Start Date falls

4. EMPLOYER'S OBLIGATIONS

4.1 Information

- 4.1.1 Setsoto Local Municipality shall timeously provide to Nakeni Projects, free of cost, all available information and data in Setsoto Local Municipality's possession which may be required for the performance of the Services.
- 4.1.2 Setsoto Local Municipality shall provide Nakeni Projects with reasonable assistance required in obtaining other relevant information that the latter may require in order to perform the Services.

4.2 Decisions

Setsoto Local Municipality shall, within a reasonable time, give its decision on any matter properly referred to the latter in writing by Nakeni Projects so as not to delay the performance of Services.

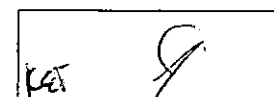
4.3 Assistance

4.3.1 Setsoto Local Municipality shall co-operate with Nakeni Projects and shall not interface with or obstruct the proper performance of the Services. Setsoto Local Municipality shall as soon as practicable:

- a) authorise Nakeni Projects to act as its agent insofar as may be necessary for the performance of the Services;
- b) provide all relevant data, information, reports, correspondence and the like, which become available;

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- c) procure Nakeni Projects ready access to premises, or sites, necessary for the performance of the Services;
- d) assist in the obtaining of all approvals, licences and permits from state, regional and municipal authorities having jurisdiction over the Project, unless otherwise stated in the Contract Data;

4.3.2 Unless otherwise communicated, the authorised and designated person named in the Contract Data has complete authority in giving instructions and receiving communications on Setsoto Local Municipality's behalf and interpreting and defining Setsoto Local Municipality's policies and requirements in regard to the Services.

4.4 Service of others

Setsoto Local Municipality shall, at its own cost, engage such Others as may be required for the execution of work not included in the Services, but which is necessary for the completion of the Project.

4.5 Notification of material change or defect

Setsoto Local Municipality shall immediately advice Nakeni Projects on becoming aware of:

- a) any matter other than change in legislation which will materially change, or has changed the Services; or
- b) a material defect or deficiency in the Services.

4.6 Issue of instructions

Where Nakeni Projects is required to administer the work or services of Others, or any contract or agreement, on behalf of Setsoto Local Municipality, then Setsoto Local Municipality shall issue instructions related to such work, services, contract or agreement only through Nakeni Projects.

4.7 Payment of Service Provider

Setsoto Local Municipality shall pay Nakeni Projects the Contract Price in accordance with the provisions of the Contract.

5. SERVICE PROVIDER'S OBLIGATIONS



5.1 General

5.1.1 Nakeni Projects shall perform the Services in accordance with the Scope of Work with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.

5.1.2 If Nakeni Projects is a joint venture or consortium of two or more persons, Nakeni Projects shall designate one person to act as a leader with authority to bint the joint venture or

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consortium shall be altered without the prior consent in writing Setsoto Local Municipality, which shall not be unreasonably withheld.

5.2 Exercise of authority

Nakeni Projects shall have no authority to relieve Others appointed by Setsoto Local Municipality to undertake work or services on the Project of any of their duties, obligations, or responsibilities under their respective arrangements or contract, unless expressly authorised by Setsoto Local Municipality in response to an application by Nakeni Projects in writing to do so.

5.3 Designated representative

Unless otherwise communicated, the authorised and designated person named in the Contract Data has complete authority to receive instructions from and give information to Setsoto Local Municipality on behalf of Nakeni Projects.

5.4 Insurances to be taken out by Nakeni Projects

5.4.1 Nakeni Projects shall as a minimum and at its own cost take out and maintain in force all such insurances as are stipulated in the Contract Data.

5.4.2 Nakeni Projects shall, at Setsoto Local Municipality's request, provide evidence to Setsoto Local Municipality showing that the insurance required in terms of Clause 5.4.1 above has been taken out and maintenance in force.

5.5 Service Provider's actions requiring Employer's prior approval

Nakeni Projects shall obtain Setsoto Local Municipality's prior approval in writing before taking, inter alia, any of the following actions:

- a) appointing Subcontractors for the performance of any part of the Services,
- b) appointing Key Persons not listed by name in the Contract Data.
- c) any other that may be specified in the Contract Data.

5.6 Co-operation with Others

If Nakeni is required to perform the Services in co-operation with Others the latter may make recommendations to Setsoto Local Municipality in respect of the appointment of such Others. Nakeni Projects shall, however, only be responsible for its own performance and the performance of Subcontractors otherwise provided for.

5.7 Notice of change by Service Provider



On becoming aware of any matter which will materially change or has changed the Services, Nakeni Projects shall within 14 Days thereof give notice to Setsoto Local Municipality.

5.8 Training of Setsoto Local Municipality Employees

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Nakeni Projects is required to provide training during the existence of the Contract to Four (4) Setsoto Local Municipality Employees who will be identified by the latter on the road to registration with Engineering Council of South Africa (ECSA).

6. CONFLICT OF INTEREST

6.1 Service Provider not to benefit from commissions, discounts, etc.

The remuneration of Nakeni Projects under the Contract shall constitute Nakeni Projects' sole remuneration in connection with the Contract, or the Services, and Nakeni Projects shall not accept for its own benefit any trade commission, discount, or similar payment in connection with activities pursuant to the Contract, or in the discharge of its obligations under the Contract, and shall use its best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them shall, similarly, not receive any additional remuneration.

6.2 Royalties and the like

Nakeni Projects shall not have the benefit, whether directly or indirectly, or any royalty or of any gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the Contract, or Project, unless so agreed by Setsoto Local Municipality in writing.

6.3 Independence

Nakeni Projects shall refrain from entering into any relationship which could be perceived as compromising its independent judgement, or that of Subcontractors or Personnel.

7. SERVICE PROVIDER'S PERSONNEL

7.1 General

7.1.1 Nakeni Projects shall employ and provide all qualified and experienced personnel required to perform the Services.

7.1.2 Where required in terms of the Contract, Nakeni Projects shall provide Key Personnel as listed in Contact Data to perform specific Duties. If at any time, a particular Key Personnel cannot be made available, Nakeni Projects may engage a replacement who is equally or better qualified to perform the stated duty, subject to Setsoto Local Municipality's approval, which approval shall not be unreasonably withheld.



7.1.3 Where the fees for the Services are time-based, the fee payable for a person provided as a replacement to a named Key Personnel shall not exceed that which would have been payable to the person replaced.

7.1.4 Nakeni Projects shall bear all additional costs arising out of or incidental to replacement of Personnel, except where such replacement is otherwise provided for in the Contract.

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7.1.5 Nakeni Projects shall take all measures necessary and shall provide all materials and equipment necessary and shall provide all materials and equipment necessary to enable Personnel to perform their duties in an efficient manner.

7.2 Provision of Personnel in terms of a Personnel Schedule

7.2.1 Nakeni Projects shall, where required in terms of the Contract Data, provide appropriate Personnel for such time periods as required in terms of the Contract and enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.

7.2.2 Where Nakeni Projects proposes to utilise a person not named in the Personnel Schedule, the latter shall submit the name, relevant qualifications and experience of the proposed replacement person to Setsoto Local Municipality for approval. Should Setsoto Local Municipality not object in writing within 10 Days of receipt of such notification, the placement shall be deemed to have been approved by Setsoto Local Municipality.

7.2.3 The services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. Nakeni Projects may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 7.2.1 above as may be appropriate to ensure the efficient performance of the Services, provided that the adjustments will not cause payments to exceed any limit placed on the Contract Price.

7.2.4 Nakeni Projects shall, if required in terms of Clause 7.2.1:

- a) forward to Setsoto Local Municipality for approval, within 15 Days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
- b) inform Setsoto Local Municipality of the date of commencement and departure of each member of Personnel during the Course of the Project.
- c) submit to Setsoto Local Municipality for its approval a timely request from any proposed change to Personnel, or timetables.

8. COMMENCEMENT, COMPLETION, MODIFICATION, SUSPENSION AND TERMINATION

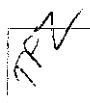
8.1 Commencement of Services

Nakeni Projects shall commence the performance of the Services within the period stated in the Contract Data.


8.2 Completion

8.2.1 Unless terminated in terms of the Contract, or otherwise specified in the Contract Data, the Contract shall be concluded when Nakeni Projects has completed all Deliverables in accordance with the Scope of Work.

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8.2.2 Nakeni Projects may request an extension to the Period of Performance if the latter is or will be delayed in completing the Contract by any of the following causes:

- a) additional Services ordered by Setsoto Local Municipality;
- b) failure of Setsoto Local Municipality to fulfil its obligations under the Contract;
- c) any delay in the performance of the Services which is not due to the Services Provider's default;
- d) *Force Majeure*; or
- e) Suspension.

8.2.3 Nakeni Projects shall within 14 Days of becoming aware that a delay may occur or has occurred, notify Setsoto Local Municipality of its intension to make a request for the extension of the Period of Performance to which the Nakeni Project considers entitled and shall within 30 days after the delay ceases deliver to Setsoto Local Municipality full and detailed particulars of the request.

8.2.4 Setsoto Local Municipality shall, within 30 days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or inform Nakeni Projects that the latter is not entitled to an extension. Should the Nakeni Project find the decision of Setsoto Local Municipality to be unacceptable Nakeni Projects shall, nevertheless, abide by such decision in the performance of the Services and the matter shall be dealt with as a dispute of Clause 12.

8.3 *Force Majeure*

8.3.1 The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of *Force Majeure*, provided that the Party affected by such an event.

8.3.2 In the vent that the performance of the services has to be suspended on the ground of *Force Majeure*, the Period of Performance shall be extended by the extent of the day plus a reasonable period for the resumption of work.

8.3.3 During the period of its inability to perform the Services as a result of an event of *Force Majeure*, Nakeni Projects shall be entitled to any payment due in terms of the Contract and shall be reimbursed for additional costs reasonably and necessarily incurred by the latter in suspending, delaying and re-activating the performance of the Services.

8.4 Termination

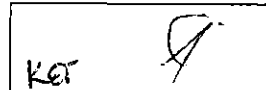
8.4.1 Setsoto Local Municipality may terminate the Contract:

- a) where the Services are no longer required;
- b) where the funding for the Services is no longer available;
- c) if Nakeni Projects does not remedy a failure in the performance of its obligations under the Contract within thirty (30) Days after having been notified thereof, or

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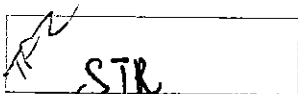
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within any further periods as Setsoto Local Municipality may have subsequently approved in writing;

- d) if Nakeni Projects becomes insolvent or liquidated;
 - e) if, as the Result of *Force Majure*, Nakeni Projects is unable to perform a material portion of the Services for a period of not less than sixty (60) Days;
- 8.4.2 Setsoto Local Municipality shall give Nakeni Projects not less than thirty (30) Days written notice of any termination made in terms of 8.4.1 (a) or (b).
- 8.4.3 Nakeni Projects may terminate the Contract, by giving not less than thirty (30) Days written notice to Setsoto Local Municipality after the occurrence of any of the following events:
- a) if Setsoto Local Municipality fails to pay any monies due to Nakeni Projects in terms of the Contract not subject to dispute pursuant to Clause 12 within forty-five (45) Days after receiving written notice from Nakeni Projects that such payment is overdue; or
 - b) if, as the result of *Force Majure*, Nakeni Projects is unable to perform a material portion of the services for a period of not less than sixty (60) days; or
 - c) when the Services have been suspended under Clause 8.5 and the period of suspension exceeds the period stated in the Contract Data, or it is clear to Nakeni Projects that it will be impossible or impractical to resume the suspended Service before the period of suspension has exceeded the period stated in the Contract Data; or
 - d) if Setsoto Local Municipality is in material breach of a term of the Contract and fails to rectify such breach within 30 Days of the receipt of written notice requiring the latter to do so.
- 8.4.4 Upon termination of pursuant to Clauses 8.4.1 or 8.4.3, Setsoto Local Municipality shall remunerate Nakeni Projects in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse Nakeni Projects any reasonable cost incident to the prompt and orderly termination of the Contract, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.
- 8.4.5 Should Nakeni Projects, being an individual or the last surviving principal of a partnership or body corporate, die or be prevented by illness or any other circumstances beyond its control from performing the obligations implied by the Contract, the Contract shall be terminated without prejudice to the accrued rights of either Party against the other.
- 8.5 Suspension**
- 8.5.1 Setsoto Local Municipality may temporarily suspend all or part of the Services by notice to Nakeni Projects who shall immediately make arrangements to stop the performance of the Services and minimise further expenditure.

SERVICE LEVEL AGREEMENT: Setsoto Local Municipality and Nakeni Projects
Project: Professional Services for the Construction of 3km Senekal Paved Road

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8.5.2 When Services are suspended, Nakeni Projects shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

8.6 Rights and liabilities of the Parties.

Completion, suspension or termination of the Contract shall not prejudice or affect the accrued rights or liabilities of the Parties.

9. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

9.1 Copyright of all documents prepared by Nakeni Projects in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in Nakeni Projects, Setsoto Local Municipality shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain Nakeni Projects' permission to copy for such use. Where copyright is vested in Setsoto Local Municipality, Nakeni Projects shall not be liable in any way for the use of any of the information other than as originally intended for the Project and Setsoto Local Municipality the latter thereby indemnifies Nakeni against any claim which may be made against the latter by any party arising from the use of such documentation for other purposes.

9.2 The ownership of data and factual information collected by Nakeni Projects and paid for by Setsoto Local Municipality shall, after payment by Setsoto Local Municipality, lie with Setsoto Local Municipality.

9.3 Setsoto Local Municipality shall have no right to use any documents prepared by Nakeni Projects whilst the payment of any fees and expenses due to Nakeni Projects in terms of the Contract is overdue.

10. SUCCESSION AND ASSIGNMENT

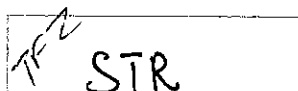
10.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives of the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.

10.2 An assignment shall be valid only if it is a written agreement by which Nakeni Projects transfers its rights and obligations under the Contract, or part thereof, to others.

10.3 Nakeni Projects shall not, without the prior written consent of Setsoto Local Municipality, assign the Contract or any part thereof, or any benefit or interest thereunder, except in the following cases:-

- a) by a charge in favour of Nakeni Projects' bankers of any monies due or to become due under the Contract; or

SERVICE LEVEL AGREEMENT: Setsoto Local Municipality and Nakeni Projects
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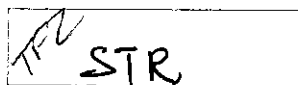
For Nakeni Projects

- b) by assignment to Nakeni Projects's insurers of Nakeni Projects's rights to obtain relief against any other person liable in cases where the insurers have discharged Nakeni Projects's loss or liability.
- 10.4 The approval of an assignment by Setsoto Local Municipality shall not relieve Nakeni Projects of its obligations for the part of the Contract already performed or the part not assigned.
- 10.5 If Nakeni Projects has assigned its Contract or part thereof without authorisation, Setsoto Local Municipality may forthwith terminate the Contract and the third party will have no claim against Setsoto Local Municipality resulting from such termination.

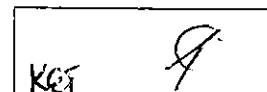
11. SUBCONTRACTING

- 11.1 A Service Provider may not subcontract any work which the latter has the skill and competency to perform, unless otherwise permitted in the Contract Data.
- 11.2 A subcontract, where permitted in terms in terms of Contract Data, shall be valid only if it is a written agreement by which Nakeni Projects entrusts performance of a part of the Services to Others.
- 11.3 Nakeni Consulting shall not subcontract to nor engage a Subcontractor to perform any part of Services without the prior written authorisation of Setsoto Local Municipality. The services to be subcontracted and the identity of the Subcontract shall be notified to Setsoto Local Municipality. Setsoto Local Municipality shall, within 14 Days of receipt of the and a full motivation why such services are to be subcontracted, notify Nakeni Projects of its decision, stating reasons, should the latter withhold such authorisation. If Nakeni Projects enters into a subcontract with a Subcontractor without prior approval, Setsoto Local Municipality may forthwith terminate the Contract.
- 11.4 Setsoto Local Municipality shall have no contractual relationships with Subcontractors. However, if a Subcontractor is found by Setsoto Local Municipality to be incompetent, Setsoto Local Municipality may request Nakeni Projects either to provide subcontractor with qualifications and experience acceptable to Setsoto Local Municipality as a replacement, or to resume the performance of the relevant part of the Services.
- 11.5 Nakeni Projects shall advise Setsoto Local Municipality without delay of the variation or termination of any subcontractor for performance of all or part of the Services.
- 11.6 Nakeni Projects shall be responsible for the acts, defaults and negligence of Subcontractors and their agents or employees in the performance of the Services, as they were the acts, defaults or negligence of Nakeni Consulting, its agents or employees. Approval by Setsoto Local Municipality of the subcontracting of any part of the Contract or the engagement by

SERVICE LEVEL AGREEMENT: Setsoto Local Municipality and Nakeni Projects
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Nakeni Projects of Subcontractors to perform any part of the Services shall not relieve Nakeni Projects of any of its obligations under the Contract.

12 RESOLUTION OF DISPUTES

12.1 Settlement

12.1.1 The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to the Contract and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiation have failed.

12.1.2 Any dispute or claim arising out of or relating to the Contract which cannot be settled between the Parties shall in the first instance be referred by the Parties to either Mediation or Adjudication as provided for in the Contract Data.

12.2 Mediation

12.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than 14 days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single Mediator. The Mediator shall be selected by agreement between the Parties or, failing such agreement, by the person named for this purpose in the Contract Data. The costs of the Mediation shall be borne equally by both Parties.

12.2.2 The Mediator shall convene the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Parties shall record such agreement in writing and thereafter shall be bound by such agreement.

12.2.3 The Mediator is authorised to end the mediation process at any time if in its opinion further efforts would not contribute to a resolution of the dispute between the parties.

12.2.4 If either Party is dissatisfied with the opinion expressed by the Mediator or should the Mediation fail, then such Party may require that the dispute be referred to Arbitration or Litigation in a competent Civil Court, as provided for in the Contract Data.

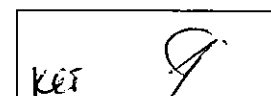
12.3 Adjudication

12.3.1 If the Contract Data does not provide for dispute resolution by mediation, an aggrieved Party may refer the dispute to adjudication. Adjudication shall be in accordance with the latest edition of the separately published CIDB Adjudication Procedures.

12.3.2 The Adjudicator shall be appointed in terms of the Adjudication's Agreement bound in the Construction Industry Board's Adjudication Procedure.

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12.3.3 The Adjudicator shall be any person agreed to by the parties or, failing such agreement, shall be nominated by the person named in the Contract Data.

12.3.4 If a Party is dissatisfied with the decision of the Adjudicator, the Party may give the other Party notice of dissatisfaction within 28 days of the receipt of that decision and refer the dispute to Arbitration or Litigation in a competent Civil Court as provided for in the Contract Data. If no notice of dissatisfaction is given within the specified time, the decision shall be final and binding to the Parties.

12.4 Arbitration

12.4.1 Arbitration, where provided for in the Contract Data, shall be by a single Arbitrator in accordance with the provisions of the Arbitration Act of 1965 (as amended) and shall be conducted in accordance with such procedure as may be agreed upon between the Parties or, failing such agreement, in accordance with the Rules for the Conduct of Arbitration published by the Association of Arbitrators current at the date the Arbitrator is appointed.

12.4.2 The Arbitrator shall be mutually agreed upon or, failing agreement, to be nominated by the person named in the Contract Data.

13 LIABILITY

13.1 Liability of Nakeni Projects

13.1.1 Nakeni Projects shall be liable to Setsoto Local Municipality arising out of or in connection with the Contract if a breach of Clause 5.1 is established against Setsoto Local Municipality.


13.1.2 Nakeni Projects shall correct a defect on becoming aware of it. If Nakeni Projects does not correct the defect within a reasonable time stated in a notification and the defect arose from a failure of Nakeni Projects to comply with its obligation to provide the Services, Nakeni Projects shall pay to setsoto Local Municipality the amount which Setsoto Local Municipality assesses as being the cost of having such defect corrected by Others.

13.1.3 All persons in a joint venture or consortium shall be jointly and severally liable to Setsoto Local Municipality in terms of this Contract and shall carry individually the minimum levels of insurance stated in the contract Data, if any.

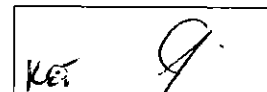
13.2 Liability of Setsoto Local Municipality

Setsoto Local Municipality shall be liable to Nakeni Projects arising out of or in connection with the Contract if a breach of an obligation of its terms of the Contract is established. Nakeni Projects shall have no separate delictual right of action against Setsoto Local Municipality.

SERVICE LEVEL AGREEMENT: Setsoto Local Municipality and Nakeni Projects
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13.3 Compensation

If it is established that either Party is liable to the other, compensation shall be payable only on the following terms:

- a) Compensation shall be limited to the amount of reasonably foreseeable loss or damages suffered as a result of the breach.
- b) In any event, the amount of compensation will be limited the amount specified in Clause 13.5.

13.4 Duration of Liability

Notwithstanding the terms of the Prescription Act No. 68 (as amended) or any other applicable statute of limitation of liability neither Setsoto Local Municipality nor Nakeni Projects shall be liable for any loss or damage resulting from any occurrence unless a claim is formally made within the period stated in the Contract data or, where no such period is stated, within a period of three years from the date of termination or completion of the Contract.

13.5 Limit of Compensation

13.5.1 Unless otherwise indicated in the Contract Data, the maximum amount of compensation payable by either Party to the other in respect of liability under the contract is limited to:

- a) the sum insured in terms of Clause 5.4 in respect of insurable events; and
- b) the sum stated in the Contract Data or, where no such amount is stated, to an amount equal to the amount of fees payable to Nakeni Projects under the Contract, excluding reimbursement and expenses for items other than salaries of Personnel, in respect of non-insurable events.

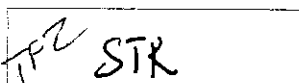
13.5.2 Each party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amount payable.

13.5.3 If either Party makes a claim for compensation against the other Party and this is not established, the claimant shall reimburse the other for its reasonable costs incurred as a result of the claim or if proceedings are initiated in terms of Clause 12 for such costs as may be awarded.


13.6 Indemnity by Setsoto Local Municipality

Unless otherwise indicated in the Contract Data, Setsoto Local Municipality shall indemnify Nakeni Projects against all claims by the third parties which arise out of or in connection

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with the performance of the Service save to the extent that such claims do not in the aggregate exceed the limit of compensation in Cause 13.5, if applicable, or are covered by the insurances arranged under the terms of Clause 5.4.

13.7 Exceptions

- 13.7.1 Clauses 13.5 and 13.6 shall not apply to claims arising from deliberate misconduct.
- 13.7.2 Nakeni Projects shall have no liability whatsoever for actions, claims, losses or damages occasioned by:-
- a) Setsoto Local Municipality omitting to act on any recommendation, or overriding any act, decision or recommendation of Nakeni Projects, or requiring Nakeni Projects to implement a decision or recommendation with which Nakeni Projects disagrees or on which the latter expresses a serious reservation; or
 - b) the improper execution of Nakeni Projects' instructions by agents, employees or independent contractors of Setsoto Local Municipality.

14 REMUNERATION AND REIMBURSEMENT OF SERVICE PROVIDER

Setsoto Local Municipality shall remunerate and reimburse Nakeni Projects for the performance of the Services as set out in the Pricing Data annexed hereto. If not otherwise stated in the said Pricing Data, the following shall apply:

- 14.1 Nakeni Projects shall be entitled to render interim monthly be entitled to render interim monthly accounts for fees or reimbursement throughout the duration of the Contract. Interim amounts of lump sum fees shall be based on the progress.
- 14.2 Amounts due to Nakeni Projects shall be paid by Setsoto Local Municipality within thirty (30) days of receipt by the latter of the relevant invoice.
- 14.3 If any item or part of an item in the invoice submitted by Nakeni Projects is disputed by Setsoto Local Municipality, the latter shall, before the due date of payment, give notice thereof with reasons to Nakeni Projects.
- 14.4 In respect of Services charged for on a time-basis and all other reimbursable expenses Nakeni Projects shall maintain the records in support of such charges and expenses for a period of twenty four (36) months after the completion or termination of the Contract. Within this period Setsoto Local Municipality may, on not less than 14 days notice, require that a reputable and independent firm of accountants or engineers, nominated by Setsoto Local Municipality at its expense, audit any claim made by Nakeni Projects for time charges and expenses by attending during normal working hours at the office where the records are maintained.


15 AMOUNTS DUE TO SETSOTO LOCAL MUNICIPALITY

Amounts due to Setsoto Local Municipality shall be paid by Nakeni Projects within thirty (30) days of receipt of the latter of the relevant invoices. If Setsoto Local Municipality does not receive payment by the due date, Setsoto Local Municipality shall be entitled to charge interest

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on an unpaid amount, which is payable by Nakeni Projects, at the rate stated in the Contract Data, calculated from the due date for payment.

16 PERSONNEL SCHEDULE

Title	Name	Surname	Qualifications	Exp(Yrs)	Project Position
Mr	T.D	Mashinini	Project and Construction Management	18	Project manager
Mr	Morne	Deyzel	Pr Tech (Eng)(Civil), NQF 7 SAICE, ECSA.	16	Project Engineer and Design Manager, EPWP
Mr	Le Roux	Reyneke	BSc. (Eng)(Civil), ECSA.	11	Project Engineer
Mr	Pieter	Kruger	Pr Tech (Eng)(Civil).	17	Design Technologist
Mr	Sonwabile	Tinga	Pr Tech (Eng)(Civil).	15	Resident Engineer
Mr	V.M	Dilima	Environmental Engineer	6	Supervisor
Mr	Izak	Lange	NQF 5	7	Resident EPWP Engineer

17 CONTRACT DATA

The conditions of Contract are the Standard Professional Services Contract (July 2009) published by the Construction Industry Development Board and includes the attached appendices which form part of the contract.

17.1 PART 1: DATA PROVIDED BY THE SETSOTO LOCAL MUNICIPALITY

CLAUSE	DESCRIPTION
	The Employer is: <u>SETSOTO LOCAL MUNICIPALITY</u>
	The authorised and designated representative of the Employer is: Name: <u>SIMON TSHEPISO RANKGOTHO RAMAKARANE</u>
	The contacts for communications are:- Telephone:..... Faxsimile :

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	E-mail:
	Address: 27 VOORTREKKER STREET FICKSBURG 9730

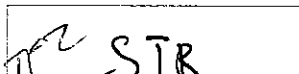
PART 2: DATA PROVIDED BY NAKENI PROJECTS

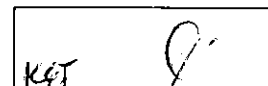
CLAUSE	DESCRIPTION
	The Service Provider is: <u>NAKENI PROJECTS (Pty) Ltd</u>
	The authorised and designated representative of the Service Provider is: Name: <u>MORNE DEYSEL</u> The contacts for communications are:- Telephone: <u>083 630 8860</u> Facsimile: <u>086 644 3121</u> E-mail: <u>MORNE@NAKENI.CO.UA</u> Address: <u>39 A PAV BOSHOFF STREET</u> <u>BETHLEHEM</u> <u>9701</u>

PART 3: KEY DATA

	The Period of Performance is: <u>5 months Initiation up to Tender Award.</u>
	The Start Date is: <u>03 December 2014</u>
	The Contract Price is: <u>R 1 077 300</u> Subjected to construction cost.
	The Programme shall be submitted within <u>7</u> Days of the award of the Contract

SERVICE LEVEL AGREEMENT: Setsoto Local Municipality and Nakeni Projects
Project: Professional Services for the Construction of 3km Senekal Paved Road


For Setsoto Local Municipality


For Nakeni Projects

	The Draft report shall be submitted within <u>N/A</u> Days of the award of the Contract
	In the event that the Parties fails to agree on a mediator, the mediator is nominated by <u>Setso Local Municipality and ECSA</u>
	In the event that the Parties fails to agree on an arbitrator, the Arbitrator is nominated by <u>ECSA</u>

PART 4: APPENDIXES


APPENDIX A : SPECIFICATION AND ADDITIONAL CONDITIONS OF TENDER (Pages 2-12)

APPENDIX B : PRICING DATA (Pages 24-29)

APPENDIX C : OFFER AND ACCEPTANCE (Pages 30-32)

APPENDIX D : LAYOUT PLAN

Dated at Ficksburg on this 22nd day of JANUARY 2014.




STR RAMAKARANE

MUNICIPAL MANAGER: SETSOTO LOCAL MUNICIPALITY

As WITNESSES:-

1. THOBELA LINDI 

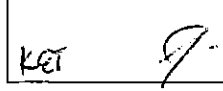
Name & Signature

2. LEBONA MOTLOUNG 

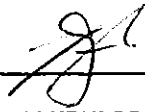
Name & Signature

SERVICE LEVEL AGREEMENT: Setsoto Local Municipality and Nakeni Projects
Project: Professional Services for the Construction of 3km Senekal Paved Road


For Setsoto Local Municipality



For Nakeni Projects

Dated at _____ on this ____ day of _____ 2014.



FOR: NAKENI PROJECTS

As WITNESSES:-


1. IKENELWE THIBE 

Name & Signature



2. _____

Name & Signature

SERVICE LEVEL AGREEMENT: Setsoto Local Municipality and Nakeni Projects
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For Setsoto Local Municipality

For Nakeni Projects

SETSOTO LOCAL MUNICIPALITY
FINANCE DEPARTMENT: SUPPLY CHAIN MANAGEMENT UNIT

TENDER NO.: T27 (13/14) APPOINTMENT OF A CONSULTING ENGINEER
FOR THE RENDERING OF PROFESSIONAL SERVICES FOR THE
CONSTRUCTION OF 3KM PAVED ROADS AND STORMWATER DRAINAGE IN
SENEKAL/MATWABENG

SPECIFICATION AND ADDITIONAL CONDITIONS OF TENDER

1. PURPOSE

The Technical Department: Project Management Unit (PMU) intends to appoint a consulting engineer to render professional services for construction of paved roads and stormwater drainage system in Matwabeng Township to improve the access and safety for both pedestrians and vehicles. The riding quality of the road surface has also deteriorated significantly since it is currently a gravel road.

It is the intention of the division to appoint a consulting engineering firm in terms of the Engineering Council of South Africa (ECSA) Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) and Gazetted (No 37102), 04 December 2013 Board Notice 243 of 2013, for the rendering of professional services according to the different stages, starting with the inception stage and ending with the construction and provision of a close out report. The appointment will also include construction monitoring.

Consulting engineering firms will be invited by means of a tendering process to submit a detailed project tender, with reference to the required professional services to be rendered during the implementation and execution of the project and information of their firms, for evaluation purposes.

2. BACKGROUND OF THE PROJECT

The road becomes very muddy after heavy rains, which makes it inaccessible to both pedestrians and vehicles. The riding quality of the road surface has also deteriorated significantly. There is n dedicated walkway for pedestrians.

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3. LOCATION OF THE PROJECT AND PAVEMENT HISTORY

The area is situated near Senekal in Matwabeng Township. The road is currently unpaved gravel road.

4. DESCRIPTION OF THE PROJECT

The project will include upgrading of a of 3.0km gravel access collectors, internal streets and related storm water to at least a 6m wide, 80mm inter-locking paved block surface and concrete-lined storm water drainage. The 3.0 km is a sum of kilometres of internal access roads.

The upgrading will entail the following:

- Removal of the existing unsuitable material.
- Preparation of Roadbed
- Construction of Subbase to 95% MOD AASHTO
- Construction of Base to 95% MOD AASHTO
- Laying of 80mm inter-locking pavement
- Construction of a concrete lined stormwater channel for 3.0 km road
- Laying of semi-mountable concrete kerbs
- Construction of concrete speed humps at 250m intervals
- Road Markings and Signage
- Construction of road shoulders
- Construction of bell mouths

5. MATERIALS TESTING

Material testing will be done to determine the residual strength of the existing pavement structure. Particular attention will be made in areas showing signs of rutting and deformation. This testing will generally be a non-destructive test using a Dynamic Cone Penetrometer (DCP). Test will be done on the existing seal to determine the remedial methodology and to confirm the cause and mechanism of distresses. Based on the visual assessment of the road, the material was found to be unsuitable for the layers desired to be used. A borrow pit will be identified around the area for use of materials in all pavement layers.

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6. OTHER FACTORS INVOLVED

The professional fees will be calculated and paid from the capital budget in terms of the Engineering Council of South Africa Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) for the rendering of professional services according to the different stages, starting with the inception stage and ending with the construction and provision of record drawing stages. Refer to Table A-1 below for the estimated professional fees calculated in terms of the Tariff of fees of ECSA. The appointment will also include construction monitoring.

7. PROJECT COST ESTIMATE

The final cost of the Works will, however, depend on the strategy selected by the Employer based on the most appropriate and cost effective options identified by the Service Provider during the detailed assessment and design phase. Tenderers shall note that no adjustments to any tendered rates will be applicable irrespective of the actual final cost of the Works.

8. PROJECT PROGRAMME

The Service Provider shall programme its duties in such a manner so as to complete the various phases of the total project within the milestone dates specified below.

The Employer's programme for this project is as follows:

ACTIVITY	TARGET DATE FOR COMPLETION
Design and documentation	15 August 2014
Tender Period	15 September 2014
Tender Awarding	30 September 2014
Start of Construction	01 November 2014
End of Construction	30 October 2015
Retention (9 Months)	30 October 2016

*See the dates
3/12/2014
XG. Letre*

9. Penalties and delays

Penalties shall be applied for each calendar day by which the Service Provider fails to meet the prescribed dates for submission of required by the Employer. Draft reports and documents shall be submitted to the Employer at least seven working days prior to any meetings scheduled for the discussion and finalisation thereof. The Service Provider shall thus take this period into account in compiling its programme. A penalty amount of R2000/day will apply.

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Any delays to the above programme that are attributable to the Employer, or to other approved mitigating circumstances, will not be subject to penalties. In the event of such instances arising, any extensions of time granted shall be limited to the equivalent number of calendar days attributable to each instance.

10. SCOPE OF THE PROJECT

The scope of the project includes the following:

The planning, design and supervision over the construction of 3km block paved roads and other related construction activities. The upgrading work must be investigated, analysed and designed to the satisfaction of the Setsoto Local Municipality. The estimated construction period is 12 months.

11. PROFESSIONAL FEES

The basic fee for normal services calculated in terms of Clause 4.2.1 (1) of the Engineering Council of South Africa (ECSA) Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) and Gazetted (No 37102), 04 December 2013 Board Notice 243 of 2013.

12. SCOPE OF THE APPOINTMENT

The general terms and conditions of the appointment will be as stipulated in the Engineering Council of South Africa (ECSA) Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) and Gazetted (No 37102), 04 December 2013, Board Notice No. 243 of 2013.

A summary of required services is provided below.

13. NORMAL SERVICES

The following services, as defined in the ECSA Guidelines Clauses 3.2, are required:

• Inception Stage	5%
• Concept and Viability	25%
• Design Development	25%
• Documentation and Procurement	15%
• Contract Administration and Inspection	25%
• Close-out	5%
Total	<u>100%</u>

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14. ADDITIONAL SERVICES

The following services, as defined in the ECSA Clause 3.3 are required:

- Additional services pertaining to all stages of the project
- Construction monitoring

The level of construction monitoring required will be level four (4) in accordance with ECSA Clause (6)(d).

15. INFORMATION REQUIRED

Your tender must contain the following:

- Submit a Shareholding Certificate indicating the registered shareholding of your firm.
- Submit a Company Profile of your firm, with sufficient information to evaluate your firm in terms of the Comparative Evaluation Form (Functionality Based).
- Specific information with reference to qualifications, experience and expertise for the rendering of professional services.
- Proof of your company's professional registration and Professional Indemnity Insurance must be submitted.
- Proof of insurance signed by your company's insurance broker must accompany your tender. You will be required to take out a professional indemnity insurance policy from an insurance company, which is registered according to the law of the Republic of South Africa, that render coverage against the following with respect to all Consulting Engineers work to be executed by your firm or your firm's appointed Agents:
- Any loss or damage that the SLM can suffer due to any misconceptions, omissions or negligence, due to the non compliance of professional duties by the Consulting Engineer or his/her workers with regard to the services that he/she has undertook to deliver. Your firm shall insure against professional negligence, errors and omissions under a Professional Indemnity Policy for at least R5-million per claim and the number of claims unlimited.
- Any Accountability for the death or injury of any third party due to misconceptions, omissions or negligence due to non compliance of professional duties for which the Consulting Engineer is responsible with respect to the appointment agreement.

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- Your firm must calculate the tender price in detail as requested hereunder in accordance with Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000).
- The estimated construction period is 12 months. The mentioned estimated construction cost and estimated construction period must be used for the calculation of your professional fees in accordance with the ECSA Guidelines.
- Submit a detail cost break down (exclusive of 14% VAT) with references to the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) that should include the following:
 - Basic Professional Fees for Civil Engineering Projects calculated on the estimated cost of the works and estimated construction period. Proportion the calculated basic fee over the various stages of the service. Please ensure that you indicate / include all your firm's calculations.
 - Construction Monitoring Costs based on Level 4 - please ensure that you indicate / include all your firm's calculations with reference to the applicable items as described in Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000).

16. REIMBURSEMENT OF EXPENSES

According to the Finance Department of the SLM an accurate as possible estimate is required. Please ensure that you indicate / include all your firm's calculations in a structured manner.

- Travelling Costs (Should costs other than Travelling Cost per kilometre, such as toll road fees be estimated, such costs must then be indicated.)
- Communications
- Travelling Time
- Typing
- Printing, Plotting and Copying

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Please take note that the Technical Department requires three(3) sets of design reports which needs to be approved prior to submission of draft tender document, three (3) draft documents and three (3) sets of design plans for approval. Thereafter five (5) set of drawings and at least twenty (20) blank tender documents as approved per contract are required by the Technical Department and the Tender Section of the Finance Department of the SLM respectively and must be submitted by not later than 12:00 on the day prior to the day of placing the Tender Advertisement in the newspapers. Four (4) copies of the signed tender documents have to be provided to the Project Management Unit (PMU) after the awarding of the contract(s). The abovementioned is for the account of the Consultants and must therefore, be included in your firm's tender.

17. AN ORIGINAL VALID TAX CLEARANCE CERTIFICATE

Company to submit an original valid tax clearance certificate

18. REIMBURSEMENT OF COSTS INCURRED

All the costs for activities which may be incurred by the consultant and agent on behalf of, and with the approval of the SLM, must be estimated as far as possible. According to the Finance Department of the SLM an accurate as possible estimate is required. Please ensure that you indicate / include all your firm's calculations in a structured manner.

Such costs shall typically include, but not be limited to, the following:

- 19.1 Geotechnical investigations.
- 19.2 Laboratory testing.
- 19.3 Topographical surveys.
- 19.4 Supply of specific equipment.
- 19.5 Environmental investigations and studies.
- 19.6 Any other activities proposed to be executed by the successful Consultant to be appointed.
 - Please ensure that your firm's tender should be exclusive of 14% VAT as indicated in Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000).

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19. PERSONNEL

Information regarding personnel (Curriculum Vitae's (CVs) that will be involved in the project must be provided as part of the tender.

The company capability statement must also be provided with specific reference to knowledge, experience and expertise of the following:

- Road and stormwater design and upgrading,
- Municipal services,
- At least 5 years experience in road and stormwater design
- Construction monitoring.
- Quality control systems.
- Occupational Health and Safety experience with specific reference to the Construction Regulations, 2003.

20. APPOINTMENT AND REMUNERATION

A single appointment will be made and remuneration will be calculated in accordance with the fee structure of the Engineering Council of South Africa (ECSA) Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) and Gazetted (No 37102), 04 December 2014 Board Notice 243 of 2013 and in terms of the tender that your firm will be submitting.

Interim progress payments will be made upon delivery of invoices and the appropriate supporting documentation with regard to work completed to the satisfaction of the SLM. It must be noted that payment will only be made after the work has been approved by the SLM.

21. PROPOSALS

The tender must provide a detailed description of the engineering services that will be provided together with a tendered fee for the professional work to be executed. Any work not described in this Request for Tender but which the consultant considers necessary must be included in the tender.

The tender will be evaluated in accordance with the Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) and in terms of technical content, price and BBBEE claimed..

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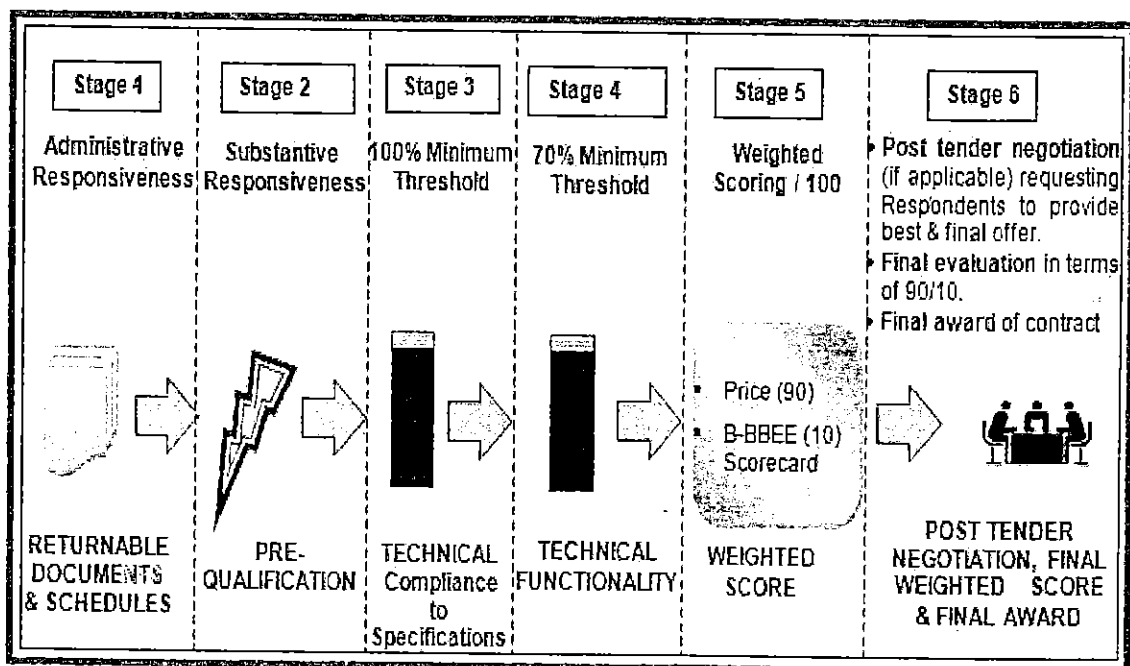
The technical contents of the tender will be evaluated in terms of norms such as the following:

- Project specific service methodology.
- Itemised description of the engineering considerations, practices and services.
- Approaches to:
 - Civil engineering services.
 - Municipal services relocation
 - Construction monitoring (including quality Control).
 - Occupational Health and Safety (Construction Regulations, 2003).
 - Environmental matters.

22. EVALUATION AND APPOINTMENT

The appointment of the successful consultant is expected to be completed prior 15 July 2014. The SLM reserves the right to cancel / postpone the appointment of the successful consultant at any time and to reimburse the successful consultant and agent for work done to date to the satisfaction of the SLM and approved by the SLM, after which any further obligation shall fall away and no claims be possible against the SLM, by the successful consultant and / or agent, for the cancellation of the appointment agreement between the SLM and the successful consultant and / or agent.

The table below indicates the evaluation criteria which will apply:



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CRITERIA FOR EVALUATING FUNCTIONALITY

Quality Criteria	Sub-criteria	Min.no of points	Max. no of points
Demonstrated experience (past performance) in comparable projects and demonstrated experience with respect to aspect of the project	Project Management (6/30) 0- 3 years (10) 3+ - 5 years (15) 5+ years (20) Roads and storm water (3/30) 0-3 years (10) 3+ - 5 years (15) 5+-years (20)	30	40
Qualification and competence of the Company directors	Qualification and experience of Directors Pr. Eng. Or Pr Tech. 0-3 years (4) 3+ -5 years (7) 5+ - years (10)	7	10
Qualification and competence of the key staff (assigned personnel) in relation to the scope of work	Qualification and experience of Design team Civil/structural Engineer Electrical Engineer Mechanical Engineer Pr.Eng , or Pr. Tech 0-3 years (10) Qualification of experience of construction monitoring 0-3 years (13) 3+ - 5 years (15) 5+ - years (20)	23	30
Demonstrable managerial ability appropriate to the size and nature of the work	Total project cost <R10 000 000.00 (5) >R10 000 000.00 (10)	5	10
Organisation, logistics and support resources (list)	Organisational structure (5) Offices (5)	5	10
Maximum possible score for quality		70	100

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23. TIME FRAME

The project time frame will be finalised upon appointment of the consultant, however, it is intended that the appointment be made by 15 July 2014 or nearest date and that the design and tender documentation for the designs and tender documents be completed by 15 August 2014 or nearest date. These dates can however be changed during the implementation and execution of the project.

The intended construction commencement date is 01 November 2014. Construction commencement will also depend on the availability of funds.

24. COMPULSORY BRIEFING SESSION

A formal compulsory briefing session has been scheduled to be held at 10h00 on Friday, 13 June 2014 Setsoto Local Municipal Building , Technical Boardroom, 27 Voortrekker Street, Ficksburg, 9730 . Prospective bidders will be taken to the project site after the formal briefing session.

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SETSOTO LOCAL MUNICIPALITY
FINANCE DEPARTMENT: SUPPLY CHAIN MANAGEMENT UNIT

TENDER FOR THE APPOINTMENT OF A CONSULTING ENGINEER FOR THE
CONSTRUCTION OF 3KM PAVED ROADS AND STORMWATER DRAINAGE
IN MATWABENG

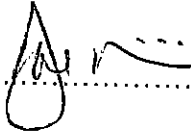
PRICING DATA

NOTE:

- (a) Tenders will not be considered unless this form is completed in every detail and is signed.
- (b) Tender documents must be completed in black ink, and total or final prices must include VAT.

In terms of tender Notice of this project,

I/We T.D. Mashini..... the undersigned, having examined the scope, conditions and stipulations of the tender, hereby offer to undertake the work in accordance therewith, at the following prices:

SIGNATURE OF TENDERER.....


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11. FEE TENDER GUIDELINES

Engineering Council of South Africa (ECSA) Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) and Gazetted (No 37102), 04 December 2013 Board Notice 243 of 2013.

A. NORMAL SERVICES

BASIC FEE: CIVIL ENGINEERING SERVICES

Table A

Cost of the Works					
Where the cost of the works exceeds	But does not exceed	Primary Fee	Secondary Fee	Estimated cost of work	Basic Fee (to Table A2)
R 4.500.000,00		7%		R 15.390.000,00	R 1.077.300,00
p/km		prof. fees		for 3 km	for 3 km

Important Note: The above table has been completed based on the estimated cost of works (refer to MIG guidelines). The basic fee, however, will be calculated using the total cost of the works should such cost differ from the estimated cost.

Table B

Item No.	Description	Unit	Quantity	Rate	Amount (R)
3200	DETAILED ASSESSMENT &				
32.01	Detailed Assessment & Investigations				
	Detailed Assessment & Investigations	sum	1	15.000,00	15.000,00
	Travel and subsistence cost	Km	Rate Only	4,50	
32.02	Survey				
	Survey Services	sum	1	18.000,00	18.000,00
	Handling costs: i.r.o. sub. item. 32.02 (a)	10%		1.800,00	1.800,00
	TOTAL CARRIED FORWARD TO SUMMARY				34.800,00

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Table C

Item No.	Description	Unit	Quantity	Rate	Amount (R)
3300	DETAILED ASSESSMENT & DESIGN				
33.01	Detailed Assessment &				
	(a) Submission of Assessment a detailed	sum	3	50 000,00	150 000,00
33.02	Detailed				
	(a) Construction of new pavement layers and block paving wearing	km	3	4 500 000,00	13 500 000,00
33.03	Occupational Health & Safety requirements	Prov. Sum			R450 000,00
TOTAL CARRIED FORWARD TO SUMMARY					14 100 000,00

Table D

Item No	Description	Unit	Quantity	Rate	Amount (R)
3400	TENDER DOCUMENTATION				
34.01	Tender documentation:				
	(a) Preparation of tender documentation	sum	20	250,00	5 000,00
	(b) Burning of tender documents on CD	No.	4	35,00	140,00
TOTAL CARRIED FORWARD TO SUMMARY					5 140,00

Table E

Item No	Description	Unit	Quantity	Rate	Amount (R)
3500	SITE INSPECTION, TENDER PERIOD & TENDER EVALUATION				
35.01	Site inspection and tender period				
	(a) Service Providers cost	sum	1	25 000,00	25 000,00
35.02	Tender evaluation report:				
	Tender evaluation	sum	2	1 000,00	2 000,00
TOTAL CARRIED FORWARD TO SUMMARY					27 000,00

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Table F

Item No	Description	Unit	Quantity	Rate	Amount (R)
3600	ADMINISTRATION AND MONITORING OF THE WORKS CONTRACT				
36.01	Engineer and Head Office				
	(a) Duties of the Engineer	month	12	20 915,00	251 700,00
	(b) Head office overhead costs	month	12	25 000,00	300 000,00
	c) OH&S obligations	month	12	5 000,00	60 000,00
36.02	Preparation of Works Contract Documents	sum	1	5 000,00	5 000,00
36.03	Establishment of supervisory personnel on site	sum	1	15 000,00	15 000,00
36.04	Monitoring of the Works	month	12	7 500,00	90 000,00
36.05	Transport for site personnel and additional duties				
	(a) Travelling to perform duties	sum	1	54 000,00	54 000,00
	(b) Handling costs i.r.o. 36.05(a)	10%		5 400,00	5 400,00
36.06	Administration during the defects notification period	sum	1	10 000,00	10 000,00
	TOTAL CARRIED FORWARD TO SUMMARY				791 100,00

Table G

Item No	Description	Unit	Quantity	Rate	Amount (R)
3700	ADDITIONAL DUTIES				
37.01	Additional duties by Service Provider				
	(a) Personnel - Category A	hour		1446,00	
	(b) Personnel - Category B	hour		1013,00	
	(c) Personnel - Category C	hour		837,00	
	(d) Personnel - Category D	hour		550,00	
37.02	Additional duties by the Employer				
	(a) Personnel - Category B	hour		1013,00	
	(b) Personnel - Category C	hour		837,00	
	(c) Personnel - Category D	hour		550,00	
	TOTAL CARRIED FORWARD TO SUMMARY				

Table H

Item No	Description	Unit	Quantity	Rate	Amount (R)
3800	MATERIALS INVESTIGATION AND TESTING: DESIGN PHASE				
3801	Pavement Investigation and Sampling	sum	1	15 000,00	15 000,00
3802	Laboratory testing and reporting: detailed assessment	sum	1	13 500,00	13 500,00
	Handling costs i.r.o. sub-item 38.02	10%		1 350,00	1 350,00
	TOTAL CARRIED FORWARD TO SUMMARY				29 850,00

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Table I

Item No	Description	Unit	Quantity	Rate	Amount (R)
3900	MATERIALS QUALITY CONTROL: CONSTRUCTION PHASE				
39.01	On-site laboratory testing:				
	(a) On-site laboratory	sum	1	21 000,00	21 000,00
	(b) Handling cost i.r.o. item 39.01(a)	10%		2 100,00	2 100,00
39.02	Off-site materials testing:				
	(a) Off-site materials	sum	1	28 000,00	28 000,00
	(b) Handling costs i.r.o. sub-item 39.02(a)	10%		2 800,00	2 800,00
39.03	Transport for site laboratory personnel:				
	(a) Travelling to perform duties	sum	1	22 500,00	22 500,00
	(b) Handling cost i.r.o. sub-item	10%		2 500,00	2 500,00
	TOTAL CARRIED FORWARD TO SUMMARY				78 900,00

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SUMMARY PRICING SCHEDULE

Detailed assessment phase	R	34 800,00
Detailed assessment and design report	R	14 100 100,00
Tender Documentation	R	5 140,00
Site inspection, tender period and tender evaluation	R	27 000,00
Administration and monitoring of the Works contract	R	7 91 100,00
Additional Duties	R	
Materials investigation and testing: design phase	R	29 850,00
Materials quality control: construction phase	R	78 900,00
SUB TOTAL	R	15 066 790,00
VAT (14%)	R	2 109 350,00
TOTAL	R	17 176 140,00

SIGNED ON BEHALF OF TENDERER: Naken Project

It must be noted that the abovementioned fees are estimated professional fees and that the final professional fees will only be known and finalised once the contract or contracts is awarded to a successful contractor and the final contract amount, contract price and final disbursement costs and expenses are known.

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FORM OF OFFER AND ACCEPTANCE

SETSOTO: CONSTRUCTION OF 3KM PAVED ROADS IN MATWABENG

CONTRACT No: T27 (13/14)

OFFER

The Employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of:

SETSOTO: CONSTRUCTION OF 3KM PAVED ROADS IN MATWABENG

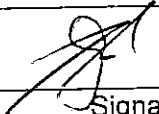
The Tenderer, identified in the offer signature block, has examined the documents listed in the terms of reference and by submitting this offer has accepted the conditions of the RFQ.

By the representative of the Tenderer, deemed to be duly authorized, signing this part of this form of offer and acceptance, the Tenderer offers to perform all of the obligations and liabilities of the Consultant under the contract including compliance with all its terms and conditions according to their true intent.

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS:

Rand (in words):	One Zero Seven Seven Times Zero Two Only
Rand in figures:	R 1 077 300, 00.

SIGNED FOR THE TENDERER:

Nakoni Projects (Pty) Ltd		5/7/2014
Name of representative	Signature	Date


WITNESSED BY:

A. Dazal		5/7/2014
Name of witness	Signature	Date

The Tenderer elects as its *domicilium citandi et executandi* in the Republic of South Africa, where any and all legal notices may be served, as (physical address):

39A Peka - Basheer Street
 Bethel
 9701

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Other Contact Details of the Tenderer are:

Telephone No. 058 303 0745

Cellular Phone No. 083 305 1905

Fax No. 086 644 3121

Postal address P.O. Box 1371, Bethlehem, 9700

Account holders name: NAKENI PROJECTS (PTY) LTD.

Bank: STANDARD BANK

Branch: BETHLEHEM

Account No. 300 208 715

Type: BUSINESS CURRENT ACC.

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ACCEPTANCE


By signing this part of this form of offer and acceptance, the Employer identified below accepts the Tenderer's offer. In consideration thereof, the Employer shall pay the Consultant the amount due in accordance with the conditions of Service Level Agreement to be completed in due cause. Acceptance of the Tenderer's offer shall form an agreement between the Employer and the Tenderer upon the terms and conditions contained in Service Level Agreement that is the subject of this agreement.

Deviations from and amendments to the Terms of Reference and any addenda thereto as listed as well as any changes to the terms of the offer agreed by the Tenderer and the Employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement.

The Tenderer shall within two weeks after receiving a completed copy of the Service Level Agreement including the schedule of deviations (if any), contact the Employer's agent (whose details are given in the terms of reference) to arrange the delivery of any professional indemnity/s, proof of insurance and any other documentation to be provided in terms of the conditions of service level agreement. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.


Notwithstanding anything contained herein, this agreement comes into effect, if delivered by hand on the day of delivery, or if delivered by courier within two working days after submission by the Employer to the courier services for a door-to-door delivery to the Tenderer, provided that the Employer notifies the Tenderer of the tracking number within 24 hours of such submission. Unless the Tenderer (now Consultant) within seven working days of the date of such submission notifies the Employer in writing of any reason why he cannot accept the contents of the agreement, the agreement shall constitute a binding contract between the parties.

For the Employer:

STR RAMAKRAME		22/01/2015
Name of signatory	Signature	Date

Name of Organisation:	Setsoto Local Municipality
Address of Organisation:	27 Voortrekker Street Ficksburg 9730

WITNESSED BY:

THEBEVA ZONOL		17/12/14
Name of witness	Signature	Date

Handwritten initials

SEE SHEET 2
 FOR SUPPLY LINE
 TO WATERBORN
 REFER TO
 DRAWING 1888480/01

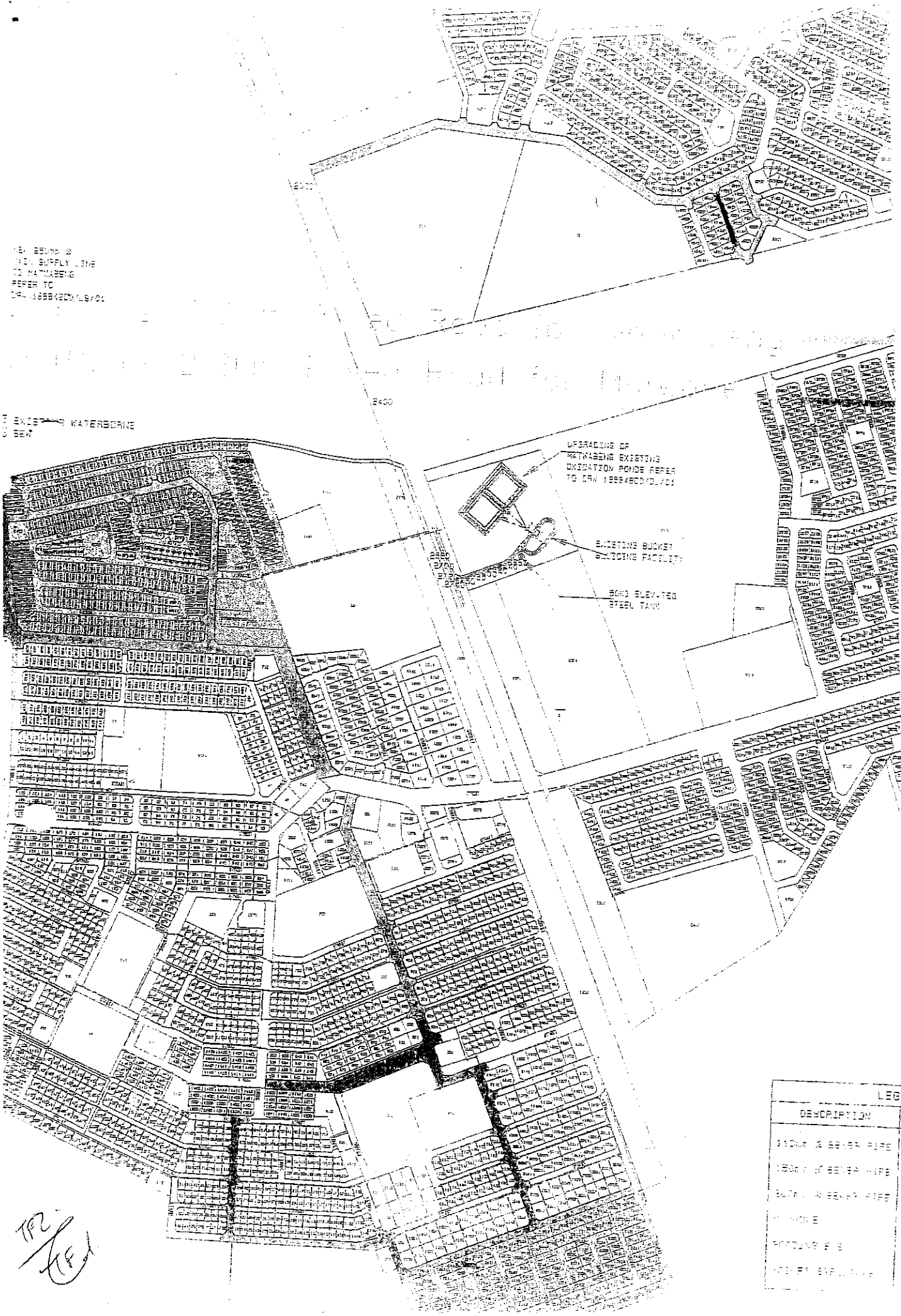
SEE WATERBORNE
 SHEET

B400

UPGRADING OF
 WATERBORN EXISTING
 OXIDATION PONDS REFER
 TO DRAWING 1888480/01

EXISTING SUCKER
 PUMPING FACILITY

5000 GALLON
 STEEL TANK



DESCRIPTION	LEGS
12" 150 LB. STEEL PIPE	
12" 150 LB. DUCTILE IRON PIPE	
6" 150 LB. DUCTILE IRON PIPE	
4" 150 LB. DUCTILE IRON PIPE	
2" 150 LB. DUCTILE IRON PIPE	
1" 150 LB. DUCTILE IRON PIPE	
1/2" 150 LB. DUCTILE IRON PIPE	

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