

ANNEXURE A

Good Practice Scheme Phase 3 | 2008-2011

Letter of Agreement

Commonwealth Local Government Good Practice Scheme (GPS)

Project Number: GPS3/01-10

Title:

This letter of agreement signed on the 11th of April 2011, between:

1. The **Commonwealth Local Government Forum** (hereafter "CLGF")
Craven House
16a Northumberland Avenue
London
WC2N 5AP

And

2. The **City of Cape Town Municipality** (hereafter "the GPS Partner")
9TH Floor
Civic Centre- Tower
12 Hertzog Boulevard
Cape Town
8000

Relates to the formation of a Good Practice Scheme Phase 3 partnership project between the GPS Partner and [partner name], [country] (hereafter 'The Project').

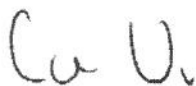
For CLGF:

Name: Carl Wright

Position: Secretary General

Date: 11th April 2011

Signature:



For the GPS Partner:

Name: [print name] LUNCHE DHLAMINI

Position: Executive Director: Utility Services

Date: 13 FRIDAY 2011

Signature:



Witnessed by: [print name] NOBBY MENTOOK

Position: EXEC SUPPORT ASSISTANT

Date: 13 MAY 2011

Signature:



1. Prerequisites

1.1 CLGF has agreed to co-sign this agreement with the City of Cape Town Municipality on the basis that the project documentation noted below, will be completed within the first three months of the project period:

- a) The Project Concept Note (PCN)
- b) The Project Proposal – narrative, budget and logframe.

1.2 By signing this document, the GPS Partner confirms that they possess the necessary skills, expertise, capacity and personnel to deliver The Project.

1.3 The GPS Partner confirms that all the information provided in the application documents submitted to CLGF is to the best of their knowledge true; and accepts that changes to this information may affect the continuation of The Project.

2. Timing

2.1 The project will commence on the **29th of April 2011**.

2.2 The project will be funded by CLGF, through the Good Practice Scheme for a maximum of 5(five) months, finishing no later than **30th September 2011**.

2.3 The project shall consist of two phases:
2.3.1 Phase One, the planning mission; and
2.3.2 Phase Two, the project implementation.

2.4 Applications by the GPS Partner to alter the start and/or end dates of the project must be agreed in writing by CLGF.

2.5 Any change to the start and/or end dates of the project must be agreed by CLGF in writing.

3. Funding

3.1 The agreed budget for The Project is **GBP£40.000.00**.

3.2 Funding will be disbursed in the manner as described in clause 6 herein.

3.3 Any proposed changes to the budget must be agreed by CLGF in writing.

3.4 The GPS Partner must inform CLGF if they are applying for, or have received any additional funding for activities that fall, in whole or in part, under the scope of The Project.

3.5 CLGF is not obliged to disburse the full funding allocation if the Municipality has breached any of the terms of this agreement, or any other circumstances have arisen which the Parties agree after consultation, has made the project unsustainable. Any changes to funding disbursement will be made by CLGF in writing, and after consultation with the GPS Partner.

4 Activities

4.1 The GPS Partner will use the funding received from CLGF solely for the project activities as laid out and agreed in the forthcoming Project Proposal (to be attached hereto as **Annexure "A"**). Evidence of activities and related expenditure will be provided to CLGF through the narrative and budget reports submitted to CLGF (see Section 5), with supporting documentation as appropriate.

4.2 The GPS Partner will to its best endeavours not perform any act, or engage in any work that is likely to significantly disrupt, delay or conflict with The Project, or cause its termination. The CLGF acknowledges that the GPS Partner's South African Constitutional mandate to provide services to the local community within its territory will take preference over the commitments as stipulated herein.

4.3 The GPS Partner must inform CLGF as early as possible, through any appropriate means, of anything, current or in the future, that is likely to impact upon the delivery of the project.

5 Documentation & Reporting

5.1 The project is required to submit a full progress report and financial statement twice yearly, from the start date above. Exact dates for these will be provided by CLGF.

5.2 Reports must be in the format as provided by CLGF. Financial spreadsheets will be provided for use at the start of the project, and a reporting guideline will be provided at the relevant time. These documents must not be altered or rearranged.

5.3 A shorter financial statement must be submitted to CLGF on a quarterly basis, in line with CLGF's internal meeting schedules. Dates for these will be provided by CLGF at the start of the project.

5.4 A detailed narrative and financial report will be required at the end of the project. CLGF will not sign off the project until this is received.

5.5 Payments may be withheld by CLGF if any of the required documentation is not received within the time periods prescribed herein and within 7(seven) days from the date of the CLGF requesting same in writing from the GPS Partner.

- 5.6 Reports must be completed with a reasonable degree of detail. CLGF reserves the right to ask for further detail and/or clarification if it feels it necessary, and may withhold funding until this is received.

6 Payments & Expenditure

- 6.1 All monies paid to the GPS Partner must be spent exclusively on project activities as laid out in the Project Proposal and accompanying budget. Any variation must be agreed by CLGF in writing.
- 6.2 CLGF shall will disburse funds in advance to the GPS Partner in the following manner:
- 6.2.1 The funds for phase one as mentioned in clause 2.3.1 will be disbursed:
- 6.2.1.1 On the submission of a budget for the visit in April 2011 by the GPS Partner to CLGF.
- 6.2.1.2 On the submission of a project proposal and full budget by the GPS Partner to CLGF, the tranche of the funding will be released.
- 6.2.2 The funds for phase two as mentioned in clause 2.3.2 will be disbursed on a quarterly basis upon receipt by CLGF of a satisfactory reconciliation from the previous quarter, and details of projected spending for the preceding quarter.:
- 6.3 The quarterly reconciliation must detail all activities expenditure incurred during the relevant period, with all supporting documentation attached.
- 6.4 Any items of additional funding required by the GPS Partner must be agreed in advance with CLGF, and a written request must be made with details of the reason for the extra funding.
- 6.5 Payments will usually be made in pounds sterling via bank account transfer unless an alternative arrangement has been agreed with CLGF in advance.
- 6.6 There is a small allowance for purchase of equipment. Details of expenditure must be agreed in advance by CLGF. Purchases should be made with best value judgements and must uphold the legal and regulatory guidelines of the country in which they are purchased.

7 Performance Standards

- 7.1** The GPS Partner will act with reasonable standards of professionalism, due diligence, care and attention when undertaking activities related to The Project and shall keep CLGF indemnified against any action, which may be instituted or lodged by any third party against the CLGF for any loss suffered by any third party as a direct result of any negligent act or omission committed by the GPS Partner in the course of this Agreement.
- 7.2** The GPS Partner will not, in any event be liable for indirect, special or consequential damages arising from the performance of its obligations in terms of this Agreement, unless such loss or damage is caused by the willful misconduct or gross negligence of the GPS Partner.
- 7.3** The GPS Partner will not sub-contract or assign work under the project to any other agency, organisation or individual.
- 7.4** Any organisations or individuals that will contribute to the work of the project must be agreed in advance by CLGF.
- 7.5** CLGF will act with reasonable standards of skill, care, professionalism and due diligence during The Project, and will strive to support the GPS Partner as far as possible to see that The Project meets its goals.
- 7.6** CLGF indemnifies and holds the GPS Partner harmless against any claim of any nature whatsoever arising from any wilful or negligent action or omission of the CLGF pertaining or incidental to the discharge of any obligation contemplated in this Agreement.

8 Dispute Resolution

- 8.1 Termination of the project will always be a last resort, and CLGF and the GPS Partner will exhaust every reasonable means of trying to maintain the project before this occurs.
- 8.2 Any dispute which arises between the parties shall be referred to a joint committee of a member of the executive of CLGF and a senior manager of the GPS Partner or alternates appointed by them, who will use their best endeavours to resolve the dispute within 14 calendar days of the dispute having been referred to them.
- 8.3 CLGF may terminate the project if there has been a material breach of this agreement; if the GPS Partner or other project partner is acting in a way that is causing the project to fail; or if another circumstance has arisen which is causing the project to fail.
- 8.4 If there is a failure to progress the project, in terms of activity and/or expenditure, for more than two quarters, CLGF will begin proceedings to investigate and rectify this in consultation with the GPS Partner. If no resolution can be found, termination proceedings may be instituted.
- 8.5 Upon termination, CLGF will reclaim any unspent funds, and is under no obligation to pay the GPS Partner any intended future funds as laid out in the Project Proposal and budget, after the date of termination.

9 Grievances & Disputes

- 9.1 Any issues that the GPS Partner feels need to be reported should at first instance be taken up with the appropriate member of CLGF's project team (Section 13).
- 9.2 If this is not possible or appropriate, contact should be made with CLGF's Secretary General to resolve the dispute.
- 9.3 If at this stage the problem is not resolved, the partners must decide if the problem will prevent the project from progressing, and procedures as in section 8 above may be necessary. Other methods of reconciliation and resolution will also be considered including external independent mediation and legal proceedings.

10 Breach, Cancellation and Termination

- 10.1 Should any party ("the defaulting party") commit a breach of any provision of this Agreement, and fail to remedy such breach, or if the breach is not capable of remedy, fail to implement remedial action acceptable to the other party, within 30 calendar days of receiving a written notice from the other party ("the aggrieved party") requiring the defaulting party to do so, the aggrieved party shall be entitled, in addition to its other

remedies in law or in terms of this Agreement, to cancel this Agreement forthwith and without prejudice to its rights to claim damages.

- 10.2 Notwithstanding anything to the contrary contained herein, the GPS Partner shall be entitled to cancel this Agreement immediately if the other party:-

10.2.1 fails to make and implement the necessary plans to ensure that all funds required for the proper execution of this Agreement are available.

11 Confidentiality

- 11.1 The Parties agree that all the information referring or related to them that is considered to be confidential shall not be disseminated or transmitted.

12 Promotion & Publicity

- 12.1 Should either of the Parties intent to produce or use information on The Project, they will obtain the written permission from the other.
- 12.2 Should either Party intend to produce any materials relating to The Project in any way; they will keep the other Party informed about any external publicity materials related to The Project as appropriate and possible.

13. CLGF Representatives

Carl Wright, Secretary-General.

Lucy Slack, Deputy Secretary-General.

Cecillia Makonyola, Projects Officer.

Rachael Duchnowski, Project Officer.

Tel: +44 (0)207 389 1490.

14. Domicilium Citandi Et Executandi

14.1 The Parties hereby choose as their *domicilium citandi et executandi* for the purposes of this Agreement, the following addresses: -

14.1.1 THE GPS Partner:-

Designation: **Executive Directorate: Utilities (Acting)**

9th floor, Tower block
Civic Centre, 12 Hertzog
Address: boulevard, Cape Town (to be inserted by signatories)

Facsimile: (27) 21 400 5193 (to be inserted by signatories)

Email: lungile.dhlamini@capetown.gov.za (to be inserted by signatories)

14.1.2 CLGF:-

Designation _____ (to be inserted by signatories)

Address: _____ (to be inserted by signatories)

Facsimile: _____ (to be inserted by signatories)

Email: _____ (to be inserted by signatories)

15 Jurisdiction

The Parties agree to the jurisdiction of the Western Cape High Court, Cape Town, South Africa.