



Infrastructure Services

SERVICE LEVEL AGREEMENT

Tender No: 05/2019

Entered into by and between

Lesedi Local Municipality

and

NBN Civils (Pty) Ltd

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SERVICE LEVEL AGREEMENT

Entered into and between

LESEDI LOCAL MUNICIPALITY

A Category B Municipality Municipality duly Established as such in terms of the Local Government Municipal Structure Act Number 117 of 1998
Herein represented by Advocate Gugulethu Thimane, Acting Municipal Manager
(Hereinafter referred to as "**EMPLOYER**")

and

NBN Civils (Pty) Ltd

(Hereinafter referred to as "**CONTRACTOR**")

Whereas, NBN Civils (Pty) Ltd is the appointed Contractor for the Upgrading/Refurbishment of Sewer Pump Stations in Lesedi, on behalf of Lesedi Local Municipality (Tender No: 05/2019).

1. GENERAL DEFINITIONS

In the Contract (as hereinafter defined) the following Words and Definitions expression shall have the meanings hereby assigned to them except where the Contract otherwise requires.

- 1.1 "GCC" means General Conditions for Construction Works (Second Edition) 2010, unless otherwise indicated.
- 1.2 "Contract" means the documentation of the agreement between the parties in terms of the form of Offer and Acceptance and such written amendments or additions to the Contract may be agreed to between the parties.
- 1.3 "Contract Data" means specific data which, together with these General Conditions of Contract, collectively describes the risks, liabilities and obligations of the Contracting Parties and the procedures for the administration of the contract.
- 1.4 "Contractor" means the person named in the contract data whose offer has been accepted in the form of Offer and Acceptance and legal successors in title of this person.
- 1.5 "Contract Price" means the Contract sum subject to such additions thereto or deductions therefrom as may be made from time to time under provision of the Contract.
- 1.6 "Contract Sum" means the accepted amount provided for in the agreement made in terms of the Form of Offer and Acceptance.
- 1.7 "Employer/Lesedi Local Municipality" means the person from whom the works are to be executed and who is named as the Employer in the Contract Data, and legal successors in title of this person.
- 1.8 "Engineer's Representative" means the Natural person appointed from time to time by the Engineer in terms of the Contract.
- 1.9 "Bill of Quantities" means the document so designated in pricing data.

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[Signature]

- 1.10 "Commencement Date" means the date that the Agreement, made in terms of Form of Offer and Acceptance come into effect.
- 1.11 "Certificate of Completion" means the Certificate issued by the Engineer stating the date on which completion was achieved.
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- 1.12 "Certificate of Practical Completion" means the Certificate issued by the Engineer stating the date.
- 1.13 "Scope of Work" means the document that specifies and describes the works which are to be provided, and any other requirements and constraints relating to the manner in which the work is to be carried out.
- 1.13 "Site" means the land and other places made available by the Employer, for the purpose of the Contract, on, under, over, in or through which the works are to be executed.
- 1.14 "Engineer" means the consultant or person appointed on behalf of the Employer/Lesedi Local Municipality.

2. CONTRACT SUM

- 2.1 The total contract value is R 7 229 550.90, inclusive of VAT and Contingencies.

3. GOVERNING LANGUAGE

- 3.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 3.2 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in the agreement

4. DURATION OF THE AGREEMENT

- 4.1 This Agreement shall be effective from the 01 April 2019 to the 30 June 2019.
- 4.2 The defects and liability period shall be effective from the 01 July 2019 to the 30 June 2020

5. INDEMNITY

- 5.1 The Contractor Indemnifies the Employer against any liability in respect of the damage to, or physical loss of the property of any person, or injury to or death of any person.
- 5.2 The Contractor shall be liable to the Employer for damages to or physical loss of all property of the Employer that is part of the works, nor of the site

6. HEALTH AND SAFETY STANDARDS AND ACCIDENTS

- 6.1 The Contractor shall adhere to all the requirements of the Occupational Health and Safety Standards at all times in line with applicable laws.

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- 6.2 In addition to any statutory obligations, the Contract shall, as soon as practicable, report to the Engineer occurrences on the works or the site which causes damage to property, or injury or death to a person.

7. PENALTIES

- 7.1 The applicable penalty per calendar day shall be R 1000 for any outstanding work not completed beyond the contract end date

8. DISPUTE RESOLUTION AND ARBITRATION

- 8.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 8.2 Should any difference or dispute at any time arise between the parties, the duly authorised Senior Officials of each party shall meet within fourteen (14) days, or such period as the parties may agree, from the date on which the dispute arose to resolve the dispute amicably.
- 8.3 If the dispute is not resolved at such a meeting, or extended meeting as the Parties may agree to in writing, then either of the parties shall be entitled to refer the dispute to the Arbitration Foundation of Southern Africa (AFSA) to be determined by arbitration in terms of Arbitration Act 42 of 1965 as amended, such arbitration shall be held in Johannesburg.
- 8.4 The appointment of the arbitrator shall be agreed upon between the Parties in writing but, failing agreement between them, within a period of 10 (ten) Business Days after the arbitration has been demanded in terms of clause 8.2, above either Party shall be entitled to request the Arbitration Foundation of South Africa to make the appointment and, in making such appointment, to have regard to the nature of the dispute.
- 8.5 The arbitrator shall have the powers conferred upon an arbitrator under the Arbitration Act, 1965 (as amended), but shall not be obliged to follow the procedures prescribed in that Act. The decision of the arbitrator shall be final and binding on the Parties and may be made an order of any court of competent jurisdiction.

9. AMENDMENTS AND VARIATIONS

- 9.1 All amendments and variations of this contract shall be reduced in writing and signed by both Parties.

10. PAYMENT CONDITIONS

- 10.1 Payment will be made within 30 (thirty) days after the claim certificate has been issued to the Employer/Lesedi Local Municipality on condition that all other necessary conditions and documents are adhered to and complied with.

11. TERMINATION OF CONTRACT BY THE EMPLOYER

The Employer shall terminate the Contract if:-

- 11.1 Application is made for the sequestration of the Contractor's estate or presents a petition for the acceptance of the surrender of his estate as insolvent, or being a Company or

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Close Corporation, goes into liquidation, whether provisionally or finally. Other than a voluntary liquidation for the purposes of amalgamation or reconstruction;

- 11.2 The Contractor makes a compromise with his/her creditors, or assigns in favour of his/her creditors, or agrees to carry out the Contract under the Supervision of a committee representing his/her creditors, or if the Employer's written consent, or if executn is levied on his/her goods;
- 11.3 After giving effect to clause 3.2 of the General Conditions of Contract 2010 Second Edition, the Engineer certifies in writing, to the Employer and to the Contractor with specific reference to this clause that the Contractor;
- 11.4 Has abandoned the Contract;
- 11.5 Has failed to commence the works in terms of clause 5.3 of the General Conditions of Contract 2010 Second Edition hereof, or has suspended the progress of the works for fourteen (14) consecutive days after receiving from the Engineer written notices to proceed;
- 11.6 Has failed to proceed with the works in accordance with the approved programme or in the absence of an approved programme, in the Engineer's opinion;
- 11.7 Is not executing the works in accordance with the contract, with defective and malperformance and in contravention with standard expected as per the specification of the contract and is neglecting to carry out his/her obligation under the Contract;
- 11.8 Anyone, on his/her behalf has paid, offered or offer as payment to any person in the employ of the Employer or to the Engineer, or any person in the employ of the Engineer a gratuity or reward or commission;
- 11.9 Has furnished inaccurate information in the returnable documents completed at tender stage and forming part of the Contract.

12. COMMUNICATION

The Parties agree that:-

- 12.1 It is necessary to keep the channels of communication open between the Parties at all times and on all aspects of the Agreement.

LESEDI LOCAL MUNICIPALITY

The Municipal Manager or his/her nominee.

NBN Civils (Pty) Ltd

Thokozani Bernard Sibozza

13. ADDRESSES NOMINATED BY THE PARTIES

- 13.1 Addresses nominated by the parties in a legal contract at which it elects to receive all legal notices and documents for all purposes arising from this Agreement and will serve as domicile and the addresses are the following:-

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13.2 Lesedi Local Municipality
1 HF Verwoerd Street
Heidelberg
1441

13.3 NBN Civils (Pty) Ltd
8 Cork Bush Close
Serengeti Estate
Witfontein Extension 147
1642

14. SIGNATURES


Service level Agreement entered into by Lesedi Local Municipality and NBN Civils (Pty) Ltd for the Upgrading/Refurbishment of Sewer Pump Stations in Lesedi, on behalf of Lesedi Local Municipality.

Thus signed at HEIDELBERG on this 29 day of MARCH, 2019

LESEDI LOCAL MUNICIPALITY


Duly Authorised
Name: Advocate Gugulethu Thimane
Designation: Acting Municipal Manager

As witnesses:

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2. _____

Thus signed at HEIDELBERG on this 29th day of MARCH, 2019

NBN CIVILS (PTY) LTD


Duly Authorised
Name: MR SANDILE NKUNA
Designation: PROJECT MANAGER

As witnesses:

1. 
2. 