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BUDGET & TREASURY DEPARTMENT

PROVINCE OF KWAZULU-NATAL
KZN 328

SERVICE LEVEL AGREEMENT

ITEM NO	DETAILS REQUIRED	
1	Project Name	DEVELOPMENT OF A LAYOUT PLAN FOR UMZIMKHULULU MUNICIPALITY
	The Service Provider/Service Provider	UBUHLEBESU PROJECTS
3	Contract Number	8/2/1/306
4	Service Provider's Active Postal Address	54 Klipbank Road Ladysmith 3370
5	Commencement Date	2021/09/17
	Termination Date	2022/06/16
6	1. Service Provider's Active Fax No.	086 592 4022
	2. Telephone Numbers	071 990 8282/060 4283163

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NZA 258

SERVICE LEVEL AGREEMENT

	3. Service Provider's E-mail Address	ubuhlebesu@outlook.com
7	Contract Amount	R694 500.00
8	Annexures	(a) Tender Document. (b) Appointment letter. (c) Acceptance Letter.

DEVELOPMENT OF A LAYOUT PLAN FOR UMZIMKHULULU MUNICIPALITY

Between:

Umzimkhulu Local Municipality

The "Customer" (herein represented by Mr Z.S Sikhosana in his capacity as the Municipal Manager for Umzimkhulu Local Municipality.

- and -

UBUHLEBESU PROJECTS

The "Service provider" (Herein represented by Nkanyezi Shange in his capacity as the Managing Director of the company UBUHLEBESU PROJECTS.

The Service provider and the Customer (each a "Party", together referred to as the "Parties"), have agreed that the Service provider will provide professional services of Development of a Layout Plan for Umzimkhulu Municipality, as described below, to the Customer, and have agreed to the following terms.

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BUDGET & TREASURY DEPARTMENT

PROVINCE OF KWAZULU-NATAL
KZN 458

SERVICE LEVEL AGREEMENT

1. Scope of Service and Background

“Services” means providing professional service of Development of a Layout Plan for uMzimkhulu Municipality as it is stipulated in both terms of reference from the ULM (uMzimkhulu Municipality and that of the Proposals Ubuhlebesu Projects, and both these documents shall be attached in the contract and will be Marked Annexure “A” and “B” respectively.

Background, uMzimkhulu Municipality requested the quote on the **2nd of March 2021** and the closing date for the bids was or on the **16th of March 2021** the service provider responded as one of the **POOL OF Professional Service Providers** under bid number **ULM- PNLG-001 /21 UBULEBESU PROJECTS** responded to the bid and uMzimkhulu Municipality accepted the bid and appointment **UBULEBESU PROJECTS** to do the Development of a Layout Plan for uMzimkhulu Municipality.

THEFORE, uMzimkhulu municipality and UBULEBESU PROJECTS agree to enter into an agreement with UBULEBESU PROJECTS to do The Development of a Layout Plan for uMzimkhulu Municipality for uMzimkhulu Municipality.

The service provider shall only perform only the services as they are outlined in the terms of reference and may only perform further duties that only relate to the achievement of the deliverables outlined in our terms of reference.

The service provider shall submit monthly report / the report as soon as he /she has rendered the services and concluded his / her services to the end user department for the works done and any other issues that might hinder her from achieving the intended objective. In turn the end user department shall submit monthly performance report to the contracts management unit

2. Delivery of Services.

The Services shall be performed only by the Service provider or any other person who is approved by the Customer in writing or verbally. In terms of the bidding document the service provider was appointed as one of the services providers wherein the municipality can call upon whenever the services relating to their area of appointment are required.

Now, therefore the municipality and in terms of the bid documents submitted issued the terms of reference seeking the Quotation for professional services of Development of a Layout Plan for uMzimkhulu Municipality. On the requested quotations UBULEBESU PROJECTS was the one, that the municipality considered as having the most responsive quote in that the municipality appointed UBULEBESU PROJECTS for the professional services of Development of a Layout Plan for uMzimkhulu Municipality and UBULEBESU PROJECTS accepted the appointment.

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Therefore, the Municipality and UBULHEBSU PROJECTS enter into an agreement for the provision of professional services of Development of a Layout Plan for uMzimkhulu Municipality.

The parties to this agreement (Municipality and UBULHEBSU PROJECTS further agree that the terms of reference and response to the terms of reference by the service provider shall be used as the basis of delivering services for this purpose, and the terms of reference shall be used as Annexure "A" and response by the service provider to municipality terms of reference shall be used as Annexure"

Now therefore the parties agree that these Annexures "A &B" respectively shall be used as the guiding documents for the purposes of providing the integrated professional service of Development of a Layout Plan for uMzimkhulu Municipality, the parties are now therefore entered into this agreement for the provision of the professional service of Development of a Layout Plan for uMzimkhulu Municipality.

Term of Agreement.

These two (2) months period agreement on Development of a Layout Plan for uMzimkhulu Municipality, and the services will begin on the and will continue until the or terminated pursuant to this Agreement.

3. Fee for Services.

The Service provider shall deliver invoices to the Customer in intervals as agreed to by the Parties. The Customer shall pay to the Service provider at the sum of as it is described in the proposed fee structure schedule of the service provider proposal and that fee schedule shall be taken from the UBULHEBSU PROJECTS response to terms of reference in the Annexure "B" which shall be attached as an attachment for the purposed of this contract.

Taxes.

Unless the Service provider, provides the Customer with notice that the Service provider is exempt from collecting and paying applicable taxes, the Customer shall pay all applicable taxes on the Fees to the Service provider and the Service provider shall be responsible for remitting such taxes on goods and services to the appropriate taxation authority.

4. Expenses.

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PROVINCE OF KWAZULU-NATAL
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SERVICE LEVEL AGREEMENT

The Service provider shall assume responsibility and pay for all reasonable expenses necessary to effectively provide its Services under this Agreement. If the Customer agrees to pay for any expenses, such expenses shall first be approved by the Customer or by any other person the Customer should choose to designate.

5. Services.

The Service provider shall perform the Services to the best of its ability and to a standard of a reasonable professionalism within the industry of the Services. Any personnel provided by the Service provider shall perform their work to the same professional standard.

6. Time of Services.

The Service provider shall allocate the time required to complete the Services for the Customer in a professional manner. It is a material term of this Agreement that the Service provider shall complete the Services within the term set-out in the terms of reference and the duration will be determined once the contractor has been appointed, hence the pool of consultant's duration Agreement is still active, and it will end on the.

7. Conflicts.

The Service provider shall not be restricted in delivering its services to other individuals or businesses while the Services are being delivered to the Customer, unless doing so would conflict with the interests of the Customer.

8. Licenses and Permits.

The Service provider shall obtain and hold in good standing all necessary licenses, permits and approvals required to comply with all laws, codes or regulations relating to the Services being provided and shall maintain and produce records of these licenses, permits and approvals for the Customer upon request.

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9. Rules and Regulations.

The Service provider and its employees, personnel and contractors shall always comply with any necessary laws, codes and regulations as well as the rules and regulations of the Customer, so long as the Customer has made the Service provider reasonably aware of its rules and regulations, and in case if none of the rules are provided to the service provider, it is the service provider responsibility to ask such rules and regulations especially the ones in relation to the services rendered by the service provider.

10. Insurance.

The Service provider shall obtain, hold, and maintain in good standing all insurance policies that would be reasonably required to protect the Customer from liability arising from the Service provider's delivery of the Service under this Agreement, including, but not limited to workers' compensation insurance, employment insurance, and public liability and property damage insurance.

11. Indemnity.

The Customer shall indemnify and hold harmless the Service provider or any of its directors, officers, employees or agents (the "Releases") from any and all claims, actions, losses, expenses, costs or damages that the Customer or any of its directors, officers, employees or agents (the "Releasers") may have now, in the past, or in the future, as a result of the negligence of the Service provider or its personnel in the performance or non-performance of the Services.

12. Non-Competition.

During the term of this Agreement, the Service provider shall not engage in any activity that would compete in any way whatsoever with the activities of the Customer in which the Service provider was or is involved, or where the Service provider gained confidential or sensitive information of the Customer, directly or indirectly through the delivery of the Services. For further clarity, this Section is to be geographically limited to areas and locations that the Customer operates in.

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PROVINCE OF KWAZULU-NATAL
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13. Non-Solicitation.

During the term of this Agreement, for the Service provider shall not, without the written consent of the Customer, directly or indirectly, solicit or attempt to solicit any person who: (a) was a customer of the Customer as of the date of this Agreement was terminated; (b) was a customer of the Customer at any time within the date of the termination of this Agreement; (c) was solicited as a prospective customer by the Customer at any time during the provision of Services under this Agreement, should the Service provider have had knowledge of this pursuit; or, (d) was an employee or contractor of the Customer as of the date this Agreement was terminated or within the one-year period immediately before the date of the termination of this Agreement.

14. Intellectual Property.

All Intellectual Property, as defined below, and all copyrights and other rights, titles, and interests, both legal and equitable, in and to the Intellectual Property belong exclusively to the Customer. The Service provider hereby assigns, transfers, grants, and delivers all copyrights, patents, trade secrets, trademarks and other rights, titles, and interests whatsoever, both legal and equitable, solely irrevocably and exclusively throughout the world to the Customer, that Service provider may own in such Intellectual.

15. Property

The Service provider hereby waives and represents and warrants to the Customer that its employees or personnel delivering the Services have waived, in whole all moral rights that the Service provider or its employees and personnel may have in the Intellectual Property, including the right to restrain use or reproduction of the Intellectual Property in any context and in connection with any product, service, cause or institution. The Service provider shall execute such grants, assignments, and waivers of all such rights as the Customer may reasonably request from time to time. "Intellectual Property" shall include, but is not limited to, every concept, development, design, process, computer program, invention, procedure, system, writing, drawing, plan, know-how, trade secret, customer list, data, market research, product or service details, economic information, or any other intangible asset of value, which are in any way related to the business of the Customer and which are created, developed, invented or written by the Service provider or by any of its personnel for the purpose of the provision of the Services under this Agreement.

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KwaZulu-Natal

SERVICE LEVEL AGREEMENT

16. Confidential Information.

“Confidential Information” means all information and data, including, but not limited to, all business, planning, performance, financial, product, trade secrets, technical sales, marketing, contractual, employee, Service provider and customer information and data, disclosed orally, in writing or electronically to the Service provider by the Customer hereunder. Confidential Information shall not include information which (i) is or becomes generally available to the public without the Service provider’s fault, (ii) is lawfully obtained by Service provider from a third party or parties unconnected to the Customer, without breach of any confidentiality obligations hereunder, or (iii) is required to be disclosed by law.

The Service provider shall keep confidential all Confidential Information disclosed to it and shall take all necessary precautions against unauthorized disclosure of the Confidential Information. The Service provider shall not directly or indirectly disclose, permit access to, transmit or transfer any Confidential Information to any third party without the prior written consent of Customer. The Service provider shall not use or copy any Confidential Information except as may be reasonably required to perform the Services.

The Service provider acknowledges that the Customer has or may receive in the future from third parties its confidential or proprietary information subject to a duty on the part of the Customer to maintain the confidentiality of such information and to use it only for certain limited purposes related to the Services. The Service provider shall hold all such confidential or proprietary information in the strictest confidence and shall not disclose it to any person or organization or use it except as strictly necessary in providing the Services in a manner consistent with the Customer’s agreement with such third party.

The Service provider shall ensure that each of its employees, contractors or agents that is given access to the Customer’s Confidential Information executes a confidentiality agreement pursuant to which such employee, contractor or agent is obligated to protect the Customer’s Confidential Information to the same extent as the Service provider is required to protect such information under this Agreement. The Service provider shall provide copies of such executed documents to the Customer upon request.

The Service provider acknowledges and agrees that monetary damages may not be an adequate remedy to compensate the Customer for any breach of the Service provider’s obligations under this Agreement regarding Confidential Information. Accordingly, the Service provider agrees that, in addition to all other remedies available to Customer under this Agreement or at law or in equity, the Customer shall be entitled to obtain permanent injunctions to enforce such obligations.

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The Service provider represents and warrants to the Customer that (i) its performance under this Agreement shall not breach any obligation to keep confidential the proprietary information of any prior employer or client of the Service provider or any other third party, and (ii) it will not bring to Customer, and shall not use in the performance of its work with Customer, any trade secrets, confidential information and other proprietary information of any prior employer or client of the Service provider or any other third party.

17. Service provider Not an Employee.

The Service provider and any of its employees or personnel who may be delivering the Services under this Agreement are not employees of the Customer and are not entitled to receive any employment benefits from the Customer. Further, the Customer shall not be required to make contributions for employment insurance, provincial/state or pension plans, workers' compensation or similar premiums, employer, and other similar levies on behalf of any of the Service provider's employees or personnel.

18. Service provider shall Not Contract.

The Service provider, its employees, contractors, or agents shall not bind the customer into any works not related to this service without the prior written consent of the Customer, enter into any contract on behalf of Customer or bind Customer in respect whatsoever. For further clarity, the Service provider does not have legal or business decision making authority on behalf of the Customer except where otherwise consented to in writing by the Customer.

19. Termination

The Customer or the Service provider may terminate this Agreement (the "Terminating Party") at any time in the event that either of the Parties breaches any part of this Agreement (the "Breaching Party"), so long as prior written notice is given by the Terminating Party and the breach is not remedied by the Breaching Party within 30 Business Days, defined as any day that is not a Saturday, Sunday or Statutory Holiday in the jurisdiction set out in the laws of the Republic

20. Provisions Operating following Termination.

Following the termination of this Agreement for any reason, with or without cause, the provisions of paragraphs 12, 13, 14, 15, 16, 17 and 18 and any other provisions of this Agreement necessary to give those paragraphs power shall continue in full force and effect.

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21. Assignment.

This Agreement shall be to the benefit of, and binding upon, the successors and permitted assigns of the Parties. The Service provider may not assign its rights or obligations under this Agreement without the prior written consent of the Customer.

22. Amendments.

Any amendment to this Agreement must be in writing and signed by both Parties to be valid and binding.

23. Payment

- The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
 - The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
 - Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
 - Payment will be made in Rand unless otherwise stipulated in SCC
- Subject with full compliance by the Supplier with the provisions of this contract, uMzimkhulu Municipality will, in accordance with the provisions of this contract, pay to the Supplier for all works satisfactorily completed to date:

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- uMzimkhulu Municipality shall pay any sums due within 30 days subject to uMzimkhulu Municipality being satisfied with the following:
 - Receipt of claim between the 05th and 20th of every month unless stated otherwise by the Municipality.
 - Monthly Report shall be attached to the payment certificate failing which the claim will be deemed invalid.
 - Receipt of itemized invoice also reflecting the Date; Municipal VAT No: 4300156819; Supplier's VAT No and Supplier's signature.
 - Invoice to clearly state TAX INVOICE.
 - All invoices should be addressed to the Municipal Manager, uMzimkhulu Municipality, P.O. Box 53, uMzimkhulu, 3297 and shall quote the Project Name and Number.

24. Severability.

Each of the paragraphs contained in this Agreement is unique and severable. If any section, provision, or part of this Agreement is declared invalid, illegal or unenforceable, the remaining parts of this Agreement shall remain in full force and effect and such declaration shall not affect the validity or enforceability of any other parts of this Agreement.

25. Governing Law and Forum.

This Agreement shall be governed by and constructed in accordance with the laws of the Republic and the Regulatory laws applicable therein.

26. Disputes

Any disputes arising from this Agreement or between the Parties with respect to the Services shall be resolved in a court of competent jurisdiction in the area or the province where the customer resides.

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27. Entire Agreement.

This Agreement constitutes the entire agreement between the parties with respect to the subject matter described in this Agreement and supersedes and replaces in its entirety all previous agreements, communications and understandings relating to the matters referred to in this Agreement.

28. Notices.

Any notice to be made or given under this Agreement shall be delivered in writing and may be made by personal delivery or by electronic mail to the following recipient at the addresses below:

TO: Customer Email Address dlomos@umzimkhuluim.gov.za

TO: SERVICE PROVIDER'S EMAIL ADDRESS: lindomabele@yahoo.com

SIGNED BY THE CUSTOMER "ULM" AT UMZIMKHULU THIS 15th DAY OF September 2021

Z.S. SIKHOSHAHA

Name

In his capacity as the ULM
Municipal Manager

Witness T. Ngemu

Name

Signature

Witness

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BUDGET & TREASURY DEPARTMENT

PROVINCE OF KWAZULU-NATAL
KZN 435

SERVICE LEVEL AGREEMENT

2. S. Dlomo

Name

Signature

SIGNED BY THE Service provider AT Indysmith THIS 13th DAY OF

September 2021

HEANSEZI SHANGE

Name

In his capacity as the Director

Witness

1. NOULTHANDO Gule

Name

Signature

Witness

2. NOLWAZI NDIMANDI

Name

Signature