

PDM Project & Development Management

Annexure N1

Social Compact Agreement

SOCIAL COMPACT AGREEMENT **FOR THE AMANYUSWA RURAL HOUSING PROJECT**

Agreement made and entered into between:

THE AMANYUSWA TRIBAL AUTHORITY

Herein represented by:

NKOSI D.P. NGCOBO

in her capacity as:

CHIEF / NKOSI : AMANYUSWA TRIBAL AUTHORITY

who shall be referred to within this document as the "Tribal Authority" and "CBP"
and

THE BENEFICIARIES

Herein represented by the chairperson:

REMIGIUS NGIDI

in his/her capacity as:

The chairperson of the duly elected Amanyuswa Rural Housing Project Steering Committee (PSC). Democratically elected by the project beneficiary community of Ward 7 Ubuhlebezwe Municipality.

who shall be referred to within this document as the "Beneficiaries" and "PSC"
and

MUNICIPALITY

herein represented by:

MR. G.M. SINEKE

in his capacity as:

Municipal Manager: Ubuhlebezwe Municipality

who shall be referred to within this document as the "Municipality"

and

IMPLEMENTATION AGENT

Project & Development Management (PDM)

herein represented by:

PIETER KLEINHANS

who shall be referred to within this document as the "Implementation Agent"

1. INTERPRETATION OF DEFINITIONS

- 1.1 In this agreement, unless inconsistent with or otherwise indicated by the context -
- 1.1.1 **"the/this agreement"** means the agreement as set out in this document;
- 1.1.2 **"business day"** means a day, which is not a Saturday, Sunday or South African public holiday;
- 1.1.3 **"community"** means the community of **Ward 7 of Ubuhlebezwe Municipality**.
- 1.1.4 **"the Community Based Partner"** means **Amanyuswa Tribal Authority** herein represented by **Nkosi D.P. Ngcobo**, having been duly authorised hereto in terms of a resolution and consent, a copy whereof is annexed marked "A";
- 1.1.5 **"The Beneficiaries"** mean the individuals who would qualify and benefit from the housing subsidies as determined by the government, represented by the Project Steering Committee (PSC).
- 1.1.6 **"the Municipality"** is the Responsible Developer in terms of the Procurement Policy / Act, **Ubuhlebezwe Municipality**, herein represented by the **Municipal Manager**;
- 1.1.7 **"the Implementation Agent"** means **Project & Development Management (PDM)** herein represented by **Pieter Kleinhans**, he having been duly appointed hereto by the Municipality, in terms of the Procurement Policy / Act, a copy whereof is annexed marked "B";
- 1.1.8 **"the Development"** means the development of Ward 7 within Tribal Authority (Ingonyama Trust) land as a residential Rural Housing Development;
- 1.1.9 **"Developer"** shall be the **Ubuhlebezwe Municipality**.
- 1.1.10 **"Councilor"** shall mean a duly elected person who represents the Municipality at a community level serving as a link between the Community Based Partner and the Municipality;
- 1.1.11 **"the implementation manual"** means volume A of the implementation manual issued by the Department of Housing in respect of the housing subsidy scheme of the Government of the Republic of South Africa, and Part 3, Chapter 11 of the Housing Code;
- 1.1.12 **"the land"** means the land set aside for the purpose of fulfilling this agreement and shall be that designated in "Annexure C" (Designation Diagram) which forms part of this agreement;

- 1.1.13 **"the parties"** means the Municipality (Developer), Implementation Agent, Community Based Partner (CBP) and the beneficiaries (PSC);
- 1.1.14 **"The Department Human Settlement"** means the Minister;
- 1.1.15 **"Project Linked subsidies"** means housing subsidies as defined in and regulated by of the implementation manual/ housing code;
- 1.1.16 **"signature date"** means the date, on which the last party signs this agreement;
- 1.1.17 **"Site"** shall mean an individual allotment / Global Positioning system (GPS) reading within the designated land, referred to as **"Functional Tenure"**;
- 1.1.18 **"Functional Tenure"** shall mean – as set out in Part 3, Chapter 11 of the Housing Code – beneficiaries are permitted to reside and use the land in accordance with traditional arrangements, issued with a Permission to Occupy certificate;
- 1.1.19 **"Service Charges"** shall be tariffs levied, where applicable, for the supply of services to individual sites recoverable from the owner by the Municipality in accordance with the applicable legislation and in agreement with the Tribal Authority, and which may be amended from time to time;
- 1.1.20 **"Rates"** will consist of a general rate and a sewerage rate and shall be those charges levied by the Municipality in accordance with the applicable legislation and which may be amended from time to time, for those services other than the provisioning of water, and refuse removal.
- 1.1.21 the singular includes the plural and vice versa and reference to one gender includes a reference to the other genders;
- 1.1.22 clause headings have been inserted for reference purposes only and shall not be used in construing the contents hereof;

2. RECORDAL

- 2.1 The Developer will be the Municipal Authority and the Implementation Agent will act on its behalf and has relative/extensive experience in the provision of low cost housing.
- 2.2 The CBP represents the community and is aware of its needs and aspirations. The parties have accordingly agreed to form a social compact with a view, ultimately, to develop the land in terms of the Rural Housing Policy, and Part 3, Chapter 11 of the Housing Code.

- 2.3 By signature to this agreement does the Traditional Authority give consent to the development in terms of Section 2(5) of the Kwazulu-Natal Ingonyama Trust Act, 3 of 1994.
- 2.4 The project beneficiaries has elected the Project Steering Committee (PSC) to represent them during the project duration, and to disseminate all relevant information, and represent them in an accountable manner in project specific decision making, site allocation procedures, employment of labour, etc.
- 2.5 The parties wish to record the terms and conditions of their agreement.

3. SOCIAL COMPACT FORMATION

- 3.1 The parties hereby form a social compact on the terms and conditions contained herein.
- 3.2 The Developer, Implementation Agent, PSC and the CBP undertake that they shall:-
- 3.2.1 each use its best endeavor to identify all other stakeholders (as defined in the implementation manual/housing code);
- 3.2.2 use their best endeavor to secure the co-operation of all stakeholders in implementing the development;
- 3.2.3 in so far as it may be necessary, enter into formal written agreements with those stakeholders, regulating the basis upon which those stakeholders will assist in implementing the development.
- 3.3 The parties record that, subject to the terms and conditions contained herein, it is their intention:-
- 3.3.1 to agree, between themselves, the parameters of the development;
- 3.3.2 to ensure that the Implementation Agent enters into an agreement with the Municipality in terms whereby the Implementation Agent will acquire the right and obligation to undertake the development of the land, and the construction

of the houses, with the beneficiary subsidies as allocated to qualifying beneficiaries, from time to time;

3.3.3 to apply to the Department of Housing for the development to be approved as a project for the purpose of the allocation of housing subsidies, so that each person who acquires functional tenure in the development will obtain a subsidy (provided that he or she qualifies with the criteria laid down).

3.3.4 to apply to the government's Consolidated Municipal Infrastructure Program (CMIP) for bulk services funding, to allow the establishment of bulk services to the project site;

4. DECISION MAKING

4.1 The parties shall by mutual agreement determine:

4.1.1 the layout and format of the rural development to be established on the land;

4.1.2 the levels, designs and design specifications of all internal services to be installed, by the Implementation Agent as part of the development;

4.1.3 the sizes, design and design specification of the top structures that will be constructed, by the Implementation Agent as a part of the development, with the allocated subsidies;

4.1.4 a program for the development.

5. APPLICATION FOR SUBSIDIES

5.1 the Municipality / Implementation Agent and the CBP shall jointly make application to the Department of Housing for the approval of the development as a project for the purpose of the allocation of housing subsidies.

5.1.1 If the parties are able to obtain the aforesaid approval, the municipality and the Implementation Agent shall:-

5.1.1.1 conclude a subsidy agreement with the Department of Housing, that agreement to comply substantially with the typical agreement prescribed in part III of the implementation manual;

5.1.1.2 comply with its obligations in terms of that agreement.

6. IMPLEMENTATION AGENT AGREEMENT

6.1 By signature to this agreement is it agreed between the parties that the Municipality have, or shall, enter into an agreement with the Implementation Agent in terms whereof:-

6.1.1 the Implementation Agent will have the right and obligation to develop the land, and construct the houses, as a rural housing initiative, to such standards and parameters as may be agreed upon between the Municipality, Implementation Agent and the CBP;

6.1.2 the Implementation Agent will be responsible to ensure the careful selection and appointment of professionals as required, to establish a successful rural housing project on the land (in accordance with the prevailing legislation);

6.1.3 dates upon which the construction of the houses is to commence and be completed are agreed upon;

6.1.4 the Implementation Agent will be given the right, as the agent of the Municipality, to construct all the houses, as specified, for the approved beneficiaries, in the prescribed development area, and to retain the subsidies as payment thereof.

7. IMPLEMENTATION OF PROJECT

7.1 The parties record that it is their specific intention that once they have agreed upon the broad parameters of the development, the Implementation Agent will itself make all decisions relating to the actual implementation, and construction of the project including, but without limitation:-

7.1.1 the appointment of all required professional consultants with the consideration of the Procurement Policy and other relevant legislation, provided that the Implementation Agent shall give preference to consultants who have

previously advised the CBP and shall appoint those consultants in so far as may be practical;

7.1.2 the invitation of tenders for sub-contractors, and the award of those tenders. The Implementation Agent, as the main contractor, shall however still remain liable;

7.1.3 resolving any disputes with any professional consultants and/or any sub-contractors appointed in connection with the development;

7.2 Notwithstanding the provisions of 7.1 above, the Implementation Agent shall:-

7.2.1 regularly meet with the Municipality and CBP in order to report progress in regard to the implementation of the development;

7.2.2 invite comments from the CBP in regard to the manner in which the development is being undertaken and, shall, in so far as it may be practical, accommodate the wishes of the CBP in undertaking the development;

7.3 Planned and Integrated Development

This rural development shall take place in accordance with the relevant municipality's Integrated Development Plans or spatial development plans if the IDP have not been finalized.

7.4 The CBP and PSC shall appoint a secretary who shall:

7.4.1 convene regular meetings between the Implementation Agent and the CBP/PSC and said minutes be sent to the municipality;

7.4.2 ensure that minutes of those meetings are taken and distributed;

7.4.3 ensure that the beneficiary community are continuously updated with the project progress.

7.4.4 Attempt to resolve any disputes that may arise between the contractors, sub-contractors, labour and beneficiaries.

8. ALLOCATION OF STANDS

- 8.1 The Municipality, Implementation Agent and the CBP/PSC shall, by agreement:
- 8.1.1 determine selection criteria to be established for the allocation of sites to potential beneficiaries, as long as these criteria remains within the framework as defined by the prevailing housing policy;
 - 8.1.2 determine the allocation procedures to be established for the allocation of sites;
 - 8.1.3 set up an Project Steering Committee (PSC), which shall be responsible for ensuring that the selection criteria and allocation procedures are adhered to and which shall ultimately allocate sites to potential beneficiaries. The above allocations will be supplied to the Municipality.
- 8.2 If the Implementation Agent and the CBP are unable to agree upon their selection criteria, allocation procedures and the setting up of the Project Steering Committee envisaged in 8.1 above. The municipality's decision in regard to those matters shall be final and shall bind the Implementation Agent and the CBP. The Implementation Agent shall under no circumstances whatsoever be required to develop, or construct any site for any beneficiary who does not qualify for a subsidy.

9. RESPONSIBILITY OF THE MUNICIPALITY

- 9.1 The Municipality shall be responsible for:-
- 9.1.1 The provision of metered water.
 - 9.1.2 The overseeing the provision of metered electricity by the Service Provider.
 - 9.1.3 After completion of the intention of this agreement provide services which are normal to the Municipality.
 - 9.1.4 Subject to completion as in 9.1.3. Provide maintenance as is normal within the Municipality

- 9.1.5 Enter into a Development Agreement with the Ngonyama Trust Board, as the land owner, for the development of the land as a rural housing project, and ensure functional tenure for the qualifying beneficiaries.
- 9.1.6 Appoint a "technical certifier" who shall inspect all works and ensure quality on all the houses, and sign all successful staged completions for payment.
- 9.1.7 ensuring that the "hand over certificate" (D4) is obtained for their records, from the Implementation Agent, and that all matters relating to potential remedial works and repairs are adhered to, and that the beneficiaries are satisfied with the housing structure / product.
- 9.1.8 Process payments for completed works, by the Implementation Agent, and ensure timeous payment thereof.
- 9.1.9 Ensuring that if the beneficiary vacates the property occupied by him for any reason whatsoever, his or her name to be removed from the National Housing Database so that he or she will once again qualify for a subsidy, and reallocate the house to a new beneficiary.
- 9.1.10 The municipality must ensure that the tribal authority re-allocates the property to another qualifying beneficiary.

10. RESPONSIBILITY OF THE CBP and THE PSC

- 10.1 The CBP/PSC shall;
 - 10.1.1 ensure that the community remains informed of the processes surrounding the development at all times, and ensure that it communicates the community's views to the Implementation Agent;
 - 10.1.2 disseminate information about the construction of the houses in the development, and their rights and obligations as beneficiaries;
 - 10.1.3 Promote the prompt payments of rates, water tariffs, electricity tariffs, refuse tariffs and other tariffs as may be promulgated from time to time;

- 10.1.4 Jointly the parties (Beneficiaries, PSC and CBP) shall be severable liable to create and maintain such things of common interest as;
- 10.1.4.1 safety of access on and off any main road serving the area,
- 10.1.4.2 the continuance of a state of law and order;
- 10.1.5 ensure that the Local Councilor of the area be informed of the development at all times, and ensure communication to the Municipality;
- 10.1.6 The CBP (Traditional Authority) would, with the assistance of the Department of Traditional and Local Government Affairs where required:
- 10.1.6.1 Allocate the sites to be occupied and administer a system whereby Functional Tenure will be given to the beneficiaries of the project;
- 10.1.6.2 Ensure the involvement of the community in the implementation arrangements for the project;
- 10.1.6.3 Reach agreement with the Municipality on the level of services to be installed in the project and the administrative mechanisms where applicable for the collection of any service charges payable by beneficiaries;
- 10.1.6.4 Protect the development area and prevent any unlawful occupation thereof.

11 TENURE

- 11.1 The "functional tenure" that is currently in existence in traditional community will be used. The Implementation Agent, in consultation with the CBP will provide the Department of Housing the following information:
- 11.1.1 the details of the beneficiary;
- 11.1.2 tenure that the beneficiary currently holds;
- 11.1.3 The GPS (Global Positioning System) co-ordinates per beneficiary site;

11.1.4 The consent/signature of the Traditional Authority confirming that the beneficiary has been allocated a plot that exists in the GPS./ Certificate of allocation;

11.1.5 The GPS fixed co-ordinates for the outer boundary of the project area;

11.1.6 Consent from the Ingonyama Trust Board in the form of a Land Availability agreement;

12 SUBSIDY POLICY MECHANISM

12.1 The Implementation Agent must ensure that the Amanyuswa Rural Housing project has to be established using the guidelines and business plan format of the amended Project Linked Subsidy mechanism, in conjunction with the provisions provided for in the Rural Housing Policy for the establishment of a system of Functional Tenure, as set out in Part 3, Chapter 11 of the housing code.

13 LOCAL LABOUR

13.1 The Implementation Agent shall, in so far as may be practical, endeavor to secure the services and employment of local people while undertaking the development;

13.2 In addition, the Implementation Agent shall use its best endeavours to ensure that any professional consultants and/or contractors appointed by it shall, likewise, use the services of local people.

14 FINANCE

14.1 The Municipality agrees in principle to be a vehicle for money only;

14.2 The Department of Housing to ensure the transfer of funds in a manner appropriate for the role of the Municipality to place it free of debt. Payment will only be made by the Municipality to the Implementation Agent, for completed activities, once payment has been received from the Department Human Settlement;

14.3 The Department Human Settlement is to provide direction to the Municipality if this is required in respect of all matters relating to funds. The Municipality will

19.1.1 Municipality

Address:

PO Box 132

Ixopo

3276

Telephone number: 039 834 7700

Fax number: 039 834 1168

19.1.2 Implementation Agent

Address:

PO Box 614

Pennington

4184

Telephone number: 039 975 1943

Fax number: 086 543 6818

19.1.3 CBP

Address:

Amanyuswa Traditional Council

P.O. Box 514

Umzinto

4200

Telephone number:

Fax number:

19.2 Any notice required or permitted to be given in terms of this agreement shall be valid only if given in writing.

19.3 Any notice given in terms hereof shall either be sent by pre-paid registered post in which event it shall be deemed to have been received on the fifth day after posting, or delivered by hand, in which event it shall be deemed to have been received when so delivered.

- 19.4 Either party shall be entitled, on 14 (fourteen) days notice to the other, to change its *domicilium citandi et executandi* to another physical address in the Republic of South Africa.

20 ANNEXURES

The following Annexures are required on completion of the Final Social Compact Agreement;

- 20.1 Tribal Authority Consent (Annexure A)
- 20.2 Implementation Agent Appointment (Annexure B)
- 20.2 Designation plan to be attached (Annexure C)
- 20.3 A copy of the land audit and identified property description. (Annexure D)
- 20.4 Declaration that no land claims are of force and effect via the relevant Department of Land Affairs (Annexure E).
- 20.5 Council Resolution (Annexure F)

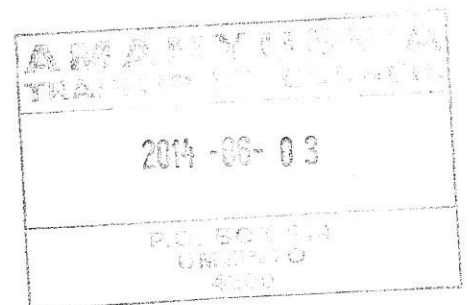
SIGNED at AMANYUSWA on this the 03rd day of JUNE 2014

AS WITNESS :

Hude

DPNGUBO
(name in block letters)

DPNGUBO
Duly authorized
For: Tribal Authority
(Community Based Partner)



SIGNED at Amanyuswa on this the 03 day of JUNE 2014

AS WITNESS :

M. Ngcobo

LAYAN KEMIANUSHEDI
(name in block letters)

[Signature]
Duly authorized

For: Beneficiaries
(Project Steering Committee (PSC))

SIGNED at Lopo on this the 6 day of JUNE 2014

AS WITNESS :

[Signature]

RESHNA GOPAL
(Name in block letters)

[Signature]
Duly authorized
For: Municipality

SIGNED at AMANYUSWA on this the 03 day of JUNE 2014

AS WITNESS :

[Signature]

PATRA KEMIANUSHEDI
(Name in block letters)

[Signature]
Duly authorized
For: Implementation Agent

TERMS OF REFERENCE FOR THE AMANYUSWA PROJECT STEERING COMMITTEE

PROJECT NAME: AMANYUSWA RURAL HOUSING PROJECT
PROJECT AREA: WARD 7 UBUTHLEBEZWE MUNICIPALITY
DoHS PROJECT NUMBER:

Project Steering Committee Mandate

This document, together with the Social Compact Agreement, outlines the roles and responsibilities of the project level stakeholders and in particular the mandate of the Project Steering Committee where this is appropriate for this rural housing project at Ward 7 Ubuhlebezwe Municipality.

1. Roles and Responsibilities of Project Level Stakeholders

1.1 The Implementing Agent (IA) – PDM (Project and Development Management, has been appointed, and is responsible for implementing the overall project including identification of beneficiaries, obtaining approval of the project from both the municipality and the Department of Human Settlement, contracting with professionals i.e. Environmental, Geotechnical, Structural etc, liaison with other stakeholders like the Department of Local Government and Traditional Affairs for Planning consent, the Ngonyama Trust Board for the necessary land Availability Agreement, construction of the house and services, appointment of sub-contractors, financial administration, reporting and ensuring quality and sustainability of the assets created. The IA will ultimately own and maintain the project area and facilities, until the houses or services are to be transferred to the beneficiary. When the houses or services are transferred, the IA is required to obtain approval and final handover acceptance from the beneficiaries, who then take responsibility for ongoing operation and maintenance in the future.

1.2 Project Facilitator – is appointed and accountable to the IA and is responsible for facilitating the project, managing meetings, carrying out the beneficiary registration as well as assisting with contract administration and quality control of the contractors work, ensuring that the targets are met and the employment data is reported, and is the direct link between the beneficiary community and the Implementation Agent.

1.3 Technical Certifier (TC) – is appointed and accountable to the municipality and is responsible for ensuring that the project stays within the program, the beneficiary and municipal wishes are adhered to and ultimate quality control of the contractors work, ensuring that the targets are met and the employment criteria is maintained, and that the various completion certificates are being processed for payments.

1.4 Contractor – is responsible for construction of the project including construction management, employment of a community workforce, materials procurement and quality assurance, is responsible for training community labour in construction techniques and reporting employment data.

1.4 Project Steering Committee (PSC) – established through facilitation by the Project Facilitator. The PSC is responsible for identifying the community needs, endorsing the proposed project, identifying the community workforce, assisting with community liaison and conflict resolution, and review of construction progress. The PSC comprises the IA, Project Facilitator, Tribal Authority, Municipality, Ward Councillor, the Department of Human Settlement and four elected members of the beneficiary community. The PSC decides on who will chair the PSC meetings.

2. Project Steering Committee Mandate

The key role of the project steering committee is to oversee the planning and construction.

Within the planning phase the project steering committee does the following:

- Ensures that the planned project stays within the parameters determined by the government i.e. the planned project is what the community wants;
- Ensures that the construction skills within the community are identified as well as the people most in need of employment i.e. the poorest of the poor within the community;
- Ensures that the planning process is carried out satisfactorily;
- Approves the project business plan;
- Liaises with the community regarding progress and issues which concern the community.

During the construction phase the project steering committee does the following:

- Ensures that the contractor has employed people from the community labour list;
- Assists with dispute resolution should disputes arise;
- Reviews progress and quality;
- Reviews that the contractor is achieving the targets set for the programme.
- Ensure a two way communication between the IA, beneficiary community, municipality and the Department of Human Settlement.

NOTE: Members of the project steering committee, representing the beneficiary community are required to volunteer their time and involvement, and will NOT BE PAID for their services. Should a elected beneficiary opted

on the project steering committee wish to be employed during the implementation of the project then that person must immediately resign from the committee so that there is not a conflict in interest.

3. Project Meetings

- The PSC shall have regular meetings, at least once a month. These meetings could be scheduled to take place on days before or after the project Technical meetings during construction.
- The Project Facilitator shall be responsible for taking minutes and recording all decisions and resolutions taken. These minutes shall be distributed within a week of the meetings taking place.
- The PSC shall report to the beneficiary community on a regular basis on the progress of the project.
- The Chairman shall be elected at each meeting, with a vote of more than two thirds present.
- If a resolution has equal votes the chairperson elected shall have a final additional casting vote.

4. Absences

- If a member is absent for three consecutive meetings without notice or justifiable reason, the committee will review their membership.

5. Sub-Committees

The PSC may establish ad hoc sub committees as required.
The PSC when establishing sub committees will:

- determine membership
- establish aims
- clearly define a process for decision making

6. Dissolve

This PSC shall be dissolved at the end of the project.

7. Social Compact Agreement.

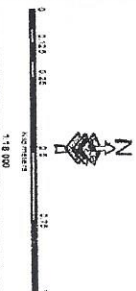
The Project Steering Committee (PSC) shall be guided by their respective roles and responsibilities as defined in the Social Compact Agreement, the Housing Policy and the Housing Code.



**AMANYUSWA
HOUSING PROJECT
UBUHLEBEZWE L.M.**

Legend

- 🏠 HOUSING PROJECTS
 - 📍 Ploče
 - 🏢 SOCIAL FACILITIES
 - 🏥 Health Facilities
 - 🎓 Educational Facilities
 - 📶 CLASS SURFACE
 - 🏠 Prov. Road Network
 - 📍 N. Blocktop
 - 🏠 D. N. Concrete
 - 📍 P. Blocktop
 - 📍 P. Concrete
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 - 📍 G. Blocktop
 - 📍 G. Concrete
 - 📍 G. Gravel
 - 🏠 ALUMINUM, HP, FINISH
 - 📍 BRICK/CHD, HP
 - 📍 BRICK/CHD, HP
 - 📍 HP, C.O., STE
 - 📍 WOODS
 - 🏠 BOUTIQUE, EYE, LM
 - 📍 ALUMINUM



Date: 2013/02/26

Pinck ~~sch~~ -
amg

RR m ung RG A