

DBSA



IMPLEMENTATION

Loan Agreement

PO Box 1234
Midrand, Halfway House
1685, South Africa

Tel: (011) 313 3911
Fax: (011) 313 3086/3072
Home page: <http://www.dbsa.org>



*Building Foundations
for Development*

The Chief Financial Officer
City Council of Klerksdorp
P O Box 99
KLERKSDORP
2570

18 June 2003

Attention : Mr T Fourie
Fax : 018 464 2318

Dear Sir

Your inquiry regarding the latest interest rate on the DBSA loan funding refers.
The interest rate below shall expire on 30 June 2003 :

Capital Amount (R)	Fixed Interest Rates		Loan Term
	NACS# (%)	NACM## (%)	
35 000 000	11.50	11.23	10 years

Interest rates are indicative and are subject to change based upon security offered and a review of the financial and management position of the CCK, as well as market interest rate movements.

There are no hidden costs such as raising fees, commission structures, etc. We, however, wish to bring to your attention that we levy a commitment fee of 50 basis points on the un-disbursed portion of the loan, starting 3 months after conclusion of the loan. This commitment fee terminates on the date of last disbursement by the DBSA.

Nominal annual compounded six-monthly

Nominal annual compounded monthly

Please contact our Mrs Linda Cilliers on 011 313 3561/3580, should you need any further information or clarification.

We assure you of our best attention at all times and our commitment to development in your region.

Yours sincerely,



J NHLAPO

Acting Executive Director : Operations

City Council of

Klerksdorp



City of People

☎ (018) 406 8300 📠 (018) 464 2318 ✉ 99 Klerksdorp 2570, e-mail: kldcityc@gds.co.za

Our Ref:

Enquiries:

L de J Fourie

18 June 2003

DBSA
PO Box 1234
MIDRAND, HALFWAY HOUSE
0001

Sir

LOAN AGREEMENT: NW 100395

Proposed loan agreement DBSA/CITY COUNCIL OF KLERKSDORP dated June 19, 2003 refers.

Enclosed, please find your original and duplicate original Loan agreements (NW 100395) duly completed and signed by the Municipal Manager.

Annexure D is a certified true copy of my Council's resolution, for the raising of the loan, and the signed authorization.

The loan consists of the Re-financing of Capital projects, projects already complete and annexure C1 list of contractors are not completed. Klerksdorp City Council do have however a procurement policy and all projects and purchases are evaluate accordingly.

~~The 3-month floating interest rate will be opted for at this moment on condition that the arrangement can be changed whenever necessary. The DBSA will be notified 30 days in advance.~~

The transfer of R15 247 708.78 before June 30, 2003 to City Council of Klerksdorp bank account will be appreciated.

Bank detail ABSA Cheque account

Account number 01000100176

Branch code 630-138



TZ MOKHATLA

MUNICIPAL MANAGER

LOAN AGREEMENT

in respect of

THE GREATER KLERKSDORP INFRASTRUCTURE DEVELOPMENT PROGRAMME

entered into by and between

CITY COUNCIL OF KLERKSDORP

and

THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED

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Handwritten signatures and initials:
 The top signature appears to be "T. A.". Below it are several other signatures and initials, including what looks like "T.M.", "A.", and "J.".

SUMMARY

1. LOAN AMOUNT : R15 247 708-78.
2. LOAN PERIOD : 10 years.
3. INTEREST RATE :
- 3.1 INITIAL FIXED RATE : **11,50%**
~~12,35%~~, nominal, per annum, payable six monthly;
- 3.2.1 FLOATING RATE : 3 (three) months ZAR-JIBAR-SAFEX: Not applicable; or
- 3.2.2 : 6 (six) months ZAR-JIBAR-SAFEX: Not applicable;
- 3.3 CONVERTED FIXED RATE : Not applicable.
4. GRACE PERIOD FOR CAPITAL REPAYMENT : Nil
5. CAPITAL REPAYMENT : 20 equal six-monthly instalments, commencing on the last day of the 1st Half-year after the Half-year during which the first disbursement was advanced to the Borrower.
6. PROJECT FILE NO. : NW 100395

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1. INTERPRETATION

1.1 In this Agreement, unless the contrary appears from the context, the following words shall have the meanings, as stated -

- 1.1.1 "the Borrower" City Council of Klerksdorp;
- 1.1.2 "the DBSA" the Development Bank of Southern Africa Limited, reconstituted and incorporated in terms of Section 2 of the Development Bank of Southern Africa Act No. 13 of 1997;
- 1.1.3 "the Parties" the Borrower and the DBSA;
- 1.1.4 "the Project" the Greater Klerksdorp Infrastructure Development Programme, as described in more detail in Annexure A, attached hereto;
- 1.1.5 "the Loan" the financing granted to the Borrower in terms of Clause 2;
- 1.1.6 "the Project Agent" a person nominated, in writing, by the Borrower, to act on its behalf, in respect of the Project;
- 1.1.7 "On-lending" the transfer, by the Borrower, of any amount to any third parties, from the proceeds of the Loan, excluding payments for the procurements of goods and services;
- 1.1.8 "Half-year" from the first day of January to the 30th day of June and/or from the first day of July to the 31st day of December during the same calendar year;
- 1.1.9 "Business Day" any day, other than a Saturday, Sunday or a Public Holiday;
- 1.1.10 "the Interest Payment Date" the last Business Day of each Interest Period;
- 1.1.11 "the Interest Period" each period of 3 (three), or 6 (six), months, commencing on 1 January, 1 April, 1 July or 1 October (as the case may be, depending upon which option is exercised), of each calendar year. The first Interest Period shall begin running from the date of the first disbursement to

whichever of the above dates immediately following such first disbursement. Each Interest Period, thereafter, shall begin running from the date of expiry of the preceding Interest Period, notwithstanding that such first day of such Interest Period is not a Business Day. Notwithstanding the foregoing, any period less than 3 (three) or 6 (six) months (as the case may be), running from the date of a disbursement to one of the above dates, immediately following such first disbursement, shall be deemed to be an Interest Period;

- 1.1.12 "the Reset Date" shall mean the first Business Day of January, April, July or October, of each calendar year, or such other dates as may be agreed, in writing, between the Parties;
- 1.1.13 "the Reset Period" a period of 3 (three) or 6 (six) months, as the case may be, commencing from the Reset Date;
- 1.1.14 "the Floating Rate Portion of the Loan" that amount of the Loan, disbursed, and outstanding, from time to time, in respect of which the Floating Rate is applicable;
- 1.1.15 "the Floating Rate" the floating interest rate, from time to time, as determined in Clause 3.2 of the Summary;
- 1.1.16 "the Initial Fixed Rate Portion of the Loan" that amount of the Loan, disbursed, and outstanding, from time to time, in respect of which the Initial Fixed Rate is applicable;
- 1.1.17 "the Initial Fixed Rate" the fixed interest rate, as determined in Clause 3.1 of the Summary;

- 1.1.18 "the Converted Fixed Rate Portion of the Loan" that amount of the Loan, disbursed, and outstanding, from time to time, in respect of which the Converted Fixed Rate is applicable;
- 1.1.19 "the Converted Fixed Rate" the fixed interest rate, as determined in Clause 3.3 of the Summary;
- 1.1.20 "the Conversion Option" the option, in terms of which, the Borrower may convert from the Floating Rate to the Converted Fixed Rate, but not vice versa, pursuant to Clause 3.9;
- 1.1.21 "the DBSA Base Rate" the DBSA fixed interest rate for fixed rate loans, ruling at the time of exercise, by the Borrower, of the Conversion Option;
- 1.1.22 "the Reference Banks" the four major Banks in the Johannesburg Interbank market, selected by the DBSA;
- 1.1.23 "ZAR-JIBAR-SAFEX" in relation to each Interest Period, for the Floating Rate Portion of the Loan, shall mean the mid-market yield rate (rounded upwards, if necessary, to the nearest one thousandth of a percentage point), for deposits in South African Rands, for a three or six month period, as the case may be, which appears on the Reuters Screen, SAFEX Page, as of 11h00, Johannesburg time, two Business Days prior to the commencement of the relevant Interest Period;
- 1.1.24 "ZAR-JIBAR-Reference Banks Rate" in relation to each Interest Period, for the Floating Rate Portion of the Loan, shall mean the yield rate, determined on the basis of the mid-market deposit rate, for South African Rands, for a three or six month period, as the case

may be, quoted by the Reference Banks, at, or about, 11h00, Johannesburg time, two Business Days prior to the commencement of the relevant Interest Period;

- 1.1.25 "the Operating Cost Margin" the margin for operating expenses, as shall be determined, by the DBSA, from time to time, in its reasonable discretion;
- 1.1.26 "the Funding Cost Margin" the margin representing an average cost of borrowing, to the DBSA, as shall be determined, by the DBSA, from time to time, in its reasonable discretion;
- 1.1.27 "this Agreement" this Agreement, together with any Annexures hereto.

1.2 Headings to the Clauses of this Agreement and the Table of Contents are for reference purposes only and are not intended to affect the interpretation hereof.

1.3 Any reference to:-

- 1.3.1 the singular shall include the plural and vice versa;
- 1.3.2 a natural person shall include an artificial or corporate person and vice versa;
- 1.3.3 one gender shall include the other.

1.4 Any reference to ZAR-JIBAR and/or ZAR-JIBAR-Reference Banks Rate shall include any other substitute rate, calculated in the same manner as either of these two rates, whether such substitute rate appears on the Reuters Screen SAFEX Page, or on some other screen page.

1.5 This Agreement shall bind the Borrower and its successors-in-title and/or successors-in-law.

2. THE LOAN

2.1 The Loan shall be:-

2.1.1 an amount not exceeding, in aggregate, R15 247 708-78 (fifteen million, two hundred and forty seven thousand, seven hundred and eight Rand and seventy eight cents); and

2.1.2 utilised exclusively for the Project, and the Borrower, hereby, undertakes that it shall comply with all provisions of this Agreement.

2.2 The Loan proceeds shall be paid by the DBSA to, and on the order of, the Borrower in such disbursements and in accordance with all provisions contained in this Agreement.

2.3 No On-Lending shall be effected by the Borrower, unless provided for in this Agreement.

3. INTEREST

3.1 The Loan shall bear interest on the amounts outstanding, from time to time, at the Initial Fixed Rate, or the Floating Rate (from time to time) or the Converted Fixed Rate, as the case may be, at the election of the Borrower.

3.2 The Borrower shall, subject to this Clause, indicate its choice, in writing, of the interest rate option to be applied to the Loan. The document, in which the Borrower indicates its option, shall be deemed to form part of this Agreement.

3.3 In the event that the Borrower, initially, exercises its option in favour of a fixed rate, then the Initial Fixed Rate shall apply to the Loan.

3.4 Interest, pursuant to the Initial Fixed Rate, on the amount outstanding, from time to time, shall be compounded six-monthly and payable on the last Business Day of each Half-year. Payment shall commence on the last Business Day of the Half-year following the Half-year during which the first disbursement was advanced to the Borrower from the proceeds of the Loan.

3.5 In the event that the Borrower, initially, exercises its option in favour of a floating rate, then the Floating Rate, from time to time, shall apply to the Floating Rate Portion of the Loan.

3.6 The rate of interest applicable to the Floating Rate Portion of the Loan, disbursed, and outstanding, from time to time, (expressed as a percentage rate, per annum) shall be the three or six month ZAR-JIBAR-SAFEX, as the case may be, plus the sum, from time to time, of the Operating Cost Margin and the Funding Cost Margin, plus, in respect of risk, the basis points enumerated in Clause 3.2 of the Summary. If, for any reason, it shall become impossible to determine ZAR-JIBAR-SAFEX, or ZAR-JIBAR-SAFEX rates shall

become unavailable, by reason of market disfunction, then the rate of interest applicable to the Floating Rate Portion of the Loan shall be the three or six month ZAR-JIBAR-Reference Banks Rate, as the case may be, plus the sum, from time to time, of the Operating Cost Margin and the Funding Cost Margin, plus, in respect of risk, the basis points enumerated in Clause 3.2 of the Summary.

- 3.7 The DBSA will be entitled to request the principal Johannesburg office of each of the Reference Banks to provide a quotation of their rates. If, at least, 2 (two) quotations are provided, the rate will be the arithmetic mean (rounded upwards, if necessary, to the nearest thousandth of a percentage point) of the quotations.
- 3.8 The interest rate for each Interest Period shall be compounded three-monthly or six-monthly, based on the actual number of days elapsed and a 365-day year, and shall be payable, in arrears, on each Interest Payment Date.
- 3.9 The Borrower may, on any Reset Date, convert all of the Floating Rate Portion of the Loan into a Converted Fixed Rate Portion of the Loan, provided that the Borrower shall give, to the DBSA, no less than 30 (thirty) Business Days' notice of its intention to do so. Upon the exercising of the Conversion Option, by the Borrower, as contemplated herein, the amount outstanding from the date on which the Borrower shall have exercised the Conversion Option shall bear interest at the Converted Fixed Interest Rate. The DBSA shall notify the Borrower, in writing, of the DBSA Base Rate applicable, at the time. The Converted Fixed Interest Rate shall, for the purpose of this Clause, be calculated on the same basis as in Clause 3.4, above.

4. REPAYMENT OF LOAN AND PAYMENT OF INTEREST

- 4.1 The capital amount of the Loan shall be repaid in 20 (twenty) equal six-monthly instalments, commencing on the last day of the 1st (first) Half-year following the Half-year during which the first disbursement was made to the Borrower from the proceeds of the Loan, and, thereafter, at the end of each succeeding Half-year, until the Loan, together with interest thereon, shall have been fully repaid. Provided that, subject to the provisions of Clause 7, the Borrower may, with 1 (one) month's written notice to the DBSA, make repayments in excess of the abovementioned or repay the full amount outstanding. Provided, further, that the Borrower shall not be entitled to make any repayments prior to the date on which the first instalment shall fall due, in terms of this Agreement and provided, further, that this shall not jeopardise the proper completion of the Project.

4.2 An instalment shall be:-

4.2.1 an amount, determined as at the outset of the 1st (first) Half-year following the Half-year during which the first disbursement was made to the Borrower from the proceeds of the Loan;

4.2.2 calculated as being sufficient to amortise the outstanding capital amount, together with interest at the rate set out in clause 3, above, in 20 (twenty) six-monthly payments.

4.3 Should, at the outset of the said 1st (first) Half-year, part of the Loan still not be drawn by the Borrower, the amount of instalments shall be adjusted, as and when drawings take place, in order to achieve amortisation over the original period of the Loan.

5. COMMITMENT FEE

5.1 The DBSA shall be entitled, in respect of the Fixed Rate Portion of the Loan, to charge a commitment fee of 0,5% (nought comma five per centum), per annum, on all the undisbursed portions of the Loan, as follows:-

5.1.1 in the case where the Borrower has elected the Initial Fixed Rate option, the DBSA shall be entitled to charge such commitment fee, effective 3 (three) months from the date of signature of this Agreement; or

5.1.2 in the case where the Borrower has exercised the Conversion Option, the DBSA shall be entitled to charge such commitment fee, effective 3 (three) months from the date of the exercise of the Conversion Option, by the Borrower.

6. LATE PAYMENT

6.1 The Borrower shall be liable, to the DBSA, for the payment of penalty interest on all amounts payable, yet unpaid, in terms of this Agreement, should the Borrower:-

6.1.1 fail to pay, on the due date for payment thereof, any amount owing, or which may become owing, to the DBSA, in terms of this Agreement; or

6.1.2 with the DBSA's written consent, defer the payment of any amount so owing.

6.2 Penalty interest shall be calculated with regard to the actual period during which the amount payable remained unpaid, at the ruling prime overdraft rate, charged by The

Standard Corporate and Merchant Bank, Sandton, South Africa, on its overdraft accounts, from time to time Penalty interest shall all be compounded six-monthly and shall be payable, on demand.

7. EARLY REPAYMENT

7.1 In respect of the Fixed Interest Rate, the Borrower may prepay all, or part of, the Loan, on payment dates and subject to prior written notice of, at least, 30 (thirty) days. The amount prepaid shall be equal to a full payment of any instalments, of the Loan. In such case, and, in the event of the Borrower having elected a Fixed Interest Rate, or having exercised the Conversion Option:-

7.1.1 where the Loan interest rate is less than, or equal to, the reinvestment rate (defined below), no prepayment fee shall be payable;

7.1.2 where the interest rate of the Loan is greater than the reinvestment rate, each prepayment shall give rise to payment, by the Borrower, to the DBSA, of a prepayment fee, equal to the difference, calculated on a present value basis, to the DBSA's prejudice, between the interest, which the Loan would have produced, had there been no prepayment, and the interest, which would be produced by a reinvestment of the same amount, having the same amortisation schedule as the prepaid portion of the Loan.

7.2 For the purposes of Clause 7.1, above:-

7.2.1 the reinvestment rate shall be the rate at which the DBSA lends out funds to Borrowers, at the date of such prepayment;

7.2.2 the discount rate shall be equal to the reinvestment rate, used above. The date used for the present value calculation shall be that of the prepayment;

7.2.3 payment of the prepayment and prepayment fee shall take place for value on the payment date.

7.3 In respect of the Floating Interest Rate, the Borrower may, on any interest payment date, and subject to, at least, 30 (thirty) days' written notice, prepay all, or a portion, of the Loan, provided that the Borrower shall be liable to pay, to the DBSA, a once-off prepayment fee, equating to the risk margin, on any amount prepaid, in terms of this Clause.

8. PAYMENTS/REPAYMENTS

8.1 All payments, in terms of this Agreement:-

8.1.1 to, or by, the Parties shall be effected in South African Rands;

8.1.2 to the Borrower, shall be effected to the credit of such banking account of the Borrower, as the Borrower may, from time to time, direct, in writing;

8.1.3 to the DBSA, shall be effected to the credit of such banking account of the DBSA, as the DBSA may, from time to time, direct, in writing;

8.1.4 to the DBSA, shall be effected without deduction and free from any taxes, charges, fees or other costs, whatsoever.

8.2 The Borrower shall furnish the DBSA, in writing, with all the necessary information regarding its officials, who are authorised to apply for drawdowns, on the Borrower's behalf.

8.3 Whenever any payment falls due on a Saturday, Sunday or Public Holiday under the laws to which either of the Parties are subject, such payment shall be made on the next succeeding business day.

9. CANCELLATION/TERMINATION OF DRAWDOWNS

9.1 The Borrower may, by giving 30 (thirty) days' written notice to the DBSA, cancel any undrawn portion of the Loan, provided that such cancellation shall not jeopardise the proper completion of the Project, it being understood that, upon the giving of such notice, the instalments referred to in clause 4.1, above, shall be reduced pro rata.

9.2 If the DBSA, after consultation with the Borrower, reasonably concludes that any portion of the Loan will not be required to finance the Project, the DBSA may, by written notice to the Borrower, terminate the right of the Borrower to make drawdowns in respect of such undrawn portion, it being understood that, upon giving of such notice, the instalments referred to in clause 4.1, above, shall be reduced pro rata.

9.3 If the DBSA has not received a final application for a drawdown under the Loan from the Borrower at the end of the 1st (first) Half-year following the Half-year during which the first disbursement was made to the Borrower from the proceeds of the Loan, the DBSA may terminate further disbursements to the Borrower on 30 (thirty) days' written notice to the Borrower, unless the DBSA, after consideration of the reasons for the delay, has determined a later date for the purposes of this Clause. The DBSA shall only consider an extension on receipt of a written request from the Borrower and shall notify the Borrower of its decision.

Handwritten signatures and initials in black ink at the bottom right of the page. There are several distinct signatures, including one that appears to be 'B. T. M.' and another that is more stylized.

10. EVENTS OF DEFAULT

- 10.1 The DBSA shall be entitled, after giving the Borrower 30 (thirty) days' written notice, to suspend drawdowns from the Loan, or to terminate this Agreement, and to claim, from the Borrower, immediate payment of all the outstanding amounts, should the Borrower commit any breach of this Agreement, provided that the DBSA may, at its entire discretion, dispense with the giving of the 30 (thirty) days' notice.
- 10.2 Without derogating from the generality of the foregoing, the DBSA shall be entitled to exercise its rights in terms of clause 10.1, above, upon the happening of any of the following events:
- 10.2.1 the Borrower failing to repay the capital amount and to pay interest in terms hereof, and failing to remedy such breach within the notice period referred to in 10.1, above, requiring it to do so;
 - 10.2.2 any attachment being made, or any execution being levied, against the Borrower;
 - 10.2.3 the Borrower failing to repay any of the DBSA's loans or breaching any agreement entered into between the Borrower and the DBSA;
 - 10.2.4 any fact or circumstance shall have occurred, which, in the opinion of the DBSA, may affect the ability, or willingness, of the Borrower to comply with all, or any, of its obligations, pursuant to this Agreement;
 - 10.2.5 the Borrower proposing any rescheduling, reorganisation or rearrangement of the whole, or part, of its indebtedness with the DBSA, or any of the Borrower's creditors;
 - 10.2.6 the Borrower's business operations, or any significant part thereof, being interrupted for a continuous period of, at least, 3 (three) months;
 - 10.2.7 any approval, licence, authorisation, or other requirement, necessary to enable the Borrower to comply with any of its obligations, in terms of this Agreement, is modified, revoked or withdrawn, whilst this Agreement is still in force;
 - 10.2.8 any order is made, or resolution passed, or other action taken, for the dissolution, or termination, of the existence of the Borrower; and
 - 10.2.9 any representation, warranty or statement made in, or in connection with, this Agreement, or any opinion delivered by, or on behalf of, the Borrower, pursuant to this Agreement, is found to be incorrect.
- 10.3 The exercise of the rights by the DBSA, in terms hereof, shall be without prejudice and/or in addition to any other rights which the DBSA may, then, have against the Borrower, in law, including the right to demand specific performance by the Borrower of its obligations in terms of this Agreement.

Handwritten signatures of the Borrower and the DBSA.

11. SUSPENSIVE TERMS AND CONDITIONS

The Suspensive Terms and Conditions are set out in Annexure F.

12. FURTHER TERMS AND CONDITIONS

The Further Terms and Conditions are set out in Annexure G.

13. ARBITRATION

- 13.1 Any dispute arising out of, or relating to, this Agreement, concerning the interpretation of the terms and conditions of this Agreement, or of compliance, by any Party, with any terms and conditions of this Agreement, which is not resolved amicably, through consultation or negotiation, shall, subject to the other provisions of this Clause, be settled by arbitration, in terms of the Arbitration Act No. 42 of 1965, as amended, from time to time. Provided that a claim by the DBSA for the repayment of any monies due, in terms of this Agreement, shall not be regarded as a dispute for the purpose of this Clause and neither Party shall, therefore, be obliged to refer such a claim to arbitration.
- 13.2 In the case of arbitration, a tribunal shall be comprised of one arbitrator, who shall be appointed by the Parties, by agreement, or, failing such agreement, by the chairperson of the Association of Arbitrators, who shall, in appointing such arbitrator, have regard to the qualifications and experience of the appointee in relation to the nature of the dispute over which he has to adjudicate. In the event that the arbitrator resigns, or becomes unable to act, a successor shall be appointed in the same manner as prescribed, above, for the appointment of the original arbitrator and the successor shall have all the powers and duties of his predecessor.
- 13.3 The arbitration shall be held at Johannesburg, and in accordance with whatever procedures, the arbitrator considers appropriate. In particular, the arbitrator, may, if he deems appropriate, conduct the arbitration in an informal and summary manner and without requiring pleadings or discovery of documents and without observing the rules of evidence. The proceedings shall be confidential and, neither the Parties, nor the arbitrator, shall disclose to third parties, any information, regarding the proceedings, the award, or settlement terms, unless the Parties otherwise agree, in writing.

13.4 After the institution of arbitration proceedings, the tribunal may proceed with the arbitration, notwithstanding any failure, neglect or refusal of either Party to comply with the provisions hereof, or to take part, or to continue to take part, in the arbitration proceedings. The arbitrator shall, within 30 (thirty) days of the termination of the proceedings, render a final and binding written award, including interest and costs, and furnish the Parties with written reasons for his judgment.

13.5 The provisions of this Clause may be invoked by any Party, by delivering, to the other Party, a demand, in writing, that an arbitrator be appointed, to adjudicate in respect of a specified dispute.

14 GENERAL

14.1. PROJECT NOTICE BOARDS

The Borrower shall, at its own cost, ensure that, immediately upon commencement of construction/building operations, contemplated by this Agreement, if it is decided to erect a project notice board, the said board shall clearly advertise the fact that such construction/building operations, have been financed or co-financed, as the case may be, by the DBSA.

14.2. DOMICILIUM

14.2.1 The Parties, hereby, choose domicilium citandi et executandi ("domicilium"), for all purposes arising from, or pursuant to, this Agreement, as follows:

In case of the DBSA:

Physical address: Development Bank of Southern Africa Limited
1258 Lever Road
Headway Hill
MIDRAND
SOUTH AFRICA; or

Postal address: P O Box 1234
HALFWAY HOUSE
1685; or

Telefax number: (011) 313 3086

In case of the Borrower:

Physical address: City Council of Klerksdorp
Corner Pretoria and Kerk Streets
KLERKSDORP
2570; or

Postal address: P O Box 99
KLERKSDORP
2570; or

Telefax number: (018) 462 6154 or (018) 464 2318

14.2.2 Each of the Parties shall be entitled, from time to time, by written notice to the other, to vary its domicilium to any other address, which is not a Post Office or Poste Restante.

14.2.3 Any notice addressed by either Party to the other ("the addressee"), which:-

14.2.3.1 is delivered by hand, during the normal business hours of the addressee, at the addressee's domicilium, for the time being, shall be presumed to have been received by the addressee at the time of delivery;

14.2.3.2 is posted by prepaid registered post to the addressee at the addressee's domicilium, for the time being, shall be presumed to have been received by the addressee on the seventh day, after the date of posting. Provided that the Parties may agree that all other forms of correspondence and/or requests may be effected, via telefax and/or electronic mail (e-mail).

14.3. WHOLE AGREEMENT

This Agreement constitutes the entire agreement between the Parties and no representations, warranties, undertakings or promises, of whatever nature, which may have been made by any of the Parties, their agents or employees, other than those hereincontained, shall be binding or enforceable against them.

14.4. NON-VARIATION

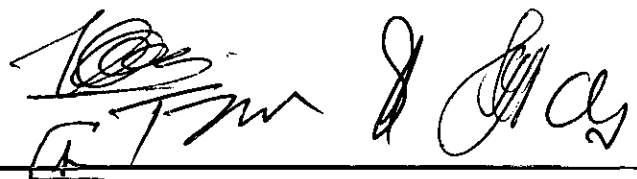
No variation, amendment, consensual cancellation or addition to this Agreement shall be valid, unless the same has been reduced to writing and signed by, or on behalf, of the Parties.

14.5. NON-ENFORCEMENT/INDULGENCE

The non-enforcement of any provision of this Agreement, or any indulgence which either Party may grant to the other Party, shall be without prejudice to the rights of such first-mentioned Party to insist upon strict compliance by such other Party with all the provisions of this Agreement, or to enforce its rights, in respect of which such indulgence was granted.

14.6 TERMS AND CONDITIONS OF DISBURSEMENT

Disbursement of each progress claim, in respect of the amount financed by the DBSA, is to be effected as a ratio of the actual cost of each item (for each phase), in accordance with the Application and Source of Funds Statement (Annexure B), read together with the Project Description (Annexure A), to the maximum amount of R15 247 708-78. This is subject to submission, by the Borrower, to the DBSA, of fully documented proof of payment by the Borrower to the supplier, consultant and/or contractor, of actual claims (or in-house expenses incurred), as approved by the Borrower, or its authorised representative. Each progress claim shall be in the itemised format, as depicted in Annexure B.



SIGNED AT KLERKS DORP ON THE 20 DAY OF JUNE 2003.

AS WITNESSES:

1. [Signature]
2. [Signature]

[Signature]

FOR AND ON BEHALF OF THE BORROWER, DULY AUTHORISED THERETO, IN TERMS OF ANNEXURE D.

SIGNED AT Midrand ON THE 25th DAY OF June 2003.

AS WITNESSES:

1. [Signature]
2. [Signature]

[Signature]

FOR AND ON BEHALF OF THE DBSA, DULY AUTHORISED THERETO, IN TERMS OF ANNEXURE E.

[Signature]
[Signature]

PROJECT DESCRIPTION

The Project consists of the re-financing of new infrastructure, which enhances the urban living conditions in the Greater Klerksdorp area. The capital expenditure was approved on the City Council of Klerksdorp's 2001/2002 budget and the completion thereof financed internally, in the interim. The projects under this Agreement are listed, below:

<u>Department</u>	<u>Project</u>	Budget	<u>Expenditure</u>
ELECTRICITY INFRASTRUCTURE			
<u>Streetlighting</u>			
450535101600	Streetlighting Merury Road(new street lights)	300,000	237,334.8
450535101700	Upgrading streetlights(whole town)	300,000	198,472.4
<u>Electricity distribution</u>			
501535100200	Upgrading 11 kva overheads lines	200,000	96,569.6
501535100300	Upgrading 400v overheads lines	200,000	194,358.0
501535100400	Upgrading 400v low voltage breakers	100,000	99,831.9
501535100500	Upgrading mini substations	300,000	299,646.7
501535100600	Upgrading pillar boxes	200,000	185,203.2
501535100700	Upgrading existing network	500,000	476,462.1
501535100800	Replace faulty H/T protection equipment	100,000	86,192.7
501535100900	Upgrading:Substation building	140,000	137,876.9
501535101000	Replace H/V Switchgear Hood substation	100,000	84,665.4
501535101100	Replace H/V Switchgear Elliot substation	100,000	93,141.7
501535101200	Upgrading 11 KVA overheads lines to farms	300,000	299,577.4
501535101300	Upgrading 11 KVA overheads Boreholes	50,000	48,484.8
501535101400	Upgrading L/V overheads lines	500,000	498,965.2
501535103700	Electrification Jouberton (electical network,poles,lines)	501,020	487,936.5
501535103800	Upgrading 11KVA Substations Marlow	400,000	296,547.4
501535104600	Ripple control	610,000	262,089.4
	TOTAL:	4,301,02	4,083,356.8
GENERAL INFRASTRUCTURE			
<u>Cementary</u>			
150535105100	Upgrading of Muslim cemetery (palisade fence,gate)	55,000	39,498.2
150535105200	Concrete strips Alabama/kldp/orkney(cement walkways)	50,000	45,359.6
150535105600	Development Aesthetical Khuma(plant grass)	50,000	3,711.8
150535105700	Parks & Recreation(cement walkways)	130,000	61,788.5
<u>Council's general expense</u>			
300535107400	Office charges(furniture,carpets, etc.)	426,350	136,357.8
300535107600	Upgrading Main building(carpets,tiles,funiture,curtains)	139,250	133,394.9
<u>Garage</u>			
451035101800	Upgrading Buildings(build walls,paint roof,concrete walls)	50,000	47,145.5
<u>Traffic</u>			
601035106800	Receipting software	60,000	12,210.2
601035107100	Hardware/software contingencies	275,000	63,718.7
601035106800	Exol documentation system	25,000	24,066.4
<u>Refuse dumping site</u>			
701035105800	Rehabilitation dumping site	100,000	99,792.0
<u>Administration</u>			
550535107500	Printer		1,099.0
	TOTAL:		668,143.1

ROADS AND STORM WATERRoads

352535103900	Phuthaditshaba Str (seal new road)	1,000,00	646,341.6
352535104000	Roads(General)(reseal various streets)	767,000	767,000.0
352535104100	Grading of roads in new extentions Kanana	139,500	136,580.0
352535107000	Jabulane street (seal new road)	299,000	270,538.0
	TOTAL:	2,205,50	1,820,459.7

SEWERAGE INFRASTRUCTURESewer distribution

751535112600	Sewerage Pump Station,Jouberton Western outfall	595,000	520,000.0
	TOTAL:		520,000.0

SOCIAL INFRASTRUCTUREParks and Gardens

155035105300	Paving of Median Central Avenue	10,000	9,975.1
155035105400	Water meters Orkney parks(sprinkling system)	10,000	2,616.3
155035105500	Parks development Kanana/Khuma/Tigane(sprinkling sys)	225,000	170,591.1
155035107800	Cemetary Tigane(fencing)	25,000	24,695.0

Recreation Grounds

155535104200	Upgrading :Khuma stadium(palisade fence/paint/floodlights)	210,000	200,767.4
155535104300	Upgrading :Kanana stadium(fencing/plant grass)	290,000	285,604.3
155535104400	Rebuilding of no.10 golf green Klerksdorp.	70,000	66,871.1
155535104500	Complete paving Gymnastics,Recreation centre	20,000	17,587.1
155535104700	Floodlights ext 16	30,000	30,000.0
155535104800	Upgrading swimmig pool(repair pump)	10,000	8,885.6
155535104900	Palisade fence Markotter stadium Klerksdorp	15,000	14,850.0
	TOTAL:	745,000	832,443.4

TOWN PLANNING AND SURVEYINGTown planning

351535100100	Botha's farm surveying	350,000	340,821.9
351535103100	Botha's farm Layout plan	396,000	382,032.5
351535103200	Kanana x13 Layout planning	572,000	563,660.0
351535103300	Alabama x13 Layout planning	150,000	149,508.9
351535103500	Kanana x13 Surveying	784,000	704,484.1
351535103600	Alabama x13 Surveying	600,000	524,318.9
	TOTAL:	3,686,00	2,664,826.5

WATER SUPPLY INFRASTRUCTUREWater distribution

401535101900	Water meters Kanana(upgrading)	77,000	48,200.0
401535102000	Water meters Jouberton(upgrading)	140,000	140,007.1
401535102100	Erasmus str replace 100a(pilot controle unit)	62,000	61,222.2
401535102300	SPCA Replace 75 ac with UPVC	120,000	119,883.8
401535102400	Jarvice str Replace 50 ac	26,000	21,763.8
401535102500	Basic Water,Alabama x3(water network)	637,000	588,498.8
401535102600	Basic Water,Kanana x13(network)	660,000	673,403.6
401535102700	Basic water,Botha's farm (network)	516,000	515,666.4
401535102800	Basic water,Highways Khuma(network)	843,000	841,111.1
401535107300	Dept.Public works replacement 50ac with UPVC	55,000	48,375.1
	TOTAL:	3,136,00	3,058,132.2

FRESH PRODUCE MARKETMarket

800035106000	Additional loading platform	1,300,00	1,299,946.8
800035106100	Standby generator 250kva	300,400	300,400.0
	TOTAL:	1,600,40	1,600,346.8
		500,000	
	GRAND TOTAL:		15,247,708.7

SOURCE AND APPLICATION OF FUNDS STATEMENT

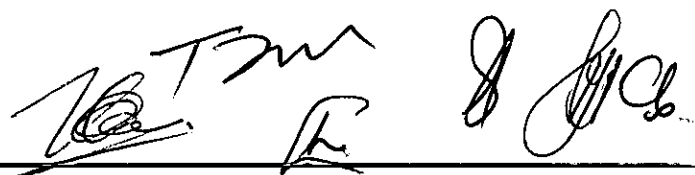
DESCRIPTION	TOTAL (R)	DBSA (R)	%	BORROWER (R)	%	OTHER (R)	%
Electricity Infrastructure	4,083,356.87	4,083,356.87	100.0	0.00	0.00	0.00	0.00
General Infrastructure	668,143.12	668,143.12	100.0	0.00	0.00	0.00	0.00
Roads and Storm Water	1,820,459.70	1,820,459.70	100.0	0.00	0.00	0.00	0.00
Sewerage Infrastructure	520,000.00	520,000.00	100.0	0.00	0.00	0.00	0.00
Social Infrastructure	832,443.42	832,443.42	100.0	0.00	0.00	0.00	0.00
Town Planning and Surveying	2,664,826.57	2,664,826.57	100.0	0.00	0.00	0.00	0.00
Water Supply Infrastructure	3,058,132.25	3,058,132.25	100.0	0.00	0.00	0.00	0.00
Fresh Produce Market	1,600,346.85	1,600,346.85	100.0	0.00	0.00	0.00	0.00
TOTAL	15,247,708.78	15,247,708.78	100.0	0.00	0.00	0.00	0.00

PROJECT CO-OPERATION

1. To ensure that the purposes of the Loan are accomplished, the Parties shall:-
 - 1.1 periodically, and at the request of either Party,;-
 - 1.1.1 exchange views, with regard to the progress of the Project, the benefits derived therefrom and the performance of their respective obligations, in terms of this Agreement, as well as other matters relating to the purposes of the Loan; and
 - 1.1.2 furnish each other with all such information, as may be reasonably requested, with regard to the progress of the Project, the benefits derived therefrom and the general status of the Loan;
 - 1.2 promptly inform each other of any fact, which interferes with, or threatens to interfere with, the progress of the Project, the accomplishment of the purposes of the Loan; any related matter, and, in particular, the performance, by either Party, of its obligations, in terms of this Agreement;
 - 1.3 confirm that they have determined the technical, financial and organisational requirements, in respect of planning, management and control of the Project, to ensure the efficient and effective execution and maintenance of the Project and related matters; and
 - 1.4 jointly, determine the criteria to be taken into consideration, when awarding contracts for items and services to be financed by the Loan.
2. The Borrower shall:-
 - 2.1 grant representatives of the DBSA the opportunities reasonably necessary, to visit any relevant area, for purposes related to the Loan;
 - 2.2 in addition to the amount made available, in terms of this Agreement, be responsible for the provision of all other funds necessary for the successful execution of the Project, as set out in Annexure B, including funds to be supplied by third parties, as reflected in the said Annexure B;
 - 2.3 be responsible for the management and maintenance of work carried out, within the context of the Project;

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- 2.4 with regard to the procurement of goods and services for the Project, in consultation with the DBSA, invite participation, in tender or quotation procedures on an open bid basis (such documentation to be drawn up, in consultation with the DBSA's Project Team and ratified by the DBSA), from natural persons and bodies corporate, respectively;
- 2.5 ensure that contractors, to whom contracts are awarded, are insured, and remain insured, in terms of contractors-all-risk-insurance policies, in a manner reasonably acceptable to the DBSA;
- 2.6 insure, and keep insured at the replacement value thereof, such of its interests in the Project, against such risks, as may be agreed upon by the Parties;
- 2.7 maintain, or cause to be maintained, records, adequate to identify the operations carried out by means of the Loan, and furnish the DBSA with all such information (e.g. progress reports), concerning the implementation of the Project;
- 2.8 apply the Loan, in accordance with Annexure B;
- 2.9 require each contractor, to whom a contract is awarded, to furnish a performance guarantee acceptable to the DBSA, in terms whereof the completion of such contract is guaranteed; and
- 2.10 preserve all documents and accounting records, relating to the Project, up to the expiry of a period of 3 (three) years, after completion of the Project, and shall allow the DBSA, at the DBSA's cost, at any reasonable time, to have such documents and records audited by a person, nominated by the DBSA.
3. Where the Parties agree that the further appointment of consultants, or the revision of the brief of appointed consultants, is necessary, the following criteria shall obtain:-
- promotion and/or support of the SMME sector;
 - past experience with similar projects;
 - knowledge of local conditions;
 - abilities and qualifications;
 - membership of professional institutions.
4. It is, hereby, placed on record that the Borrower has appointed the contractors, listed in Annexure C I, in respect of the Project, and these are acceptable to the DBSA.

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LIST OF CONTRACTORS

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CITY COUNCIL OF KLERKSDORP

EXTRACT FROM THE MINUTES OF THE TWELFTH MEETING OF THE CITY COUNCIL OF KLERKSDORP HELD ON TUESDAY, 25 MARCH 2003 AT 18:00 IN THE COUNCIL CHAMBER, CIVIC CENTRE, KLERKSDORP

PRESENT

Councillors BS TSHWENE - Speaker
 MA MASIKE - Executive Mayor

Councillors MS BENJAMIN
 I BONDES
 GP BOTES
 V CHINGA
 DJ DE KOCK
 F CANGA
 R DE WET
 PR DE JONG
 CM DINISO
 J DOUW
 P ERASMUS
 NE GEORGE
 EG HART
 KS KANYANE
 LM KORTJAS
 NP LAUBSCHER
 NM MAFUYA
 MJ MAPANE
 VE MARAIS
 LH METHI
 MF MASIKE
 ML MASIMINI
 GE MATWE
 JP MOHLAKOANA
 B MOLOI
 TE MOTSHABI
 EI MUHAMMED
 WJ NELSON
 MS NTLHAENG
 LP NGWABENI
 TJ NTUSI
 OZ NYIKANA
 B NZIMA
 SG PAMPIRI
 PR POOE

M RAMETSI
IT KGECHANE
T RAMMUTLE
GL SEBUASENGWE
P SEDUKU
NW SETHUN TSA
MS SISHUBA
WG THIEL
R THULO
SF VAPHI
MJ VILJOEN
Z ZOZI/GWIJI

Absent without leave
Councillors

S BOTES
DJ MASIE
GH MOLEME
FC NGQAQU

Absent with leave
Councillors

NR FILANA
ME FLATHELA
TS MQOBONGO
TB MPUKWANA
EPJ NEL
GL SOLOMON
M SULIMAN

CC
12/2003

RAISING OF EXTERNAL LOANS

6/4/2

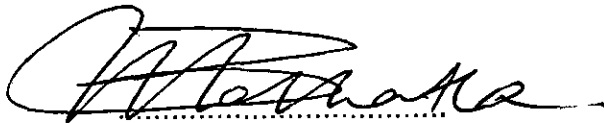
**(ITEM 14 p F10 – F12 – MAYCO 17/03/2003)
(CC 25/03/2003)**

RESOLVED

- (a) That the Manager : Financial Services in terms of section 10G(8)(a)(i) of the Local Government Transitional Act 1993 (Act No 209 of 1993) be authorized to apply and accept a loan of not exceeding R15 544 152,41 from the Development Bank of Southern Africa repayable over a period of 10 years at an interest rate of not more that 12,8%.
- (b) That the Municipal Manager be authorized to sign the agreement on behalf of Council.
- (c) That the loan be utilized for the financing of the capital projects as listed on schedule "A" as follows:

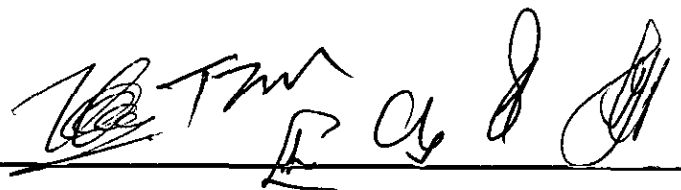
CERTIFIED A TRUE COPY

DATE 23/06/2003.



TZ MOKHATLA
MUNICIPAL MANAGER

AUTHORISATION - BORROWER

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AUTHORISATIONDEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED**MANDLA SIZWE GANTSHO**

in his capacity as Chief Executive of the Development Bank of Southern Africa, in terms of authority delegated to the incumbent of this post by the Board of Directors of the Development Bank of Southern Africa on 19 September 1985, determined on 01 May 2003 that:

MANDLA SIZWE GANTSHO
in his capacity as Chief Executive

OR

JACOB HENRY DE VILLIERS BOTHA

OR

ABDUL-KADER MOHAMED

OR

LEWIS MAXWELL MUSASIKE

OR

ZANELE JOYCE MATLALA

OR

SNOWY JOYCE KHOZA
in their capacity as Executive Managers

OR

MAGARE LUTHER MASHABA
In his capacity as Chief Operating Officer, DBSA: Development Fund

OR

PULE LESAILANE MOKHOBO
in his capacity as Manager: Legal Services

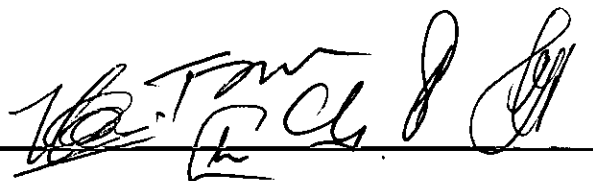
OR

TLADI PHILEMON DITSHEGO

OR

LANDIWE JACKIE MAHLANGU

OR



CHRISTINA JOANNA GOLINO

OR

BANE MOEKETSI MALEKE

OR

MDUDUZI DENNIS NAPOLEON THABANENG

OR

MASHUPYE RATALA KGAPHOLA

OR

TSHEPO DAUN MAHLOELE

OR

SALOCHANNA GOLDEN

OR

PUMLA MANNYA

OR

TLADI JOSIAS RAMUSHU

OR

PHUTI MALABIE

in their capacity as Managers: Business Units (DSP Related)

be authorised for and on behalf of the Development Bank of Southern Africa to enter into agreements in terms whereof money is:-

1. lent, or
2. granted for the purpose of technical assistance,

and to perform all acts and sign all documents that may be necessary for the purpose

DATE

LEGAL ADVISOR



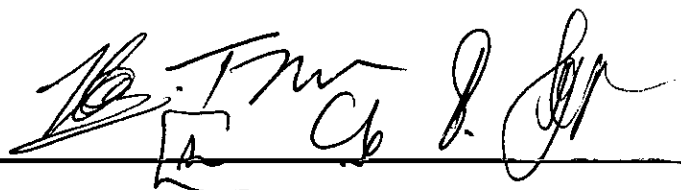
SUSPENSIVE TERMS AND CONDITIONS

1. The operation of this Agreement is subject to the Borrower submitting a certified copy of its Council's resolution, authorizing the Borrower to conclude the Agreement, in respect of the Project, and approval of the funding arrangements thereof.

A handwritten signature in black ink, appearing to be "RITWA S J" with a flourish underneath.

FURTHER TERMS AND CONDITIONS

- 1.1 The Borrower, hereby, undertakes not to enter into any future debt obligations, which will result in a servicing of external loans in excess of 20% (twenty per centum) of the Borrower's operating income, without consulting with, and obtaining the agreement of, the DBSA.
- 1.2 The Borrower, hereby, undertakes to provide the DBSA with its audited Annual Financial Statements, within 6 (six) months from the end of each financial year.
- 1.3 The Borrower, hereby, warrants that it will comply with environmental management principles, and will implement all reasonable recommendations, regarding the environmental mitigation measures, as outlined in the Environmental Impact Assessment (EIA), the Environment Conservation Act, 73 of 1989, and the Water Act, 54 of 1956; and the National Water Act, 36 of 1998, during both the construction and post-construction phases of all projects within the Greater Klerksdorp Infrastructure Development Programme.
- 1.4 The Borrower, hereby, warrants that it shall obtain all necessary permits, or any other authorizations, from the applicable authorities.
- 1.5 The Borrower, hereby, undertakes to make investigations into the issues of concern around the water and electrification losses, as well as the credit management system, through Technical Assistance funding, to be provided, by the DBSA, or the DBSA Development Fund.

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