

Original

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION: PRETORIA**

CASE NO: 22813/20

In the matter between:

SOUTHERN AFRICAN YOUTH MOVEMENT
NON-PROFIT ORGANIZATION(NPO)

APPLICANT

And



MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS (COGTA)

FIRST RESPONDENT

DIRECTOR-GENERAL: DEPARTMENT OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS

SECOND RESPONDENT

DEPUTY DIRECTOR-GENERAL: RESPONSIBLE
FOR COMMUNITY WORK PROGRAMME

THIRD RESPONDENT

CHIEF FINANCIAL OFFICER: DEPARTMENT OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS

FOURTH RESPONDENT

CHIEF DIRECTOR: RESPONSIBLE FOR THE CWP
EASTERN CAPE AND KWAZULU-NATAL

FIFTH RESPONDENT

DIRECTOR FINANCE: COMMUNITY WORK PROGRAMME

SIXTH RESPONDENT

HEAD INTERNAL AUDIT: DEPARTMENT OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS

SEVENTH RESPONDENT

AIDS FOUNDATION

EIGHTH RESPONDENT

BA & FF JV

NINETH RESPONDENT

3L DEVELOPMENT

TENTH RESPONDENT

SEBOKA TRAINING

ELEVENTH RESPONDENT

THEMBALETHU DEVELOPMENT

TWELFTH RESPONDENT

INSIKA FOUNDATION

THIRTEENTH RESPONDENT

JOUBERT PARK

FOURTEENTH RESPONDENT

IKETSEKETSE ENTERPRISE FOUNDATION

FIFTEENTH RESPONDENT

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that on the 26 day of **May 2020** at **10h00** or soon thereafter as Counsel may be heard, an application will be made to the above Honourable Court for the following order(s):

1. Enrolling this application as an urgent application and that the above Honourable Court in accordance with the provisions of Rule 6(12) of the Uniform Rules dispense with the forms and service as may be necessary;
2. That the First, Second, Third, Fourth, Fifth, Sixth and Seventh Respondents and/or whosoever may be responsible amongst the above respondents:
 - 2.1 Are interdicted from terminating the Service Level Agreement and the Transfer Agreement with the Applicant on the basis of the letter dated 21 May 2020 from Mncedisi Ndlovu and Sedumedi Attorneys Inc or on the basis of any letter with similar reasons.
 - 2.2 That the reasons stated in the letter dated 21 May 2020 from Mncedisi Ndlovu and Sedumedi Attorneys Inc are irrational and cannot be used to terminate the Service Level Agreement and Transfer Agreement between the Department of Cooperative Governance and the Applicant.

- 2.3 That the request to submit the information as per the letter dated 21 May 2020 from Mncedisi Ndlovu and Sedumedi Attorneys Inc or any other letter with similar request while the Applicant and Community Work Programme Participants do not have essential services permits as required by the Regulations of the Disaster Management Act of 2002 is irrational under the circumstances.
- 2.4 Pay the Project Management Fees to the Applicant for the month of March 2020 and for the first quarter of April to June 2020 within Seven(7) days of the receipt of this order;
- 2.5 Pay to the Applicant the retainer fees for the financial year 2018/2019 within Seven(7) days of the receipt of this order;
- 2.6 Pay to the Applicant the Community Work Programme non-wage budget within Seven(7) days of the receipt of this order;
3. Issue to the Applicant essential service provider permits in terms of the Disaster Management Act 57 of 2002 regulations in relation to COVID-19 with immediate effect from the receipt of this order;
4. Order the First, Second, Third, Fourth, Fifth, Sixth and Seventh and/or whosoever amongst the above Respondents the court find to have been irrational and negligent at the expense of the tax-

payers money to personally pay the costs of this application on a punitive scale; and

5. Further and/or alternative relief

TAKE NOTICE that the accompanying affidavit of **MUZWAKHE ALFRED SIGUDHLA** and annexure thereof will be used in support of this urgent application.

TAKE NOTICE that the applicant has appointed the address of **DABISHI NTHAMBELENI ATTORNEYS** of the address below as its attorneys of record and at which it will accept notices and service of all processes in this matter.

FURTHER TAKE NOTICE that if you intend opposing this application:

1. Notify the applicant by delivering a Notice of Intention to Oppose on or before the 25 of **May 2020 at 14:00;**
2. Deliver your Answering Affidavit, if any by the 26 of **May 2020**
08:30
~~at 10:00~~ and
08:30
3. If your notice of intention to oppose is not delivered, the matter may be heard in your absence.

DATED at PRETORIA on this the 25th day of MAY 2020.



**DABISHI NTHAMBELENI ATTORNEYS
APPLICANT'S ATTORNEY**

103 DOREEN STREET
COLBYN
PRETORIA
TEL: 012 323 4581
EMAIL: mbm@dninc.co.za
REF: MBM/S40/CIV

AND TO: THE REGISTRAR
OF THE ABOVE HONOURABLE COURT
GAUTENG DIVISION: PRETORIA

AND TO: FIRST RESPONDENT
MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS (COGTA)
Private Bag X804
87 Hamilton Street, Arcadia
Pretoria
0002
South Africa

Service by Sheriff

AND TO: SECOND RESPONDENT
DIRECTOR-GENERAL: DEPARTMENT OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
Private Bag X804
87 Hamilton Street, Arcadia
Pretoria
0002
South Africa

Service by Sheriff

AND TO: THIRD RESPONDENT
DEPUTY DIRECTOR-GENERAL: RESPONSIBLE
FOR COMMUNITY WORK PROGRAMME
Private Bag X804
87 Hamilton Street, Arcadia
Pretoria
0002
South Africa

Service by Sheriff

AND TO: FOURTH RESPONDENT Service by Sheriff
CHIEF FINACIAL OFFICER: DEPARTMENT OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
Private Bag X804
87 Hamilton Street, Arcadia
Pretoria
0002
South Africa

AND TO: FIFTH RESPONDENT Service by Sheriff
CHIEF-DIRECTOR: RESPONSIBLE FOR THE CWP
EASTERN CAPE AND KWAZULU-NATAL
Private Bag X804
87 Hamilton Street, Arcadia
Pretoria
0002
South Africa

AND TO: SIXTH RESPONDENT Service by Sheriff
DIRECTOR FINANCE: COMMUNITY WORK PROGRAMME
Private Bag X804
87 Hamilton Street, Arcadia
Pretoria
0002
South Africa

AND TO: SEVENTH RESPONDENT Service by Sheriff
HEAD INTERNAL AUDIT: DEPARTMENT OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
Private Bag X804
87 Hamilton Street, Arcadia
Pretoria
0002
South Africa

AND TO: EIGHTH RESPONDENT Service by Email
AIDS FOUNDATION
Email: Fazlin.cwp@aids.org.za

AND TO: NINETH RESPONDENT Service by Email
BA & FF JV
Email: rone@beulahafrika.co.za

AND TO: TENTH RESPONDENT Service **by Email**
3L DEVELOPMENT
Email: barryc@3Ingo.co.za

AND TO: ELEVENTH RESPONDENT Service **by Email**
SEBOKA TRAINING
Email: Nombel0@gmail.com

AND TO: TWELFTH RESPONDENT Service **by Email**
THEMBALETHU DEVELOPMENT
Email: reckson@thembaletudev.org

AND TO: THIRTEENTH RESPONDENT Service **by Email**
INSIKA FOUNDATION
Email: gmathenjwa@insikafoundation.co.za

AND TO: FOURTEENTH RESPONDENT Service **by Email**
JOUBERT PARK
Email: Sibusiso.m@joubertparkyouth.org

AND TO: FIFTEENTH RESPONDENT Service **by Email**
IKETSEKETSE ENTERPRISE FOUNDATION
Email: donovancalvinm@gmail.com

**IN THE HIGH COURT OF SOUTH AFRICA
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JOUBERT PARK

FOURTEENTH RESPONDENT

IKETSEKETSE ENTERPRISE FOUNDATION

FIFTEENTH RESPONDENT

FOUNDING AFFIDAVIT

Amg I

I, the undersigned,

MUZWAKHE ALFRED SIGUDHLA

do hereby state under oath and say that:

- 1.** I am a major male person, and Chief Executive Officer of SOUTHERN AFRICAN Youth Movement, a Non-Profit Organization registered in terms of the laws the Republic of South Africa governing the Non-Profit Organizations, with its main offices at 79 Watermeyer Street, Val De Grace Pretoria, Gauteng Province. **A copy of NPO registration is attached herein as Annexure SAYM-1A.**
- 2.** I am duly authorised to depose to the present affidavit in support of this application by virtue of my position as the Chief Executive Officer of the Applicant. I further attach herein a resolution of the board as **Annexure SAYM-1B**
- 3.** The facts set out in this affidavit are within my own personal knowledge, save for where the context indicates to the contrary or

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where I expressly state otherwise. These facts are to the best of my knowledge and belief both true and correct.

4. PARTIES

4.1 APPLICANT

The Applicant is a Non-Profit Organization registered in terms of the laws of the Republic and performing non-profit activities with its offices and registration certificate as described in the paragraph above. The Applicant is the implementing agent of the Community Work Programme (CWP) under the custody of the Department of Cooperative Governance and Traditional Affairs.

4.2 FIRST RESPONDENT

The First Respondent is the Minister of Cooperative Governance and Traditional Affairs and a political head of the department, with offices at 87 Hamilton Street, Arcadia, Pretoria as the Head Office. The Department is within which the Applicant conduct the Community Work

Programme. The Department is also the custodian of the programme.

4.3 SECOND RESPONDENT

The Second Respondent is the Director-General of the Department of Cooperative Governance and Traditional Affairs. His position is key as it is the Chief Executive Officer of the department. He oversees the day to day running of the department activities with the Community Work Programme included and with offices at 87 Hamilton Street, Arcadia, Pretoria as the Head Office.

4.4 THIRD RESPONDENT

The Third Respondent is the Deputy Director-General(DDG) of the Department of Cooperative Governance and Traditional Affairs. The DDG is responsible for the Community Work Programme, with offices at 87 Hamilton Street, Arcadia, Pretoria as the Head Office.

4.5 FOURTH RESPONDENT

The Fourth Respondent is the Chief Financial Officer of the Department of Cooperative Governance and Traditional Affairs and responsible for finances of the department and payments to service providers or implementing agents like the Applicant with offices at 87 Hamilton Street, Arcadia, Pretoria as the Head Office.

4.6 FIFTH RESPONDENT

The Fifth Respondent is the Chief-Director of the Department of Cooperative Governance and Traditional Affairs responsible for the Community Work Programme in the areas within the Eastern Cape Province and KwaZulu-Natal Province where the applicant is running Community Work Programmes(CWP) with his offices at 87 Hamilton Street, Arcadia, Pretoria as the Head Office.

4.7 SIXTH RESPONDENT

The Sixth Respondent is the Director-Finance and directly responsible for the finances of the Community Work Programmes including the payments to the

Implementing Agents for Project Management Finances(PMF) with offices at 87 Hamilton Street, Arcadia, Pretoria as the Head Office.

4.8 SEVENTH RESPONDENT

The Seventh Respondent is the Head of the Internal Audit Unit of the Department of Cooperative Governance and Traditional Affairs. His roles and responsibilities includes auditing the information and work performed by the Implementing Agents like the Applicant for purposes of payments with offices at 87 Hamilton Street, Arcadia, Pretoria as the Head Office.

4.9 EIGHTH TO FIFTEENTH RESPONDENTS

Eighth to Fifteenth Respondents are Non-Profit Organization that are part and parcel of the Community Work Programme and whose further particulars are unknown by the Applicant. The Applicant seeks no order against the Eighth to Fifteenth Respondents. They are cited in this application as they have direct and substantial interest in the subject matter of this

application. This is confirmed by the letter by Mncedisi Ndlovu & Sedumedi Attorneys Inc dated 21 May 2020, the letter is also directed to these Respondents.

5. DEFINITIONS

For purposes of convenience of the court, I list some of the abbreviations that may be frequently used in this application and/or particularly in this affidavit:

5.1 CWP : Community Work Programme

5.2 COGTA : Cooperative Governance and traditional Affairs

5.3 PMF : Project Management Fees

5.4 EPWP : Extended Public Works Programme

5.5 DG : Director-General

5.6 DDG : Deputy Director-General

5.7 SLA : Service Level Agreement

5.8 SAYM : SOUTHERN AFRICAN Youth Movement (the Applicant)

[Handwritten signature]
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5.9 NPO : Non-Profit Organization

5.10 TA : Transfer Agreement

6. INTRODUCTION

6.1 This is an Urgent Application by the applicant against the Minister of Cooperative Governance and other six officials of the department for the non-payment of Project Management Fees and other related fees which are supposed to be paid to the Applicant for performance of duties relating to Community Work Programme, commonly known as the CWP, which the Applicant is an Implementing Agent.

6.2 The Applicant contends that such payments should be effected as the above respondents are withholding the payments unjustifiably so and consequently the Applicant is facing irreparable harm financially and otherwise as it will be explained in detail in the subsequent paragraphs.

6.3 The Eighth to Fifteenth Respondents are cited as they have direct and substantial interest in the application by the unjustified withholding of the payments by the First to

Seventh Respondents affects. They are also NPOs appointed as Implementing Agents.

7. NATURE OF RELIEF SOUGHT

This is an urgent application wherein the Applicant seeks the following orders against the First, Second, Third, Fourth, Fifth, Sixth and Seventh Respondents:

- 7.1 Enrolling this application as an urgent application and that the above Honourable Court in accordance with the provisions of Rule 6(12) of the Uniform Rules dispense with the forms and service as may be necessary;
- 7.2 That the First, Second, Third, Fourth, Fifth, Sixth and Seventh and/or whosoever may be responsible amongst the above respondents;
- 7.3 Are interdicted from terminating the Service Level Agreement and the Transfer Agreement with the Applicant on the basis of the letter dated 21 May 2020 from Mncedisi Ndlovu and Sedumedi Attorneys Inc or on the basis of any letter with similar reasons;

- 7.4 That the reasons stated in the letter dated 21 May 2020 from Mncedisi Ndlovu and Sedumedi Attorneys Inc is irrational and cannot be use to terminate the Service Level Agreement and Transfer Agreement between the Department of Cooperative Governance and the Applicant.
- 7.5 That the request to submit the information as per the letter dated 21 May 2020 from Mncedisi Ndlovu and Sedumedi Attorneys Inc or any other letter with similar request while the Applicant and Community Work Programme Participants do not have essential services permits as required by the Regulations of the Disaster Management Act of 2002 is irrational under the circumstances.
- 7.6 Pay the Project Management Fees to the Applicant for the month of March 2020 and for the first quarter of April to June 2020 within Seven(7) days of the receipt of this order;
- 7.7 Pay to the Applicant the retainer fees for the financial year 2018/2019 within Seven(7) days of the receipt of this order;
- 7.8 Pay to the Applicant the Community Work Programme non-wage budget within Seven(7) days of the receipt of this order;
- 7.9 Issue to the Applicant essential service provider permits in terms of the Disaster Management Act 2000 regulations in

relation to COVID-19 with immediate effect from the receipt of this order;

7.10 Order the First, Second, Third, Fourth, Fifth, Sixth and Seventh and/or whoever amongst the above Respondents the court find to have been irrational and negligent at the expense of the tax payers money to personally pay the costs of this application on a punitive scale; and

7.11 Further and/or alternative relief

8. BACKGROUND

8.1 **SAYM is an NPO appointed by Department of Cooperative Governance (CoGTA) to manage Community Work Programme** in the parts of the Eastern Cape as well as KwaZulu Natal provinces.

8.2 In the Eastern Cape, SAYM is responsible for the three Districts namely; **Sarah Baartman, Joe Gqabi, Chris Hani as well as the Nelson Mandela Metro.** In total the NPO is managing 22 sites with **23 200 participants.**

- 8.3 **In KwaZulu-Natal**, SAYM is responsible for the two Districts namely; Harry Gwala and Ugu. In total the NPO is managing 8 sites with **8 776 participants.**
- 8.4 The duration of the contract is 36 months (1st April 2018- 31st March 2021)
- 8.5 **The Community Work Programme is a community-driven partnership programme and as such strives to :**
To create an employment safety net by providing participants with a minimum number of days of regular work, typically two days a week or eight days a month at a **wage rate of R97,50 per day for ordinary participants and R127per day for Supervisors/ Storekeepers** as determined by the Minister of Labour annually (new wage rate as at November 2018).
Contribute to Public Good in the development of public assets and services in poor communities. Promotes social and economic inclusion. The programme is targeted at unemployed and underemployed women and men from 18 years and above. CWP thrives through partnerships.
- 8.6 According to the CWP norms and standards requirements, the programmes conducted should per site benefit at least 55% females, 40% youth as well 2% disabled.

- 8.7 With the training identified and conducted, SAYM is trying to attract the youth to be part of the programme which is part of dealing with a high rate of unemployment in the country.
- 8.8 As part of the NPOs Service Level Agreement, part of their responsibility is to establish partnerships to complement the programme and assist in the exit strategy.
- 8.9 The exit strategy is important to give other citizens a chance to benefit in the programme. NPOs are encouraged to create innovative projects that will exit the participants into stable income for sustainable livelihoods.

9. MERITS

- 9.1 The Applicant (SAYM) is an NPO registered under the NPO Act of 1997. The registration certificate has been made reference to above as Annexure SAYM-1A above. SAYM was appointed as an Implementing Agent for COGTA in the Eastern Cape Province and KwaZulu-Natal. **See the Service Level Agreement attached herein as Annexure SAYM-2.** The SLA is a binding agreement between the parties.

- 9.2 In terms of the SLA SAYM is appointed from the 1st of April 2018 for the CWP for a period of 36 month (i.e. from 2018/2019 to 2020/2021 financial year.
- 9.3 Because of an outstanding performance, the Applicant was further appointed to implement the CWP from the 1st of July 2019 to March 2021 in two districts of KwaZulu-Natal province, namely; Harry Gwala and Ugu district municipalities.
- 9.4 The Applicant has entered into a legally binding agreement (the SLA) as well as Transfer Agreement with COGTA to implement CWP. **See a copy of Transfer Agreement attached herein as Annexure SAYM-3.**
- 9.5 Both the SLA and the Transfer Agreement stipulates clear roles to both parties.
- 9.6 I submit that under both agreements COGTA has amongst others the following roles and responsibilities:
- 9.6.1 To provide support to the Applicant pertaining to the site inception process together with the responsible provincial department responsible for Local Government and the Municipality concerned.

- 9.6.2 Assess and monitor the performance of the Applicant with regard to site implementation at least once in two quarters.
 - 9.6.3 Ensure that the Applicant maintains all site records for all CWP sites and that such records are available for inspection.
 - 9.6.4 Ensure that the Applicant complies with the Ministerial Determinations in relation to public employment programmes and other statutory requirements such as UIF, PAYE and Workmen's Compensation where applicable.
 - 9.6.5 Ensure that the Applicant complies with the Norms and Standards regulating the CWP in all sites under its jurisdiction.
- 9.7 The Applicant has the following obligations:
- 9.7.1 Shall consult with relevant communities once a year pertaining the programmes run in their jurisdictions.
 - 9.7.2 Such consultations takes place within the first two months of the Transfer Agreement coming into effect and then in the last quarter of the financial year between January and 31st of March.

- 9.7.3 The Applicant must keep records of community consultations for submission to COGTA as part of the portfolio evidence for purposes of the transfer and or payment for the next financial quarter. (I want to draw the attention of the Honourable Court on this point, that payments which are in question in this application are paid in advance).
- 9.7.4 The Applicant is expected as part of its obligation to adhere to Norms and Standards and the Ministerial Determinations regulating the participation into the CWP, and this is so because the participants are not regarded as employees and they are not governed by the labour Laws like the Labour Relations Act and Basic Conditions of Employment Act.
- 9.7.5 It is further the obligation of the applicant to establish public and private partnerships, with the prior written consent from the Second Respondent (DG of COGTA).
- 9.8 The Applicant has been in compliance with the SLA and the Transfer Agreement all along and fulfilling its obligations.

9.9 The Applicant will always provide to COGTA all and any information requested in line with the two guiding agreement stated above. Some of the things which the Applicant has been complying with are listed in a letter of demand dated 14 May 2020 attached herein as an Annexure, which the Applicant intend to deal with later in this affidavit. The letter was sent by the Applicant to COGTA.

9.10 **I shall now deal succinctly with correspondences between the Applicant and the Respondents**, which led to the Applicant left with no option but to resort to approach this Honourable Court on an urgent basis.

9.10.1 As early as the 11th of March 2020, the Applicant wrote a letter to the Second respondent in terms of clause 8.1 of the SLA requesting clarity on the legal basis of withholding of payments due to the Applicant. The Respondents did not bother to answer the letter. **See the letter attached as Annexure SAYM-4.**

9.10.2 On the 27th of April 2020, the Applicant wrote to the Second Respondent on the issue of non-payment of the PMFs and its legal implications to the operation

of the CWP. The department decided again not to bother in responding to the letter. **See Annexure SAYM-5.**

9.10.3 On **14 May 2020**, the Applicant through its previous legal representatives (before the attorneys of record in this application), wrote a letter of demand to the Respondents. The letter of demand is attached as **Annexure SAYM-6**. It is this letter of demand that triggered the basis of this urgent application.

9.10.4 After the Respondent realising that the Applicant now intends to approach this Honourable Court, then the Applicant received a series of letters signed by the Third Respondent dated the 14th of May 2020, for ease of reference I attach herein such letters as **Annexures SAYM-7A, SAYM-7B, SAYM-7C**.

9.10.5 I respectfully submit to the Honourable Court that the First to Seventh Respondents have no basis, legal or otherwise to withhold payments due to the applicant, they are just in a fishing expedition of reasons not pay what is due to the Applicant for the reasons best known to them. Firstly, the above letters dated the

14th of May 2020, were directed to the Applicant now during the lock-down due to Covid-19. In terms of a Circular of the by Minister of Public Works and Infrastructure dated 26 of March 2020 the CWP which is a component of EPWP are not classified as essential services. **See Annexure SAYM-8** a circular by Minister of Public works and Infrastructure.

- 9.10.6 It is impossible to put the information from all jurisdictions where the Applicant is Implementing the CWP without the essential service provider permit.
- 9.10.7 Secondly, the request of this information has no bearing on the payments in question due to the Applicant because the payments are done in advance, that is before performance of any work by the implementing Agents.
- 9.10.8 Thirdly, in terms of the SLA, the information needed must be reasonable and in line and within the SLA. The Applicant in terms of clause 8.1 of the SLA must be given 14 days to submit the requested information.

9.10.9 Under the current situation of Covid-19 and the regulations in place it will be unlawful for the Applicant and its staff to travel around and to other provinces without permits, which the Respondents should have long arranged for CWP participants.

9.10.10 I respectfully submit that the Respondents are just in a mission to frustrate the Applicant for an unknown reason, as the Applicant has been on point in submitting its External Audited financial Statements and Management Reports. The Respondents never penalised the applicant for any breach or misconduct.

9.10.11 I submit that, in case the Applicant fails to comply in certain areas, the SLA allows for penalties, the Applicant has never been subjected to penalties as it was always on point when it comes to its obligations.

9.10.12 All issues raised in the letters need the Applicant to put the information together, even though the Applicant believes that they are not that essential because some of the information are in the custody of the COGTA and other government departments.

9.10.13 For example Annexure SAYM 7A, in paragraph 3, gives the Applicant until 30 September 2020 to address and resolve certain issues, surely this cannot be used as a reason not to pay the Applicant monies due to it in terms of the SLA as 30 September 2020 is still in the far future.

9.10.14 In paragraph 5 the monthly progress report is expect in no later than 7 July 2020, the date is still in the future.

9.10.15 In Annexure SAYM 7B, the Respondents claims the lack of transparency on the Project Management fees. This is surprising because the Applicant has never failed to submit its external audited financials, further that the PMFs are monies paid and belong to the Applicant.

9.10.16 If the Applicant failed on the performance of its obligations, the Respondent would have long subjected the Applicant to penalties and this has never happened because the Applicant has been in compliance.

9.10.17 I submit that I have heard through a rumour and it is very surprising and questionable in that the same letters of the 15 May 2020 signed by the Third Respondent (Annexures SAYM 7A,7B and 7B) have been sent to all other NPO's including the Eighth to Fifteenth Respondents. It is not possible that all NPOs have failed in the same way so to submit similar information, more that the CWP is diverse as some are in agriculture, some are in health etc. I submit that the First to Seventh Respondents have a hidden agenda and trying to fish for a fault as ground not to pay the Applicant monies due.

9.11 I now, refer the court to the fourth letter dated the 21 of May 2020. I submit to the Honourable Court that this letter is the one that compounded urgency on this matter. The letter if from the attorneys of the First to Seventh Respondents. **The letter is attached herein as Annexure SAYM-9.** The content of this letter is very disturbing to the Applicant and it displays the "I/We don't care attitude and character as long as it is at the expense of the public purse" to the Respondents.

- 9.12 I make the above submission because, this letter contradicts Annexures SAYM-7A, 7B and 7C in certain respects and to compound things imposes threat of termination of the SLA. I had to approach this Honourable Court because based on the letter I may receive a termination notice from the Respondents.
- 9.13 Annexure SAYM-7c, request information which must be provided on the 22 May 2020 as a deadline in paragraph 10. In paragraph 11 and 12, the implications of not submitting the information are outlined and no termination of SLA is mentioned. In the letter from the lawyers the same deadline of the 22 of May 2020 is mentioned and then all of a sudden a threat of terminating the SLA is stated.
- 9.14 The Respondents choose to ignore some of the important issues raised in the letter of demand by the Applicant. The issues of essential service provider permits is not addressed to enable the Applicants to resume some operations so that the information requested be assembled from different centres run by the Applicant.
- 9.15 I submit that the information requested by the Respondents is impossible to put together without essential workers

permits issued to the CWP staff in line with the Regulations of the Covid-19 under the Disaster Management Act 57 of 2002. The issue of the PPEs is also ignored.

- 9.16 The letter raises issues of Persal and Death Registration of participants knowing very well that persal and registration of death are in the custody of government departments and not the Applicant, it is impossible for the Applicant to supply such information.
- 9.17 Even at this stage, it is impossible for the Applicant to submit information requested by the Respondents due to Covid-19 restrictions.
- 9.18 It is surprising of the Respondents to be hasty on threatening with termination of the SLA. I am stating this because, in terms of the SLA, the Respondents have to give the Applicant 14 days to supply any information requested or rectify any issue in line with the SLA and Transfer Agreement, from the 15 of May 2020 to the 22 May 2020, the time frame is shorter than 14 days' time-frame in clause 8.1 of the SLA.
- 9.19 Even in this letter the Respondents fails to link the issue of the non-payment with the information requested.

9.20 I submit that the information requested in paragraph 3 of the letter from Mncedisi Ndlovu and Sedumedi Attorneys Inc (Annexure SAYM-9) has been submitted to the Respondents as it is included in the externally Audited Financial Statements and Management Report of the Applicant. To avoid making this application unnecessarily voluminous, I will not attach the two reports but they will be made available in case the court deems it necessary that they be made available.

9.21 I further submit that the Applicant has been performing well in its obligations this is confirmed by the scoring done by the Respondent in the NPO Performance Assessment Tool signed by both the Applicant and COGTA, I will not attach the assessment tool to avoid voluminous documents but the tool may be made available if the Court deems it necessary.

10 GROUNDS FOR URGENCY

10.1 I am advised, and which I accept by my legal representatives that in order for this matter to be accorded priority on the roll for hearing, it is necessary for me to advance grounds for urgency. I submit that the urgency is not self-created.

10.2 The First to Seventh Respondents through the letter from their lawyers Mncedisi Ndlovu and Sedumedi Attorneys Inc have threatened to terminate a Service Level Agreement between the Applicant and the Department of Cooperative Governance as an Implementing Agent if they don't receive certain information they demanded with the deadline of 22 May 2020.

10.3 I have canvassed above that it is impossible for the applicant to provide such information under the restrictions of the Covid-19 regulations. I further submitted that the First to Seventh Respondents have failed to provide the Applicant and participants of Community Work Programmes with essential service providers permit and the Personal Protective Equipment. It will be unlawful for the staff of the Community Work Programmes to move around performing their duties including to put together the information requested by the above respondents without necessary permits as required by the law and the Personal Protective Equipment.

10.4 The threat to terminate the Service Legal Agreement as conveyed by the letter from the lawyers of the of the above respondents is imminent and it can be implemented at any-

time as the 22nd of May 2020 has passed with the applicant being unable to provide the demanded information.

- 10.5 I want to further submit that the information requested by the First to Seventh Respondents has no bearing to withholding the payments to the Applicant as the payments are paid quarterly in advance and the information requested is of now during the lockdown period whereas the payment was due as it is paid quarterly and in advance.
- 10.6 If the First to Seventh Respondents implement the termination of the SLA the Applicant will suffer an irreparable harm economically and the reputation of the Applicant will be damaged irreparably and that include the credit and other scoring to various institutions which are of necessity to the existence of the Applicant and more that the SLA which is threatened to be terminated is meant to expire in 2021. The irony of it is that even the information they need, a payment must be made first in order for the officials of the implementing agents to travel from point to point putting together the information. These payments are always paid in advance.

10.7 The Applicant as an implementing agent of the Community Work Programme exercises care and control of Government Assets of More than Hundred Million Rand by value. These assets are protected by security services personnel who are participants to the Community Work Programme (CWP). The withholding of the payments result in the security personnel not being paid their stipend and exposes high risk to the assets as they maybe left unattended.

10.8 It is in the public domain that recently in the Covid-19 period, schools are burnt, public properties are stolen in many public institutions. Such risk is posed by lack of oversight on the assets. Except the greater risk on the assets, the Covid-19 insurgence has brought many challenges to the South African public as many are starving without means to buy food. The security personnel and other officials participating in the CWP are not immune to this challenge and more sadly when it is caused by some public officials who unjustifiably withhold the payments of the implementing agents. The above also serves as the ground of urgency because assets may be damaged, lost and or stolen and that impact negatively on the public

purse and it may be irreparable as well as the economic sufferings of the participants may cause irreparable damage.

10.9 The non-payment of salaries of the staff of the CWP may cause economic and social irreparable harm, especially at this time of the Covid-19 insurgence. The staff need to buy food, winter clothes for their families and other necessities. The Applicant is an Implementing Agent with participants of about Thirty Thousand (30 000) in number of people who are affected by not receiving their stipend/salaries by the withholding of the payments to the Applicant unjustifiably so.

10.10 The Applicant went all out to do damage control with the hope that the First to Seventh Respondents will release the payments and paid the stipend or salaries of the staff for the past three months using its reserves and also resorting to loans and unfortunately as of now when this application is brought the reserves of the Applicant are dry and there are no means of further loans.

10.11 The withholding of the payment due to the Applicant is causing an irreparable harm economically to the Applicant as the Applicant also used part of its reserves to pay statutory obligations such as SARS Pay as You Earn, Provident Fund and

the UIF. These are statutory obligations. This is affecting the business scoring of the Applicant, because its score will be very low in future when it applies to do other work with government and other different institutions because of non-compliance and or paying obligations late. **See proof of payment to SARS attached herein as Annexure SAYM-10.**

10.12 It is heart-breaking that the actions of the First to Seventh Respondents are leading to an imminent retrenchment of staff due to non-payment. This application is urgent in order to avert the retrenchment of the staff because of the unjustified actions of the above Respondents.

10.13 I submit that the above explanation is sufficient to prove grounds of urgency. I can further explain and or account on my actions from the time I learnt of the imminent threat by the above respondents through the letter from their lawyers to terminate the SLA.

10.14 I received the letter from the Respondents legal representatives on the 21st of May 2020 in the late afternoon. I read the letter and decided to look for legal representatives around Pretoria as the once the applicant was using on a letter

of demand are based in Limpopo. I also had to convene the Board for a resolution late at night of the 21 of May 2020.

10.15 Late at night on the 21 May 2020 I managed to find new legal representative and I arranged for a consultation the following day.

10.16 On the 22nd of May 2020, I consulted with my new Attorney of record and he advised that services of Counsel are required in the matter. Counsel was secured during the day and consultation took place. He advised that he may need the time to draw papers so that they can be launched on Monday the 25th of May 2020. Counsel further advised that upon issuing the papers the Registrar of the Honourable Court will advise on the date and other process as the normal operation has been disrupted by Covid-19.

10.17 I submit that this matter is urgent and the grounds for urgency have been sufficiently canvassed.

10.18 The Applicant has tried to resolve this matter with the Respondents as early as the 11th of March 2020 but the Respondents displayed no interest. The Applicant now relies on this Honourable court for a relief.

11 I submit that the Applicant has made its case and Humbly request the Honourable Court to grant the prayers as prayed for in the Notice of Motion to which this affidavit is attached.



MUZWAKHE ALFRED SIGUDHLA

I certify that this Affidavit was signed and sworn to before me at PRETORIA on this the day 24TH of May 2020, by the Deponent who acknowledged that he knows and understands the contents of this Affidavit, has no objection to taking the prescribed oath, considers this oath to be binding on his conscience and utters the following words:

"I swear that the contents of this affidavit are true, so help me God".



COMMISSIONER OF OATHS

FULL NAMES:

CAPACITY:

ADDRESS:

AREA:

IMANI MADIMA
Commissioner of Oaths
Practising Attorney (RSA)
103 Doreen Street
Colbyn, Pretoria



CERTIFICATE OF REGISTRATION OF NONPROFIT ORGANIZATION

In terms of the Nonprofit Organisation Act, 1997, I am satisfied that

Southern African Youth Movement

(name of the nonprofit organization)

meets the requirements for registration.

15 January 2004

The organisation's name was entered into the register on

(date)

Registration number

029-624-NPO

Director's signature

Date **06 July 2012**

Department of Social



Development

Handwritten initials/signature





Southern African Youth Movement

RESOLUTION OF THE BOARD OF DIRECTORS OF SOUTHERN AFRICAN YOUTH MOVEMENT

By resolution of the Board of Directors passed on the **21st of May 2020**,

Mr. **Muzwakhe Alfred Sigudhla** in his capacity as the Chief Executive Officer of the NPO has been duly authorized to depose and sign affidavits and/or any document relating to an urgent application to be launched in the High Court of Pretoria against the Department of Cooperative Governance and Traditional Affairs for non-payment of PMFs and other monies relating to the Community Work Programme. Mr Sigudhla may sign all the necessary documents to give effect to this resolution on prosecuting the application.

Signed on this **21st** day of **May 2020** at **PRETORIA**.

NAME	CAPACITY	SIGNATURE
<u>Dr. MAFISA</u>	<u>CHAIRPERSON</u>	
<u>MUSSIE TASFAY</u>	<u>CFO</u>	
<u>JIKA CHABENA</u>	<u>Secretary</u>	
<u>Muzwakhe Sigudhla</u>	<u>Executive Director</u>	
_____	_____	_____
_____	_____	_____
_____	_____	_____

SAYM-2

SERVICE LEVEL AGREEMENT

entered into by and between

THE DEPARTMENT OF COOPERATIVE GOVERNANCE
(hereinafter referred to as "DCoG")

Herein represented by Mr. DMG Mashitsho duly authorised thereto in his
capacity as Director General of DCoG

AND

SOUTH AFRICAN YOUTH MOVEMENT
(Hereinafter referred to as an "NPO")

Herein represented by Mr Muzwakhe Sigudla duly authorised thereto in his
capacity as Chief Executive Officer of the NPO/NPC (Implementing Agent)

on
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PREAMBLE

WHEREAS the **DCoG** is the National Department responsible for the implementation

AND WHEREAS the **DCoG** is desirous to enter into a Service Level Agreement with the Implementing Agent which will regulate their relationship with each other.

AND WHEREAS Implementing Agent is desirous to manage the established sites and the inception of new CWP sites as contracted by the **DCoG**.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS

1. DEFINITIONS

In this Service Level Agreement, unless the contrary appears from the context, the following words and phrases have the meaning ascribed to them as follows:

"**CWP**" refers to the Community Work Programme.

"**DCoG**" and "**the Department**" refer to the Department of Cooperative Governance.

"**EPWP**" refers to Expanded Public Works Programme.

"**IA**" refers to Implementing Agent

"**LRC**" refers to Local Reference Committee

"**NPC**" refers to Non Profit Company.

"**NPO**" refers to Non-Profit Organisation

"**SLA**" refers to Service Level Agreement.

"**TA**" refers to the Transfer Agreement.

NPO, NPC, and IA may be used interchangeable to mean the same thing

2. APPOINTMENT AND ACCEPTANCE

2.1 The Department of Cooperative Governance hereby appoints and allocate the NPO to manage a multiple of sites CWP sites in the Eastern Cape Province.

2.2 The CWP sites allocated are in the three district and metropolitan municipalities of the Province of the Eastern Cape. The metropolitan municipality is Nelson Mandela Bay Metro, and the three districts are Joe Gqabi, Chris Hani and Sarah Baartman municipalities

2.3 The NPO hereby accepts the appointment and undertakes to manage all the allocated sites under the Community Work Programme as assigned.

2.4 The appointment of the NPO is subject to the signing of a Service Level Agreement by both parties before execution of any work relating to this agreement may be undertaken.

2.5 The NPO shall sign a Transfer Agreement (TA) to facilitate transfer, management and reporting on non-wage budget. Non-wage costs are all

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the costs of running a site excluding the cost of wages and primarily consist of tools and materials, protective clothing, technical support, and project management fees.

- 2.6 The Transfer Agreement shall comprise of a contract value for the duration of the appointment, covering payment schedules and conditions of funds transfers.

3. COMMENCEMENT AND DURATION

- 3.1 The parties agree that this SLA commences on **1 April 2018** and continues for a period or duration of **(36) thirty-six months** until **31 March 2021**.
- 3.2 The NPO is placed under a probation period of three (3) months upon which the department expects satisfactory progress and performance on the scope of work as outlined in Annexure A of this SLA
- 3.3 The NPO is, within the probation period, also expected to address and close the following gaps below, failing which may render the agreement voidable:
- 3.3.1 Develop a consolidated organisational M & E Plan which can be implemented and accounted for.
 - 3.3.2 Develop clear financial delegations which will clearly determine roles and responsibilities as part of its Finance Policy.
 - 3.3.3 Improve asset management systems to ensure that assets are properly managed and develop a fixed asset register.
 - 3.3.4 Have a segregated financial delegations with regard to petty cash management. Separate functions of officials who handle petty cash from those who check and verify it.

4. ROLES AND RESPONSIBILITIES

- 4.1 **The Department will**
- 4.1.1 Provide support to the NPO pertaining the site inception process in conjunction with the Provincial Department responsible for Local Government and the municipality concerned.
 - 4.1.2 Assess and monitor the performance of the NPO with regard to site implementation at least once in two quarters.
 - 4.1.3 Ensure that the NPO maintains all site records for all CWP sites and that such records are available for inspection at all times.
 - 4.1.4 Ensure that the NPO complies with the Ministerial Determination in relation to public employment programmes and other statutory requirements, e.g. UIF, PAYE and Workmen's Compensation where applicable.
 - 4.1.5 Ensure that the NPO complies with the Norms and Standards of the CWP at all sites under their jurisdiction.

4.2 The NPO will

- 4.2.1 Effectively manage existing sites and facilitate the effective ~~inspection and progressive implementation of sites such that all meet~~ their performance targets.
- 4.2.2 Conduct the procurement of non-wage items (which primarily consist of tools and materials; protective clothing; training and capacity building at community level), inclusive of storage and warehousing responsibility.
- 4.2.3 Ensure the safekeeping of all assets and inventory as well as the maintenance of asset registers and inventory lists whose accuracy and completeness will be verified at least once a month.
- 4.2.4 Facilitate, manage and monitor financial and non-financial performance of CWP sites assigned to them.
- 4.2.5 Develop a database of partnerships formed and declare resources accrued from such partnerships in support of the CWP.
- 4.2.6 Ensure that programme deliverables are attained and CWP Norms and Standards; and the Ministerial Determination are adhered to.
- 4.2.7 Facilitate the establishment and functionality of CWP coordination and advisory structures such as CWP Provincial Coordinating Forums, Provincial Steering Committees and Local Reference Committees.
- 4.2.8 Roll out programme implementation, monitoring and reporting.
- 4.2.9 Execute all functions as set out in "Annexure A".
- 4.2.10 Ensure that key tasks and milestones are executed and time frames as reflected in "Annexure A" are adhered to.
- 4.2.11 Maintain adequate sites records and ensure that records are available for inspection at all times and for audit purpose.
- 4.2.12 For stability of the programme, the NPO shall upon assumption of duty inherit existing site staff through newly negotiated and agreed upon terms and conditions.
- 4.2.13 Cover the cost for hand over processes inclusive of support to be provided by the outgoing Implement Agent (IA) in line with the IA's current Project Management fee tariffs.

5. REPORTING

- 5.1 The NPO is expected to provide CWP financial and non-financial performance reports to DCoG through the CWP National Programme manager. Such reports must be provided as per time frames to be set out in the TA or as and when required by DCoG in accordance with formats

stipulated by the Department.

5.2 The NPO must, on a monthly, quarterly and annual basis provide

formats and time frames to be agreed upon. Such performance reports must include actual performance | expenditure, variance from budgets/targets and projections, as well as year-to-year figures, from each site for consolidation at provincial level.

5.3 The NPO must track and report on participants that have exited the programme. The report should indicate the reasons for participants leaving the programme and in instances where they have left to take up other employment opportunities, details of such opportunities should be specified, duration, whether full-time or part time, field, etc. Such information should be included in every monthly report and aggregated in analytical quarterly and annual reports. Both the enrolment and exit dates for every participant should be recorded in their files.

5.4 The NPO must simultaneously submit narrative reports to both the provincial CoGTA/CoGHSTA and DCoG.

6. FINANCIAL MANAGEMENT

6.1 No interest shall be payable by the Department on any amount for any reason. If any item or part of an item in an invoice submitted by IA is disputed by the Department, the Department shall give notice before the due dates of payment with reasons but shall not delay payment on the remainder of the invoice.

6.2 The approval of site budget is separate from this contract and will be confirmed on an annual basis. The site budget will cover non-wage costs (which will primarily consist of tools and materials; protective clothing; training and capacity building at community level). The procurement of non-wage items will be conducted by NPOs, inclusive of storage and warehousing responsibility.

6.3 The project management fees to be paid should not result in total expenditure exceeding the available budget. The monthly project management claim shall be administered as a single itemised invoice in line with the contract amount and not be based on actual costs incurred. A straight line method should be applied as a monthly limit on project management claims.

6.4 The Department will retain 5% from each transfer to the NPO, the total of which will be released and paid as part of final invoice at the end of the financial year upon satisfactory completion of all the activities for the year. Determination for pay-out of the retention fee will be effected at the end of each financial year informed by performance reviews guided by the assessment instrument. If the NPO work does not offer value for money or some activities are not completed to the required standard and to the satisfaction of the Department, the 5% retainer will

be forfeited.

6.5 The NPO shall keep proper records according to the ordinary business portions, as applicable shall:

- a) Reflect all details separately for the programme
- b) Include the reports/minutes of all the workshops/meetings held in connection with the implementation of the Programme :

7. OWNERSHIP OF INTELLECTUAL PROPERTY

- 7.1 The Department will become the owner of software, tools, information, documents, programmes, reports or any product whatsoever developed or collated by the IA as part of their work in the Community Work Programme.
- 7.2 The copyright of all software, tools, information, documents, reports and any products furnished shall vest in the Department.

8. BREACH

- 8.1 Should either of the parties fail to comply with any of the terms or provisions of this agreement, the other party may give written notice of not less than 14 (fourteen) days to the defaulting party demanding compliance with this agreement.
- 8.2 Should the defaulting party remain in default, after the 14 (fourteen) days period, or such longer periods as may be given in the notice, the innocent Party shall be entitled, without prejudice to any other rights it may have:
 - 8.2.1 To claim specific performance from the defaulting Party and to claim such damages as it may have suffered;
 - 8.2.2 To discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from the defaulting Party; or
- 8.3 To cancel this Agreement and claim such damages as it may have suffered from the defaulting Party.

9. TERMINATION AND SETTLEMENT OF DISPUTES

- 9.1 If the NPO does not commence work on 1 April 2018, the agreement may be cancelled forthwith.
- 9.2 The agreement may also be cancelled for reasons other than poor performance and/or breach of contract, by giving the NPO fourteen (14) days written notice to rectify the cause of concern.
- 9.3 The parties agree to settle any dispute that may arise between them amicably within (14) fourteen days.
- 9.4 Any failure by the parties to settle such dispute, the dispute concerned must be referred to a relevant and independent dispute resolution institute.
- 9.5 The decision of the Arbitrator must be regarded as final and binding on both parties.

10. AMENDMENTS

No alteration, variation and/or amendments to this SLA is of force and effect unless reduced to writing and signed by both parties.

11. PENALTY

If the NPO fails to perform the services within the periods specified in the SLA, the Department may without prejudice to other remedies under this agreement which may include the cancellation of the SLA, deduct from the contract price as a penalty, a sum of R5000.00 on the unperformed services calculated for each day of the delay until actual performance is effected.

12. VETTING

The appointed NPO may be subjected to a security clearance before commencing with the programme or at any time during the contract period.

13. CONFIDENTIALITY

13.1 The parties agree that this SLA, its content and confidential information generated through the activated programmes, shall remain confidential between them.

13.2 The parties undertake not to disclose any confidential information to a third party without prior written consent of the other, safe as may be required by law.

14. DOMICILIA CITANDI ETEXECUTANDI

a. For the Office

The Office chooses, for purposes of this SLA, its *domicilium citandi et executandi* as follows:

Street Address:

The DCoG
87 Hamilton Street
Arcadia, Pretoria
0001

b. For Implementing Agent

Implementing Agent chooses for purposes of this SLA their *domicilium citandi et executandi* as follows:

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Signatures and execution



The signatories hereof, being duly authorised thereto, by their signatures hereto of the contents hereof and authorise the implementation/adoption thereof, as the case may be, for and on behalf of the parties represented by them.

Thus done and signed at Pretoria on this 6th day of April 2018.



Mr. MDG Mashitsho
Director-General
Duly authorised on behalf of the
Department of Cooperative Governance

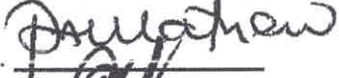

As witnesses

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Mr. Alfred Muzwakan
Duly authorised on behalf of the
South African Youth Movement

As witnesses

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ANNEXURE "A"

SCOPE OF WORK OF NPOs

The programme will be implemented through an integrated model in which; in addition to its overall programme support and contract management roles, DCoG will also retain responsibility for the direct payment of CWP wages, against wage schedules provided by NPOs and will facilitate access to accredited training for CWP participants where appropriate.

NPOs will be responsible for the following (with these roles specified in detail below):

- Site inception establishment and/or maintenance
- Programme implementation
- Reporting and administrative requirements
- Management of assets and inventory

The NPOs role will be undertaken on a full service basis for the non-wage budget components. This means, inter alia, that the procurement of goods and services required for implementation will be the responsibility of the NPOs, who will be expected to equip and brand CWP sites appropriately for the work to be performed, with such tools and materials forming part of their own asset registers for audit purposes for the duration of the contract.

1. Site inception

The NPO is responsible for the continued management of existing sites and the establishment of new sites.

1.1 Site inception: new sites

The site inception process lasts up to three months. The following functions are performed in the site inception phase, and will be executed with support from DCoG and the Provincial Departments responsible for Local Government, pre- approval must be obtained from the accounting officer of DCOG, prior to the inception of new sites:

1.1.1 Consult with local stakeholders (in collaboration with the Provincial Department of Local Government), including local and district municipalities, as well as non-state actors, to brief them about the CWP and secure their support and involvement.

1.1.2 Establish a Local Reference Committee for each site. The LRC should comprise representatives from local government, traditional leaders, ward councilors from participating wards, ward committee representatives from local civil society organizations, faith based organisations, educational institutions and other relevant organisations. The NPO is responsible for convening quarterly LRC meetings.

1.1.3 Undertake community consultation processes:

- a. Initiate mechanisms through which the CWP will consult the community on needs and priorities, relate to ward committee processes, and align with Integrated Development Planning processes;
- b. Facilitate a community mapping and information gathering exercise to identify community needs and opportunities as a basis for prioritizing 'useful work' to be

undertaken by the programme and to identify potential implementation partnerships in the local context.

- c. On the basis of the consultations undertaken, prepare and finalise the Site Business Plan by the end of March for each financial year throughout the contract period, with the following components:

- i. An overview of the social and economic context of the site.
- ii. A summary of key themes in the IDP
- iii. An overview of community consultation processes undertaken
- iv. A work plan for the implementation of at least five different forms of 'useful work' identified in the consultation process.
- v. A procurement plan relevant to the work plan
- vi. A training plan, that takes into account the CWP Training Framework and the Training SOP
- vii. A technical support plan

- d. Develop a budget for the implementation of the Site Business Plan by the end of March for each financial year throughout the contract period.

- e. Site level infrastructure and systems are in place, including:

- i. Establishment of a site office
- ii. Appointment of site manager, administrator and stores manager
- iii. Development of administrative systems required

- f. The NPO will recruit participants on the basis of fair and transparent criteria defined in the Norms and Standards, taking into account EPWP targeting criteria, with the terms of employment under which participants are employed compliant with the Ministerial Determination on conditions of work in the Expanded Public Works Programme, as well as other statutory requirements. Register participants, which includes securing the following information and documentation :

- i. Certified copies of South African authorised identity documents,
- ii. Duly completed Registration Forms,
- iii. Duly signed Participant Contracts,
- iv. Bank-stamped and dated Participants' Bank Details (If necessary, NPOs may have to facilitate the opening of bank accounts)

- g. In addition, NPOs will be expected to undertake the following processes as part of the participant enrolment process:

- i. Registering of participants for UIF and COID and doing the relevant administration.
- ii. Providing them with a summary of their "Rights and Obligations" as participants.
- iii. Equipping them with appropriate uniforms and safety gear.

- h. Subject to the approval of the Site Business Plan by the LRC and DCoG, operationalize the site by commencing work and implementing the Business Plan.

2. Site maintenance: existing sites

In the case of existing sites at which newly-appointed NPOs are assuming the functions of previous NPOs, the NPOs will do the following, in line with the handover manual:

- a. Undertake a handover process with the NPO previously managing the site and undertake an assessment of the state of the site.
- b. Aim for continuity of site functioning, so that work is not interrupted.
- c. In parallel, undertake the same consultation and planning processes outlined above, with a view to ensuring an appropriately endorsed Business Plan and all required

systems and processes required for site implementation are fully functional within 3 months of the contract being signed.

3. Programme Implementation

The NPO will be accountable to DCoG Programme Management for ensuring that the CWP site is managed in accordance with CWP Norms and Standards. The NPO is expected, at a minimum level, to perform the following functions:

- a) Facilitate the meeting of LRCs at least once a quarter and monitor the implementation of the programme.
- b) Maintain optimal levels of ongoing participation based on agreed contractual targets, with the NPO recruiting and registering additional participants when vacancies arise on the terms set out under 'Site Inception' above.
- c) Ensure that regular and predictable work opportunities are provided to participants who are engaged in useful work, subject to an approved Site Business Plan (which can be updated and adapted as part of quarterly Performance Review processes).
- d) Manage the CWP sites effectively to deliver quality work and outputs to benefit the community.
- e) Ensure that CWP participants are timeously provided with tools and materials, Personal Protective Equipment (PPE), that are necessary to perform their trade through a credible procurement system that would guarantee achievement of quality work outcomes.
- f) Ensure that information is updated onto the CWP MIS and EPWP Reporting System (EPWPRS) on an ongoing and timely basis.
- g) Coordinate training and ensure that technical input is provided in the design and implementation of the work activity, also empowering participants and strengthening their livelihoods and/or opportunities for employment or self-employment.
- h) Initiate local-level stakeholder engagements and participation processes to strengthen partnerships outcomes.
- i) Conduct exit interviews when participants leave the project, to support impact evaluation on the role of CWP in supporting transitions to other livelihood and/or labour market activities.
- j) Follow-up on and address queries and complaints that arise from sites and be proactive in investigating all reports or allegations of corruption or fraud relating to CWP, by reporting these to the National Programme Manager or his/her designates as part of the monthly reports.
- k) Undertake a physical participant verification exercise during the last quarter (January – March) of each financial year in preparation for the re-registration for the following year.

4. Reporting and administrative requirements

Progress on the project should be reported to DCoG through the DCoG National Programme Manager/Deputy Director-General or his/her designate, who is the designated official of DCoG, responsible for the management of the contract. At a minimum level the reporting functions include the following:

- a) The NPO shall provide key performance and financial reports to DCoG on a monthly, quarterly and annual basis in accordance with the respective templates. Copies of reports shall be provided to:
 - i. the Provincial CoGTAs/Provincial Departments of Local Government; and the municipalities where the site is located.

- b) NPOs will maintain all supporting documents and records required and keep these available for audit purposes.
- c) In terms of wage administration, NPOs will perform the following:
- i. ~~Validate and verify participants' attendance registers on all active participants for the month as per signed attendance registers, inclusive of the amounts.~~
 - ii. Validate and verify participants' attendance registers that are duly signed, accurate and complete prior to data upload onto the CWP MIS and EPWPRS.
 - iii. Submit validated, verified and signed-off as approved, participants' attendance registers to DCoG (copies) and file and maintain originals.
 - iv. Rectify data discrepancies between CWP MIS and EPWPRS and original source documents.
- d) NPOs are responsible for the registration of participants on the CWP MIS and EPWPRS and monthly reporting of required performance and other information on these systems including uploading of required supporting documentation.
- e) NPOs are expected to participate at non-site meetings as set out below:
- i. Monthly management meetings at a provincial level
 - ii. Quarterly LRC meetings
 - iii. Quarterly Regional Performance Review meetings
 - iv. Quarterly Provincial Steering Committee Meetings
 - v. Bi-annual Performance Assessment Meetings
 - vi. Up to five additional meetings called by DCoG per annum
- 5. Management of Assets and Inventory**
- At a minimum level, the management of assets and inventory undertaken by the NPOs includes the following:
- a) The tools, materials, protective clothing and any other site assets procured by the NPO for the execution of the CWP shall be maintained and used by the NPO for CWP purposes. In the event of sites being discontinued the NPO will transfer such assets for further use at existing and/or new CWP sites.
 - b) NPOs must have a procurement policy that is transparent, cost effective, fair, equitable and an effective procurement and provisioning system that will ensure value for money while implementing CWP (In line with section 217 of the constitution of the Republic of South Africa, 1996)
 - c) Procurement Plans will be developed on an annual basis, approved as part of the Business Plans, with the opportunity to update or amend as part of quarterly Performance Review reports.
 - d) NPOs will directly procure assets, inventory and consumables guided by their own established Supply Chain Management policy and procedures in line with good corporate governance principles;
 - e) NPOs will develop internal control measures to ensure sound management of assets, inventory and consumables, available for audit purposes and DCOG confirmation and review.

SAYM-3



Cooperative Governance
Traditional Affairs

cwp | community
work
programme

Private Bag X804, Pretoria, 0001, 87 Hamilton Street, Pretoria, 0002, South Africa.

TRANSFER AGREEMENT

Entered into by and between

THE DEPARTMENT OF COOPERATIVE GOVERNANCE
(Hereinafter referred to as "DCoG")

Herein represented by Mr MG Seitsho

Duly authorised thereto in his/her capacity as Acting Deputy Director-General of
Community Work Programme

AND

SOUTH AFRICAN YOUTH MOVEMENT
NON - PROFIT ORGANISATION and registration number

(Hereinafter referred to as the NPO)

Herein represented by Mr/Ms/Dr ALFRED MUKWANE SINDHLE

Duly authorised thereto in his/her capacity as EXECUTIVE DIRECTOR of the NPO

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Handwritten signature: MYI

4. DCOG ROLES AND RESPONSIBILITIES

DCoG will:

- 4.1 Clearly outline the deliverables (outputs and outcomes) expected of the NPO;
- 4.2 Set clear conditions for the transfer of funds to the NPOs for the implementation and management of CWP sites that will lead to the achievement of CWP objectives;
- 4.3 Develop and communicate clear reporting, monitoring and assessment requirements;
- 4.4 Develop systems, procedures and tools for CWP implementation and management;
- 4.5 Develop NPO performance assessment systems, procedures and tools;
- 4.6 Undertake NPO performance and compliance assessments at least once quarterly;
- 4.7 Develop interventions for identified areas of under-performance and non-compliance and enforce implementation by the NPO;
- 4.8 Implement consequences for NPOs' failure to comply with the conditions of the Transfer Agreement and the interventions identified by the department;
- 4.9 Transfer funds to the NPO at appropriate intervals and in accordance with the conditions specified in this Transfer Agreement as informed by the CWP NPO Transfer Policy; and
- 4.10 Engage with relevant stakeholders to ensure that they:
 - 4.10.1 Support NPOs in implementing the CWP;
 - 4.10.2 Facilitate positive provincial Inter Governmental Relations in relation to CWP implementation;
 - 4.10.3 Assist Municipalities in playing their role in implementation including obtaining council resolutions in relation to the CWP, identifying municipal CWP champions and facilitating the alignment of site business plans with Integrated Development Plans;
 - 4.10.4 Support DCoG in their oversight, monitoring and reporting responsibility, for example, by undertaking CWP site visits and verifying the NPO's reports;
 - 4.10.5 Establish, lead and ensure functionality of CWP Provincial Coordinating Structures;
 - 4.10.6 Identify and unblock bottlenecks affecting CWP implementation in municipalities within their provinces; and
 - 4.10.7 Advise DCoG on province specific dynamics with implications for the CWP.

5. NPO ROLES AND RESPONSIBILITIES


The NPO will:

- 5.1 Implement the CWP at the identified sites listed in Annexure A in accordance with the NPO responsibilities and deliverables matrix, Annexure B hereto, read in conjunction with the CWP Implementation Guidelines, Annexure C hereto and the CWP Norms and Standards, Annexure D hereto.

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- 5.2.16 Losses must be reported to DCoG within 24 hours after reporting to the SAPS and internal investigations must be conducted by the NPO.
 - 5.2.17 Maintaining all site records and managing CWP documents and ensuring that such documents and records are available and easily retrievable for inspection at all times and for audit purposes;
 - 5.2.18 Participating in periodic performance and compliance assessments undertaken by DCoG and/or Provincial CoGTA;
 - 5.2.19 Implementing all interventions identified by DCoG and reporting on progress within agreed time frames; and
 - 5.2.20 Preparing and submitting all required reports.
- 5.3 The NPO is expected to provide CWP financial and non-financial performance reports using the prescribed templates as contained in Annexure F.
- 5.3.1 The NPO must, on a monthly, quarterly and annual basis provide performance reports against key performance indicators per site as contained in the approved Site Business Plan in a format and as per time frames prescribed by DCoG. Such performance indicators must include actual performance against targets, variance to budgets/targets and projections, as well as year-to-year figures, for each site and consolidated at a provincial level.
 - 5.3.2 By the 3rd of every month, the NPO shall submit a performance and output report for the previous month to DCoG utilising the prescribed NPO Monthly Reporting template and ensuring that all fields are duly completed and indicated evidence is attached.
 - 5.3.3 By the 21st of the last month of each quarter, the NPO shall submit a quarterly performance and output report for that quarter utilising the NPO Quarterly Reporting template and ensuring that all fields are duly completed and indicated evidence is attached. The quarterly report and the relevant Portfolio of Evidence (POE) shall be considered by DCoG prior to the release of the next transfer / tranche.
 - 5.3.4 By the 14th of the first month of the new yearly contractual period, the NPO shall submit an annual performance and output report for the past year utilising the NPO Annual Reporting template and ensuring that all fields are duly completed and indicated evidence is attached. The annual report and the relevant Portfolio of Evidence (POE) shall be considered by DCoG for performance and contractual management purposes.
 - 5.3.5 DCoG may from time to time, in the interests of improved programme management and oversight, change the format of the monthly, quarterly and annual reporting templates after consulting with NPOs.
 - 5.3.6 Failure by the NPO to submit compliant and comprehensive reports and relevant evidence on time may result in delays in transfer payments being made to the NPO.
 - 5.3.7 DCoG may impose a penalty of equating to 10% of the monthly project management fee of the applicable site which will be taken out of the NPO's Project Management Fee for each day that passes without the relevant fully compliant report being submitted.
 - 5.3.8 The NPO should, where possible, track and report on participants that have exited the CWP. The report should indicate the reasons for

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does not coincide with government's financial year, in which case, the first payment will be made before the end of the first month that the Transfer Agreement will have been in effect.

- 6.9 DCoG will notify NPOs in writing of any planned changes to the payment schedule. NPOs will be given a reasonable opportunity to make written representations regarding such changes before they are implemented. DCoG may replace the quarterly payment structure with a monthly payment structure to manage any risks associated with a specific NPO, including non-compliance with the material provisions of this Transfer Agreement.
- 6.10 NPO will submit a payment request aligned to the site business plan activities and the approved payment schedule for the amount to be transferred.
- 6.11 DCoG will not make any transfer to the NPO for expenditure incurred that is not part of the approved business plan.
- 6.12 DCoG will not make further advance transfers should the NPO fail to account and provide evidence that the money was spent accordingly and only for the purpose of CWP implementation in line with the agreed Site Business Plans.
- 6.13 The NPO shall keep proper records according to ordinary business practice and DCoG requirements in respect of all their sites. These records shall include the following:
 - 6.13.1 Signed Site Business Plans;
 - 6.13.2 Copies of all documentation specified in Annexure G.
 - 6.13.3 Statement of Income and Expenditure that reflects the receipt of transfers from the department and how those transfers have been spent. A final income and expenditure statement and a final report must be submitted to DCoG in the annual report; and Only invoices and/or tax invoices will be accepted as supporting documents for actual expenditure incurred
 - 6.13.4 The NPO must appoint an auditor to account for the received CWP transfers and provide proof of such appointment in the manner and form indicated in Annexure J attached hereto.
 - 6.13.5 The NPO must ensure that the CWP is consulted in respect of the preparation of audit terms of reference and included in audit inception meetings, this includes but is not limited to, agreeing the engagement letter, participation at audit inception meetings, liaison with auditors, reviewing draft reports. Should the NPO fail to adopt this practice and any audit report is found inadequate by the CWP, the NPO may be requested to redo the audit such that it complies with the CWP requirements at the NPO's own cost. The NPO must further instruct the appointed auditor to allow DCoG to have access to the financial and other performance information.
 - 6.13.6 Audited annual financial statements for each contractual period of a year (i.e. 1 April to 31 March) must be submitted to DCoG by the 31st of July of the following year. If transfer funds remain unspent and uncommitted at the end of any quarter or the end of the financial year, they must be returned to DCoG subject to the following:
 - 6.13.6.1 DCoG may approve an in-year quarterly or end-year deviation request from a NPO to retain the funds and use them to continue delivering outputs set out in the Transfer Agreement or Site Business Plan for an alternative useful work purpose. DCoG may only approve such a deviation request if the NPO is up-to-date with all its reporting

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8. CONSEQUENCES FOR THE NPO's FAILURE TO PERFORM IN LINE WITH THE TERMS AND CONDITIONS OF THIS TRANSFER AGREEMENT

- 8.1 Failure by the NPO to deliver to the expected standards, quality and timeframes as well as to adhere to the terms of this Transfer Agreement may constitute grounds for DCoG to impose penalties which may include the termination of this Transfer Agreement.
- 8.2 Should the failure of the NPO to deliver to the expected standards, quality and timeframes result in financial loss to the CWP, the funds equal to the loss to the CWP will be recouped from the NPO. The amount will be deducted from the next tranche of funds due to the NPO.

9. FRAUD, CORRUPTION AND ABUSE/MISUSE OF PROGRAMME RESOURCES

- 9.1 The NPO and its agents / employees shall not engage in any fraudulent or corrupt activities or activities that constitute abuse/misuse of CWP resources in the execution of their responsibilities in terms of this Transfer Agreement.
- 9.2 The NPO hereby undertakes to report to DCoG any fraudulent, corrupt or abusive activities undertaken by its agents / employees within fourteen (14) working days of such activities being unveiled and to take the necessary steps to facilitate appropriate consequences.
- 9.3 Remedial steps may include reporting the matter to the South African Police Service as the first step to recouping programme resources fraudulently used, or the termination of the agency / employment arrangements with the offending party. The report to DCoG on the matter should include the remedial action that the NPO has taken or consequences that have been applied.
- 9.4 In the event that DCoG uncovers fraudulent or corrupt activities being undertaken by the NPO or its agents / employees, DCoG may institute an investigation. Following the conclusion of the DCoG, investigation, the NPO will be afforded an opportunity to provide a response to DCoG in respect of the suspected or alleged fraudulent or corrupt activities.
- 9.5 Should the suspected fraudulent or corrupt activities be of a financial nature, the transfer payments may be delayed until the matter has been resolved.

Should the findings of the investigation indicate that fraudulent or corrupt activities had been perpetrated by the NPO, Section 5 of the National Treasury's SCM Instruction Note 3 of 2016/17 may apply.

10. OWNERSHIP OF INTELLECTUAL PROPERTY

- 10.1 Software, information systems, documents, databases, programmes, reports or any information product whatsoever developed or collated by the NPO as part of their work in the CWP shall be owned by DCoG.
- 10.2 The copyright relating to all software, tools, information, documents, databases, programmes, reports and any products furnished shall vest in DCoG.

11. CONFIDENTIALITY AND DATA PROTECTION

- 11.1 The parties agree that this Transfer Agreement, its content and confidential information generated through the activated programmes, shall remain confidential between them.

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[Signature]

14.2 For NPO

The NPO chooses for purposes of this Transfer Agreement their domicilium citandi et executandi as follows:

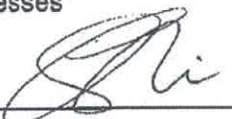
66 SLENWOOD ROAD
ARGENTUM BUILDING
LYNWOOD GLEN, PRETORIA, 0001

Signatures and execution

The signatories hereof, being duly authorised thereto, by their signatures hereto authorise the execution of the work detailed herein, or confirm their acceptance of the contents hereof and authorise the implementation/adoption thereof, as the case may be, for and on behalf of the parties represented by them.

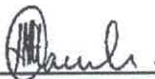
Thus done and signed at PTA on this 22 day of APRIL 2018

As witnesses



MG Seititsho

Duly authorised on behalf of the
Department of Cooperative Governance

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Thus done and signed at PTA on this 23 day of APRIL 2018

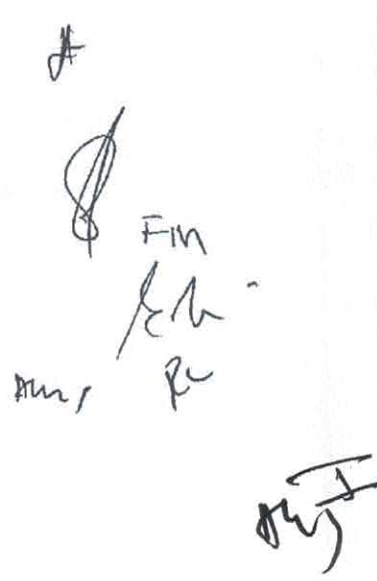
As witnesses



Duly authorised on behalf of the
NPO

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- f) Build partnerships with local government, provincial departments responsible for local government and other stakeholders and identify co-resourcing opportunities. On all partnerships formed on CWP, the DCoG should be brought on board to provide leadership for the initiatives, and to give necessary support to such partnerships.;
- g) Follow up on and address queries and complaints that arise from sites
- h) Provide monthly financial and operational reports to municipalities, Provincial CoGTAs and DCoG in the formats as contracted;
- i) Ensure management capacity for day-to-day site management as per the proposal submitted to DCoG. Replacements must be made within reasonable time in line with NPO Recruitment policy.
- j) Ensure that Useful Work or community projects are indeed operational and benefit communities
- k) Ensure assets are maintained and are logged in appropriate updated asset registers

1.2 Key tasks and milestones

TASKS	TIMELINE
a) Implement the CWP at approved sites in accordance with the Norms and Standards of the CWP and other pertinent guidelines.	Throughout the contract period.
b) Sustain and/or expand participation levels at existing sites in order to achieve the total work-day targets and participation rates.	Throughout the contract period.
c) Establish/strengthen CWP Local Reference Committees at all sites in accordance with the procedures for the establishment and Terms of Reference for these committees involving the provinces, municipalities and all stakeholders in this process.	Throughout the contract period.
d) Support and ensure functionality of Local Reference Committees.	Throughout the contract period
e) Interface with beneficiary communities, relevant municipalities and provincial departments responsible for Local Government	Throughout the contract period
f) Provide necessary technical support to the site to ensure standardized systems for registers, baseline forms, asset registers, task management and work organization management.	Throughout the contract period
g) Ensure that all participants complete the baseline registration form and that daily registers are updated	Throughout the contract period
h) Provide a financial and narrative report on CWP site implementation progress to DCOG within 3 days of the end of every month. Such reporting shall be in accordance with the prescribed reporting framework; and should include a monthly schedule of work days, participant data and all information required to comply with the relevant Management Information Systems. Financial reports to be reviewed on a monthly basis for management accounting purposes.	3rd of every month

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1.3.1 Site Inception and/or maintenance
a) New Sites

Description	Outcome	Output	Indicators/ Means of Verification
Consult with local stakeholders	Relevant state and non-state actors understand and support the programme	Roles of local actors as defined.	<ul style="list-style-type: none"> Resolution passed by local council or mayoral committee approving inception of CWP. Identification of local actors able to participate in LRC Minutes / Reports of consultative engagements
A Local Reference Committee for each site is established.	State and non-state actors are involved in local oversight of the programme and enable the IAs interface with the community.	The LRC is convened.	<ul style="list-style-type: none"> Minutes of LRC meetings Composition of the LRC includes state and non-state actors.
Community consultation processes are undertaken.	The CWP responds to local needs in the assets and services it delivers in ways that support and align with existing development processes, e.g., the IDP	A community mapping and consultation process is undertaken.	<ul style="list-style-type: none"> A record of the process and its outcomes is reflected in the Business Plan.

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Description	Outcome	Output	Indicators/ Means of Verification
The site operates on the basis of an approved Site Business Plan.	The site has a clear, approved framework within which implementation can proceed and against which performance can be reviewed.	<p>The Business Plan includes the following elements:</p> <ul style="list-style-type: none"> • An overview of the social and economic context of the site • Identification of community priorities from the consultation processes • A summary of key themes in the IDP • A work plan for the implementation of at least 5 different forms of useful work, informed by the community consultation and the IDP needs. • Based on the work plan: <ul style="list-style-type: none"> ○ A procurement plan ○ A training plan ○ A technical support plan. 	<ul style="list-style-type: none"> • A Business Plan that includes all required elements, is tabled to the LRC and DCoG within two months of new contracts and by 31 March every year thereafter.
The site operates on the basis of an approved Budget.	The site is appropriately resourced in relation to its Business Plan and financial accountability is maintained.	The proposed budget	<ul style="list-style-type: none"> • A budget that meets the required standards is submitted to DCoG. • Financial reports submitted by the 3rd of every month
Site-level infrastructure and systems are in place	The site is ready for operations	<p>A site level office is established</p> <p>NPO staff are appointed</p> <p>Administrative systems are in place.</p>	<ul style="list-style-type: none"> • LRC verification reflected in minutes • CVs and contracts of staff • Quality of reporting in the implementation phase.

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Description	Outcome	Output	Indicators/Means of Verification
On the basis of the approved Site Business Plan, regular and useful work opportunities are provided to participants.	Participants engage in regular and useful work opportunities and earn a regular and predictable income.	<p>Participation rates and demographics reflect approved targets.</p> <p>Wage administration and reporting by the IA enables timeous payment of wages by DCoG.</p> <p>Employment terms are compliant with the Ministerial Determination on Conditions of Work in the EPWP.</p>	<ul style="list-style-type: none"> Compliant reporting on CWP MIS and EPWPRS NPO uploads duly signed off Timesheets / Work Registers by the 10th of the month. NPO executes the first level of authorization of payment of wages as per approved procedures and based on original signed off timesheets / work registers by the 14th of each month. Verification of participant registration documentation and Level 2 processing by the 15th of each month. Number of completed and accurate participant profiles per site reconciles with the number of participants registered on CWP MIS and EPWPRS
On the basis of the approved Site Business Plan participants are engaged in useful work	The assets and services delivered contribute to the public good at local level, respond to community priorities and are aligned with IDPs.	Site Business Plans are developed and submitted for approval by 31 March annually.	<ul style="list-style-type: none"> The approved Business Plan Monthly, quarterly and annual performance reports, including an Outputs Report. LRC feedback in minutes of meetings. Evidence / Records of NPO managements' site compliance and performance quality assurance activities On-site verification as part of DCoG oversight.
Work is managed effectively to deliver quality outputs	<p>CWP resources are used optimally</p> <p>Participants gain experience of effective and efficient work practices</p> <p>Communities benefit from quality assets and services.</p>	<p>Structures for the effective supervision of work are implemented</p> <p>Procurement of tools and materials is timeous</p>	<ul style="list-style-type: none"> Organograms as part of performance reports. Asset register on site Record of procurement available for inspection. Tools and materials allocation sheets for workgroups. Evidence / Records of NPO managements' site compliance and performance quality assurance activities DCoG verification visits/oversight.

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1.3.3 Reporting, administration and document management


Description	Outcome	Output	Indicators/Means of Verification
Fulfil reporting requirements to DCoG as Contract Manager.	DCoG able to assert accountability of NPOs	Output Reports including Monthly and Quarterly narrative and financial reports.	Reports delivered to the required quality within set timeframes.
Maintain adequate (accurate and relevant) document management for all CWP Sites.	Comprehensive integrated and accurate document management system	Effective administrative processes for CWP document (original copies) management at NPO office level within a 5 year storage timeframe (e.g. proper and accurate filing at site office, submission of copies to DCoG on request)	<ul style="list-style-type: none"> Spot check audits of critical documents show full compliance. The number of requested documents readily available within two days.
Wage administration.	<ul style="list-style-type: none"> Timeous payment of participants CWP payment data quality and integrity management processes 		<ul style="list-style-type: none"> Number of level 1 validation and verification of work registers prior to data upload onto CWP MIS and EPWPRS Number of work registers submitted to DCoG within the stipulated time frames Number of data discrepancies between CWP MIS and EPWPRS and original source documents rectified.
Participate in required reporting structures	Accountability of NPOs and stakeholder involvement in oversight	NPOs attend the following: quarterly LRC meeting (NPO as convener) quarterly Provincial Steering Committee meetings Annual DCoG Performance Review meetings annual capacity building or other workshops convened by DCoG	LRC minutes Provincial Steering Committee minutes Performance Review Reports Workshop Reports

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1.3.4 Procurement, Assets and Inventory Management

Description	Outcome	Output	Indicators/Means of Verification
<p>NPOs will implement cost effective, efficient and transparent procurement and provisioning system that will ensure value for money while implementing CWP.</p>	<p>Procurement of goods and services in line with approved NPO Corporate SCM Guidelines</p>	<p>Procurement plans approved on annual basis and updated quarterly for all CWP sites.</p> <p>Necessary tools and material available for useful work.</p>	<p>Corporate SCM system and guidelines available.</p> <p>Evidence of compliance with SCM procedures available on request.</p> <p>Invoices and delivery notes for procurement of assets, inventory and consumable items.</p>
<p>Ensure sound management of assets, inventory and consumables.</p>	<p>Sound management of assets, inventory and consumables for effective implementation of the programme.</p>	<p>Safeguarded assets, inventory and consumable for all CWP sites.</p> <p>Records updated regularly to indicate any additions and movement of assets, inventory and consumables.</p>	<p>Stores management systems in place. Including:</p> <ul style="list-style-type: none"> • Asset Register; • Inventory Register; • Consumable Register; • Damaged / Redundant register; • Losses Register; • Investigation report and • Progress report (disciplinary actions);
<p>Keep a record of procurement documents relating to all assets, inventory and consumables on files (quotations, invoices, signed and dated delivery notes)</p>	<p>Sound management of procurement records (assets, inventory and consumables) for each site.</p>	<p>Easy retrieval of source documents for all procurement done for each site for the purpose of future reference and or audit.</p>	<p>A database (file) of delivery notes and invoices.</p>

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SAYM
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SAYM-CWP-11/03

11 March 2020

**Office of The Acting Deputy Director General
Attention: CWP Programme Management**

**Community Work Programme
5th Floor, Pancardia 2
Pretorius Street
PRETORIA
0001**

Dear Sir/ Madam

RE: DELAY IN THE TRANSFER OF THE PROJECT MANAGEMENT FEE FOR THE REMAINDER OF QUARTER 4

SAYM is writing this correspondence following a commitment that was made by CoGTA during the Agrarian/DDM meeting held on the 04th March 2020. The department communicated to the NPOs that were present; that the transfers for outstanding PM Fees, DDMs and Food Security were to be effected as from Monday the 09th March 2020.

As of today, SAYM has not received any transfer of the above. The delay in transfers of these monies especially the PM fees will hinder us from achieving the objectives of this quarter, bearing in mind that it is a very busy period as we are wrapping up the financial year. SAYM would like to bring the department's attention to the following issues of concern, that are affected due to non-payment of PM fees:

- SAYM has already loaned money from other projects and institutions which bears interest;
- SAYM has a staff complement of 109 that must be paid every month. Our salary bill on monthly basis is around R1 400 000.00.
- SAYM has overhead costs that must be taken care of every month to ensure operations are not affected. These include telephone and data bill, rentals and services, car hire etc.
- Quarter 4 is a busy period with a number of deliverables as per the SLA, chief among them; conducting physical verification of assets, contracting and re-registration of participants, Drafting of Site Business Plans, preparing for Audit, responding to the request from MNS Attorneys for the information that must

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be collated from sites and packaged accordingly. All these activities require proper logistic arrangements to ensure they are done successfully and timeously.

- Capturing and verifying of participant's data in preparation for payments. This process requires buying of data for all our sites in two provinces.
- SAYM is still expected to participate in all CWP related meetings including LRCs, Provincial Steering Committees, Management Meetings without fail regardless of the status of PM fee payments;
- As of the end of this Month, SAYM will not be able to pay salaries to all our staff. We will further communicate in writing to all the municipalities and inform them of our status in finances and how it will affect the salaries and other activities. We are running a risk of riots outbreak on the ground which we cannot contain further should we not receive PM fees before month end.

SAYM has submitted SLA checklist for Q3 and participated during the Mid-year performance assessment. A feedback was received from CoGTA and areas scored below 3 were reduced into an action plan. Without the transfer of our PM Fees it is challenging for us to respond to this action plan as it requires our team to be on the ground to close all the gaps.

Over and above the PM fees outstanding; according to clause 6.4 of the SLA, the department retains 5% of each PM fee transfer that will be released every end of the financial year upon satisfactory completion of all the deliverables. If we are not receiving our PM fees timeously it is obvious that some of the activities will be affected and the NPO will be penalized on this by the department during performance assessment as well as where retention fee is concerned. As of to-date we have not received our retention fee for 2018/19 FY and in the next few weeks we will be closing the 2019/20 FY. There is no communication that has been received from the department regarding the outstanding retention fee.

SAYM will further like to bring to the attention of the department that with the current PM fees it is difficult to manage the 6 Districts (incl. OR Tambo for Agrarian). Our Districts in Eastern Cape are very vast and any ordinary travelling to the meetings always requires one to book for accommodation and in most instances book a proper vehicle because of the terrain. We receive the same allocation per site as someone who is managing the same participation allocation in Gauteng for example. The two provinces cannot be compared in terms of geographical spread of the sites. We have raised this in previous engagements with the client and we are hoping it can be taken into consideration for the betterment of the programme in these rural provinces.

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Expanding a world of possibilities for young people

Way Forward

SAYM is requesting a written explanation on the delays of the transfer, which will also be cascaded to the municipalities. According to the transfer agreement and SLA payments of PM fees are to be effected on quarterly basis and according to clause 8.1 in the SLA any party that fails to comply with the terms of the agreement must give written notice of less than 14 days on the reasons for contravening the terms of the agreement. However, to-date, we have not received any communication regarding the Retention fee for 2018/19 and we are also nearing the end of this current FY. We have further not received any communication for the delay of PM transfers.

SAYM humbly requests a meeting with the office of the Acting Deputy Director General to further discuss the content of this letter.

We hope that our letter will reach your favourable consideration taking into consideration what is at stake.

Yours Sincerely,

Mr. Muzwakhe Sigudhla
Executive Director
Southern African Youth Movement (SAYM)

Southern African Youth Movement Regional Secretariat
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SAYM-5



MEMO

From : The Executive Director
To : COGTA – CWP Management Team
Attention : CWP - Deputy Director General Office
Date : April 27, 2020
Subject : Payment of Project Management Fee

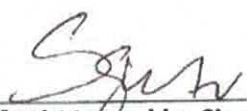
With regards to the above subject, SAYM would like to inquire about the outstanding PM fees for the month of March and April 2020. Without the PM fees, we are running a risk of not being able to fulfil all the deliverables in line with our SLA. This is a very critical time as well for us to receive these funds to be able to organize for our staff precautionary measures as they go to the field from time to time for collecting of registers (especially in preparation for April 2020 wages payments), even when we meet in our offices on daily basis, people must be protected. We are unable to take care of most of our overhead costs to keep the Programme running.

SAYM has tried in the previous months to finance the Programme; however, at this stage we are unable to continue financing the activities of the Programme due to a number of other activities outside of CWP that we have embarked on including participating in the National awareness campaigns to flatten the curve for this Covid-19 virus. Today we issued a memo to our staff regarding possible delays of their salaries. We foresee go-slow from our team if they do not receive their salaries on time; as a result of this delay which might cause frustrations for us to meet the deadlines and respond accordingly to our monthly deliverables.

We are also hoping that the Department will have a plan for our participants to be protected when they resume their work on the ground. Currently they did not work for the month of May as they are lockdown for the whole month of April with the rest of the country. We are requesting clarity as well from the Department as to how will May wages payment be administered so we are prepared accordingly.

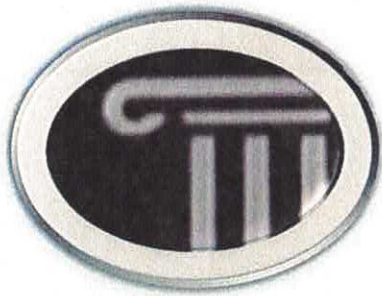
We do hope that this letter will reach your favorable consideration.

Kind regards,


Alfred Muzwakhe Sigudhla
Executive Director – SAYM

CC: Finance; Operations; Human Resources

Handwritten initials/signature



MOLA – ATTORNEYS

Best to your legal freedom

SAYM-6

60 Morone Street
Unit 01 Ground Floor, Block A
Tubatse Plaza
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1150
Tel: (013) 007 0416
Alt: 076 539 2993
Email: mollattorneyz@gmail.com

14th May 2020

Ref: SAYM/CWP/2020/05

Office of The Director-General
Chief Financial Officer (CFO)
Deputy Director General – CWP
Community Work Programme
87 Hamilton Road
PRETORIA
0001

By e-mail:

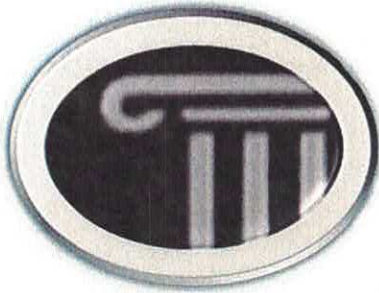
Dear Ms. Avril Williamson

LETTER OF DEMAND FOR THE PAYMENT OF PROJECT MANAGEMENT FEES, RETAINER FEES AND CWP NON-WAGE BUDGET

With regard to the above mentioned subject, we would like to place the following on record:

1. We confirm that we act on behalf of the Southern African Youth Movement (SAYM) NPO registered under the NPO Act of 1997. The NPO is appointed as an implementing agent for COGTA in two provinces, namely, Eastern Cape and KwaZulu Natal.
2. Our instruction to place the following on record:
 - 2.1 The SAYM was appointed on the 1st of April 2018 for the Community Works Programme for a period of 36 months (from 2018/19 Financial Year until 2020/21) based on acceptance of offer.
 - 2.2 The organization was further appointed to implement CWP from the 1st of July 2019 until March 2021, in two districts in the Kwazulu Natal province, namely, Harry Gwala and Ugu district municipalities.

Handwritten initials: MS



MOLA – ATTORNEYS

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2.3 The organization has entered into a legally binding Service Level Agreement (SLA) as well as transfer agreement with the Department of Cooperative Governance and Traditional Affairs, to implement community works Programme with clear roles and responsibilities and penalties among parties.

3. We want to put on record further on the agreed rules and responsibilities under the signed binding legal agreement namely;

3.1 the Department will:

3.1.1 Provide support to the NPO pertaining the site inception process in conjunction with the Provincial Department responsible for Local Government and the municipality concerned;

3.1.2 Assess and monitor the performance of the NPO with regard to site implementation at least once in two quarters.

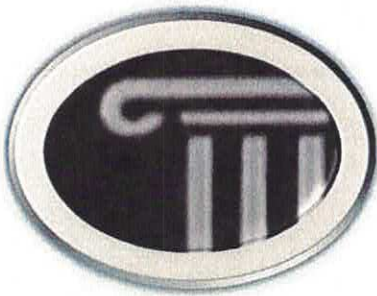
3.1.3 Ensure that the NPO maintains all site records for all CWP sites and that such records are available for inspection at all times.

3.1.4 Ensure that the NPO complies with the Ministerial Determination in relation to public employment programmes and other statutory requirements, e.g., UIF, PAYE and Workmen's Compensation where applicable.

3.1.5 Ensure that the NPO complies with the Norms and Standards of the CWP at all sites under their jurisdiction.

3.2 the NPO's functions among others as contemplated in the SLA and Transfer Agreement are:

3.2.1 shall consult with communities at least once a year.



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3.2.1.1 the first of such consultations shall take place within the first two months of this Transfer Agreement coming into effect. Thereafter, it will take place during the last quarter of the financial year (between 1 January and 31 March).

3.2.1.2 The focus of the consultations will include draft Site Business Plans and LRC compositions.

3.2.1.3 Evidence of such community consultations shall be retained for submission as part of the Portfolio of Evidence for consideration by DCOG prior to the transfer of payments for the next quarter and the financial year.

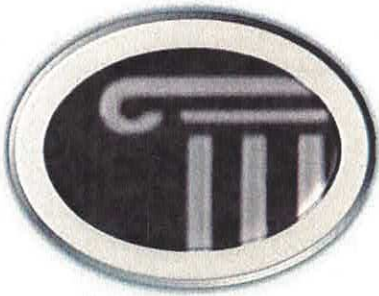
3.2.2 The NPO shall adhere to sector norms and standards in the implementation of useful work relating to a particular sector at each of their site. Evidence to this effect should be included as part of the Portfolio of Evidence (PoE) for consultation by DCoG prior to the release of the next transfer / tranche. If this is not possible permission for deviation must be requested and obtained from DCoG.

3.2.3 The NPO may establish public and private partnerships, with the prior written consent from DCoG, as well as support partnerships established by DCoG. The partnerships will aim at enhancing CWP outputs and outcomes. All partnerships entered into by the NPO in pursuance of CWP objectives and agreed to be DCoG shall include the Memoranda of Understanding / Agreement outlining the objectives of the partnership and the contributions of each party to the partnership. The relevant document must specify both financial and in-kind contributions. Partnership reports will form part of periodic reports in terms of section 5 above.

4. COMPLIANCE TO THE CONTRACT OF OUR CLIENT

Based on available evidence in the form of reports, our client has fulfilled its legal obligation to the contract as outlined in Article 5.2 of the Transfer Agreement as further amplified in Annexure B, C and D. which include but not limited to;

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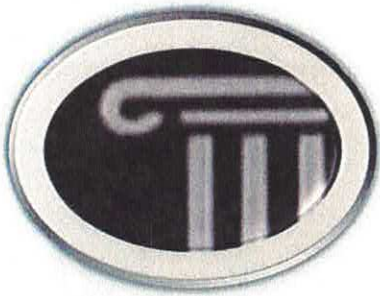
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- 4.1 Ensure that all sites are functional and all participants are registered in the MIS and are paid on regular monthly basis,
- 4.2 Ensure that all Local Reference Committees were practical and are in existence and operational and all sites have signed business plans as outlined in both the SLA and the Transfer Agreement.
- 4.3 Our client has submitted all reports as required with difficulties due to the nature of three tier government programme, such as CWP.
- 4.4 The organization has participated in all NPO assessments and developed action plans mutually agreed with the Department for the improvement of the program.
- 4.5 In good faith, our client collaborated with other implementing agents and made a submission in relation to improvement and clarification between the Ministerial Determination as well as Norms and Standards. The submission was made on the 15 of May 2020 and was duly received by the Department without any response.
- 4.6 Furthermore, our client has submitted a memo letter to the office of Director General on the 11th of March 2020 in terms of Article 8.1 of the SLA. The letter requested the legal basis on why the PMFs are not being paid. The department elected not to respond to the letter.
- 4.7 Furthermore, our client wrote a memo to the attention of the Deputy Director General on the 27th of April 2020, referring to the non-payment of PMFs and its legal implication to the operation of the CWP. The Department elected again not to respond and not to effect any payment without providing any reasons.

5. BREACH OF CONTRACT

Based on all available evidence in the form of reports submitted to the Department by our client, we have concluded that the Department is in breach of both the Service Level Agreement and the Transfer Agreement and did not act in good faith as contemplated in the SLA. Based on the following among others:

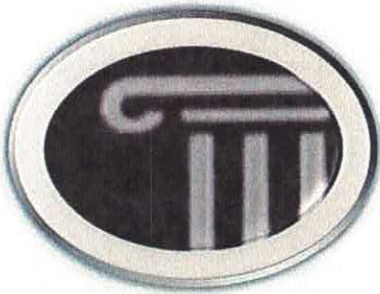


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- 5.1 the non-payment of Project Management Fees, the retainer fees and CWP Non-wage payment is unlawful and invalid. If the non-payment is informed by non-performance our client on the SLA and the Transfer Agreement, the Department should have elected to invoke Article 11 of the SLA "If the NPO fails to perform the services within the periods specified in the SLA, the Department may without prejudice to other remedies under this agreement which may include the cancellation of the SLA, deduct from the contract price as a penalty, a sum of R5000.00 on the unperformed services calculated for each day of the delay until actual performance is effected".
 - 5.2 in the case of non-performance of our client, the department should have also invoked punitive measures and penalties as per the SLA as contemplated in Article 8.1 of the SLA done withholding PMF, which in essence enables our client to fulfil the obligation of the SLA and the Transfer Agreement.
 - 5.3 the Department has acted in bad faith and prejudiced our client without any legal basis. Article 12 of the SLA in the settlement of disputes and contracts makes provisions of dealing with issues of dispute without prejudice among parties. The Department failed to exercise this provision.
 - 5.4 The Department has failed to comply with Article 6.4 of the Service Level Agreement in terms of paying the retainer fee of 5% for the 2018/19 and 2019/20 without any legal explanation as contemplated in the SLA.
 - 5.5 The Department has failed to comply with Article 6.7 of the Transfer Agreement which states that payment of PMF and non-wage shall be paid on quarterly basis.
 - 5.6 The Department has unilaterally suspended the operation of the contract without due process as contemplated in the SLA.
- 6. AS A RESULT OF NON-PAYMENT OF PROJECT MANAGEMENT FEES:**



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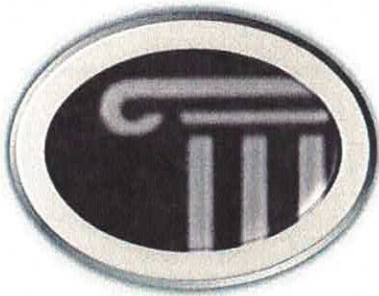
- 6.1 Our client suffered prejudice and huge financial loss to SARS, and other institutions as compliance reports are meant to be submitted within a stipulated time, failure to do so, attracted interest and penalties.
- 6.2 Our client suffered reputational damage as a bad payer and it has been affected in terms of its credit scoring by various parties.
- 6.3 Currently, our client is battling with low staff moral which adversely affects the performance of the organization not only on CWP but on other projects. This is mainly expected to happen during the mid-year performance scorecard reporting period, where COGTA officials will rate our client low.
- 6.4 The organization suffered financial loss due to agreement with the Department not to charge interest on money the organization borrowed from institutions to sustain the CWP implementation.

7. COVID-19 IMPLICATION

The Department has elected to disregard the legal implication of Covid-19 in relation to the contract of CWP by:

- 7.1 failure to provide permits to enable staff members to access the office in order to fulfil the obligation of CWP as per the SLA and Transfer Agreement. The Department continued to send requests of information knowing very well that our client would not be able to do so due to the lockdown regulation.
- 7.2 the Department has brought the Programme into disrepute in terms of providing an enabling environment to secure CWP assets under the lockdown condition. Our client has suffered an additional financial burden by hiring security services to protect CWP assets.
- 7.3 Total disregard to the dangerous nature of the Covid-19 to the health of the staff. Our client and related staff has to illegally come to office to produce reports anticipating financial relief in the form of salaries from the Department.

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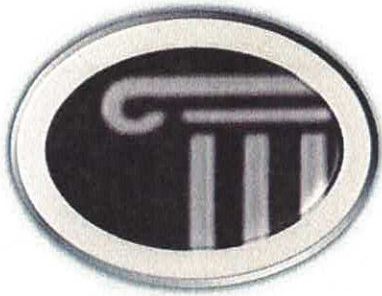
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- 7.4 The Department despite being directed by the EPWP circular dated 26 April 2020 from Public Works failed to provide our client with basic PPE for the participants to resume functions. As a result, our client has suffered huge reputational damage to stakeholders due to the nature of CWP being community serving programme.
- 7.5 It is clear that without providing our client necessary permits and requesting to continue to provide information is done in bad faith to justify or create an impression of non-performance.
- 7.6 Furthermore, our client has written to the Honorable Minister Dr. Nkosazana Dlamini-Zuma dated 12 May 2020 in relation to the possible wasteful expenditure that the programme may suffer and the reputational damage that our client may suffer as a result of it. Our client still awaits formal response to this submission.
- 7.7 As a result of the non-compliance to the Service Level Agreement and due to the lockdown regulations, involuntarily, our client has elected not to provide any additional service or reports to the Department until this case is mutually resolved.
- 8. INLIGHT OF THE ABOVE, OUR CLIENT DEMANDS THE FOLLOWING:**
- 8.1 Our client demands that the PMF for the months of March 2020 and for the first quarter of April to June 2020 must be paid by Wednesday 20, 2020 before 5pm.
- 8.2 The retainer for financial year 2018/19 should be paid with interest by May 20, 2020 before 5pm.
- 8.3 CWP non-wage budget should be paid by May 20, 2020 before 5pm.
- 8.4 The Department provides the legal basis and reasonable explanation to the non-adherence of the SLA and the Transfer Agreement.
- 8.5 As per the Disaster Management Act Regulation, our client demands that the Department provide permits to enable its staff to move around to conduct their services once the PMFs are paid.

[Handwritten signature]



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Email: mollattorneyz@gmail.com

9. Our client's rights remain strictly reserved. This means, our client reserves the right to go to court on an urgent basis without notice.

Yours faithfully,

Mr. Nkoemakae Mola
Managing Partner Mola Attorneys

SAYM-7A



cooperative governance

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

Private Bag X804, Pretoria, 0001 Tel: (012) 334 0600, Fax: (012) 334 0603
cnr Hamilton and Johannes Ramokhoase Street, Arcadia, Pretoria

Reference: COGTA/CWP/05/2020

The Chief Executive Officer
Mr Muzwakhe Sigudla
South African Youth Movement
P O Box 14134
The Tramshed
0126

Tel: 083 266 4125
Email: sigudla2000@yahoo.com

Dear Mr Sigudla

NPO SLA COMPLIANCE ON CORPORATE GOVERNANCE MATTERS: NONFINANCIAL INFORMATION

1. During the Performance Assessment and Quarterly SLA Checklist review conducted during the 2019/20 financial year, a number of shortcomings were identified relating to governance issues pertaining to the implementatin of the Community Work Programme within your respective province/s.
2. Areas identified were deliberated upon during the assessment sessions and remedial measures proposed for your implementation. The respective areas of concern were further outlined during the video conference engagement held between NPOs and CWP Management on 30 April 2020.
3. Please find enclosed **Annexure A** listing areas of concern that are specific to your organisation. In this regard, you are advised to take prompt action towards redressing the identified gaps and ensure that all issues are resolved not later than 30 September 2020.
4. You are required to kindly provide monthly progress reports using the attached template for easy reference in order to facilitate joint monitoring of progress and to enable us to support your efforts in areas that might require DCOG's intervention (if any).
5. Your initial monthly progress report is expected not later than the 7th of July 2020, presenting the status as at the end of June 2020. Please submit by the 7th in subsequent months as well.

Kind regards,

Dr. Batandwa Siswana
Deputy Director-General
Community Work Programme

Date: 15/05/2020

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cooperative governance

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

Private Bag X804, Pretoria, 0001 Tel: (012) 334 0600, Fax: (012) 334 0603
cnr Hamilton and Johannes Ramokhoase Street, Arcadia, Pretoria

Reference: COGTA/CWP/05/2020

The Chief Executive Officer
Mr Muzwakhe Sigudla
South African Youth Movement
P O Box 14134
The Tramshed
0126

Tel: 083 266 4125
Email: sigudla2000@yahoo.com

Dear Mr Sigudla

ADEQUATE ACCOUNTING OF THE PROJECT MANAGEMENT ALLOCATION PAID TO COMMUNITY WORK PROGRAMME (CWP) NON-PROFIT ORGANISATIONS

1. During the audit of 2018/19 financial year, the Auditor General of South Africa (AGSA) raised concerns relating to various control deficiencies in accounting and reporting on the Project Management Fee paid to CWP NPOs. In particular, one of the main concerns is centred around lack of accountability and transparency, including non-disclosure of the assets acquired by NPOs utilising the Project Management budget.
2. According to Auditor-General, a single itemised invoice is not sufficient to support Project Management costs. Constitutionally, this method of billing compromises the accountability and transparency in spending public funds.
3. Within our context, in terms of Section 38(1)(b) of the PFMA, the Accounting Officer of the department, trading industry or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution.
4. Based on the above, your organisation is requested to submit information for the 2018/19 and 2019/20 financial years on the attached template for point (a)- (c) below (Annexure A), as follows:
 - a. movable assets purchased;
 - b. immovable assets purchased;
 - c. any enhancements made on immovable assets; and

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- d. A detailed list of your operation costs.
5. The information requested above must be submitted before or on the 22nd May 2020.
6. In future, you are required to submit the same information as per Paragraph 4 above.

Kind regards,



Dr. Batandwa Siswana
Deputy Director-General
Community Work Programme

Date: 15/05/2020



SAYM-7C



cooperative governance

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

Private Bag X804, Pretoria, 0001 Tel: (012) 334 0600, Fax: (012) 334 0603
cnr Hamilton and Johannes Ramokhoase Street, Arcadia, Pretoria

Reference: COGTA/CWP/05/2020

The Chief Executive Officer
Mr Muzwakhe Sigudla
South African Youth Movement
P O Box 14134
The Tramshed
0126

Tel: 012 348 1214
Email: sigudla2000@yahoo.com

Dear Mr Sigudla

2019/20 FINANCIAL NON-COMPLIANCE TO THE SLA AND TRANSFER AGREEMENTS REQUIREMENTS.

1. During the meeting held between the NPOs and the Department on the 30th of April 2020 via video conference, issues relating to non-submission, credibility of submitted information as well accountability and transparency were emphasised.
2. In term of the Section 40(1)(a) of the Public Finance Management Act (PFMA), "***The accounting officer for the department must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;***"
3. Further to the above, in terms of Section 38 (1)(b) of the PFMA, "***The accounting officer for a department, trading entity or constitutional institution — (b) is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution;***"
4. In order to effect the above provisions of this act, the Department entered into a Service Level Agreement (SLA) and Transfer Agreement (TA) with your organisation for the duration of the contract.
5. Paragraph 4.2.1 and 4.2.3 of the SLA refers to the procurement of goods and services, safe keeping of assets and inventory, maintenance of the asset register and asset verification as being the responsibility of the NPO.

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6. Paragraph 5.1 of the TA requires NPOs to provide Financial and Non-Financial reports to DCoG timeously in accordance with stipulated formats.
7. Paragraph 5.3.6 of the TA further states that ***“Failure by the NPO to submit compliant and comprehensive reports and relevant evidence on time may result in delays in transfers payments being made to the NPO.”***
8. According to our records for 2019/20 financial year, your organization failed to comply to the above provisions of the Service Level Agreement (SLA) and Transfer Agreement (TA) as outlined.
9. Below are areas of financial non-compliance identified with the relevant annexures attached for your attention:

9.1. Budget and Expenditure Reporting and Accountability

NPO	AMOUNT PAID TO NPO (A) R'	REPORTED EXPENDITURE (B) R'	TRANSACTION LISTING (C) R'	SUBMISSION LISTING (E) R'	% OF SUBMISSION	VARIANCE (H)= C – E R'
South African Youth Movement	138 133 811	119 412 644	119 412 644	40 199 793	34%	79 212 851

- Based on our records, documents to the value of **R 79 212 851** remain outstanding to support the expenditure reported by your organization.

9.2. Supply Chain Management Compliance

- Various areas of non-compliance to SCM policy and prescripts were noted as per the attached annexure for documents verified thus far. (Annexure A)

9.3. Asset, Inventory & Consumables Management

- Various non-submission of asset information has been noted as follows:

NO:	NPO Name	Addition Register	Commitment Register	Assets Register	Inventory & Consumables Register
1	SAYM	X	X	✓	✓

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10. You are required to respond to paragraph 7 with the relevant POE in support of your 2019/20 Expenditure before or on the 22nd May 2020.
11. Non-submission of this information will result in the delay of your Project Management Fee being released, as per Paragraph 5.3.6 of the TA, as well as clearing of the suspense account for the 2019/20 financial year.
12. Furthermore, any unaccounted expenditure will result in a debt being raised against your organization.

Kind regards,



Dr. Batandwa Siswana
Deputy Director-General
Community Work Programme

Date: 15/05/2020



SAYM-8



**MINISTRY
PUBLIC WORKS AND INFRASTRUCTURE
REPUBLIC OF SOUTH AFRICA**

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Private Bag X9155 | CAPE TOWN, 8001 | RSA 4th Floor Parliament Building | 120 Plain Street | CAPE TOWN | Tel: +27 21 402 2228 Fax: +27 21 462 4592
www.publicworks.gov.za

**TO: ALL NATIONAL, PROVINCIAL AND LOCAL GOVERNMENT PUBLIC BODIES
ALL IMPLEMENTING AGENCIES; AND
ALL CONTRACTORS EMPLOYING EPWP WORKERS**

**CC: DG: ADVOCATE SAM VUKELA
A/DDG: EPWP: DEVAN PILLAY**

FOR INFO: DEPUTY MINISTER: DPWI, NOXOLO KIVIET, MP

**SUBJECT: MINISTERIAL DIRECTIVE FOR DEALING WITH THE EXPANDED PUBLIC WORKS
PROGRAMME (EPWP) DURING THE LOCKDOWN PERIOD**

On the 15th of March 2020, President Cyril Ramaphosa addressed the Nation with regards to the COVID-19 outbreak, this came shortly after the declaration of the Corona Virus as a global pandemic by the World Health Organization. Further, on the 23rd of March 2020, President Cyril Ramaphosa again addressed the Nation and announced that the Country would be going into lockdown as from midnight tonight, 26 March 2020 for 21 days, until 16 April 2020.

The lockdown relates to all except for essential services and this includes all EPWP workers at all spheres of government. The Expanded Public Works Programme (EPWP) is a nationwide government led initiative with the objective of providing work opportunities and income support for up to 800 000 of South Africa's poor and unemployed, through the delivery of public and community services.

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The Department of Public Works and Infrastructure has one EPWP initiative related to the COVID-19 Pandemic. Other than that, all other EPWP initiatives will have to be halted during the lockdown.

In terms of Section 27(2) of the Disaster Management Act, No 57 of 2002, which relates to procedures that I, as the Minister of Public Works and Infrastructure should follow for functions under the mandate of the Department, where the President has declared a National Disaster, I hereby invoke item (l) coupled with Section 27(3)(a):

Section 27(2)(l) concerns emergency procurement procedures

Section 27(3)(a) states that subsection (2) may be exercised to the extent that this is necessary for the purpose of assisting and protecting the public.

Accounting Officers from all national, provincial and local government public bodies; implementing agencies; and contractors employing EPWP workers shall be required to:

1. **Ensure that salary of all EPWP Workers that have employment contracts that are active for the period 27 March 2020 to 16 April 2020 or any parts thereof; is paid.**
2. The salary of the EPWP workers is linked to the terms and conditions of their contracts (rate of pay, duration of employment, number of days worked).
3. If the contract is still active after the lockdown has been lifted, the EPWP worker shall immediately be required to resume the terms of the contract.
4. It is up to the respective Employers to manage and maintain the necessary paperwork during this time so as to ensure that there remains compliance with the necessary contractual parameters.

In conclusion, the overall aim of this Ministerial Directive is to ensure that **there is the least amount of negative financial impact on the individuals that are engaged in the Expanded Public Works Programme during the lockdown.**

Yours Sincerely,

P. de Lille.

Ms Patricia de Lille, MP

Minister of Public Works and Infrastructure

Date: *26-03-2020*

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By email: rone@beulahafrika.co.za

AIDS Foundation
BA & FF JV
3L Development
Seboka Training
Thembaletu Development
Insika Foundation
Joubert Park
Iketsetse Enterprise Foundation
SAYM

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Fax: 011 268 6805
Email: Nkosenhle@ndlovu-sedumedi.co.za
www.mnsattorneys.co.za

Company Registration No 2004/012769/21

OUR REF: Mr Ndlovu/ Mr Mzinyathi/ Ms Mthembu

REF:

DATE: 21-May-20

Dear NPOs

ADEQUATE ACCOUNTING OF THE PROJECT MANAGEMENT ALLOCATIONS PAID TO COMMUNITY WORK PROGRAMME (CWP) NON-PROFIT ORGANISATIONS

1. We refer to the above matter as well as the letter addressed to the Department of Cooperative Governance ("our client") dated 18 May 2020.
2. We do not wish to deal with each and every allegation contained in your letter and any failure on our part to deal with same should not be construed as an admission of same. In this regard, we reserve our client's rights to deal more fully with the allegations contained in your letter in the appropriate forum and at the appropriate time, should the need arise.
3. On 15 May 2020 our client wrote to you requesting that you provide it with a report on the following:

Ad Project Management Fees

- 3.1 a list of movable assets purchased;
- 3.2 a list of immovable assets purchased,
- 3.3 a description of any enhancements made to immovable assets; and
- 3.4 a detailed list of operation costs;

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Ad inadequate reporting in terms of the Transfer Agreement

- 3.5 comprehensive reports and supporting documents for the financial year 2019/20 as contemplated in clause 5.3.6.

Ad confirmation of Financial Loss Due to Deceased and PERSAL Participants

- 3.6 confirmation of verification and validation of losses incurred by our client as a result of payments to deceased and/or PERSAL participants.
4. The documentation requested pertained to the 2018/19 and 2019/20 financial years and where necessary, a template was provided by our client to assist you in reporting adequately.
5. Your response dated 18 May 2020 in the main raises and highlights issues of concern regarding the nature of the relation between yourselves and our client. We are instructed that these issues are not of immediate concern and will be discussed and resolved at the appropriate time..
6. To the extent that in your response, you refuse and / or provide alternative explanations to the information requested, we hereby remind you that the Transfer Agreement ("TA") entered into between our client and your respective organization affords our client the right to request *ad hoc* reports or information outside of the scheduled periodic reports. In particular clause 5.3.10 of the TA which reads:

"DCoG may, from time to time, require the NPO to provide ad hoc reports or information outside of the scheduled periodic reports. The NPO shall endeavour to provide such reports or information within the stipulated timeframes."

In the event that the NPO will not be able to deliver the required ad hoc reports or information within the stipulated timeframes, they should motivate for an extension with the relevant Manager within 48 hours of receiving such a request for information. DCoG reserves the right to grant or not to grant such an extension."

[Emphasis added]

7. Accordingly, our client is acting within the provisions of the TA in requesting further documentation and/or information that falls outside the scheduled periodic reports.
8. In addition, you have been entrusted with public funds which our client, together with yourselves, must account with full transparency. It is in that context that the information is required.

9. Given the foregoing, we are instructed to demand that you comply with our client's initial request for information as contained in its letter of 15 May 2020. We must emphasize and remind you that the information is still required by no later than **22 May 2020**.
10. Should you fail to adhere to our client's request, our client reserves all its rights under the SLA, read together with the TA, which rights include the right to terminate the agreement in terms of clauses 9 and 12 respectively.

Yours faithfully

Nkosenhle Mzinyathi
MNCEDISI NDLOVU & SEDUMEDI ATTORNEYS

SAYM-10



View Transaction Detail

Name DEMAND DEPOSIT
 Account Number 62704376202
 Type DEMAND DEPOSIT

1. Transaction Details

Description One	FNB OB 000004644 PAYE UIF APR2019	Cash Amount	0.00
Description Two	PAYE UIF APR2019	Original Currency Amount	263,287.45
Transaction Amount	-263,287.45	ENC Amount	0.00
Service Fee	0.00	ENC Days	00000000000000
Authorisation Date	06 Apr 2020	Cleared	0
Effective Date	06 Apr 2020		
Post Date	06 Apr 2020		
Current Balance	347,976.09		

2. Transaction Description

Code 5038
 Description FNB Ob Pmt
 Category Trans
 Sub-Category Electronic Transfer

3. Customer Service Information

User Code
 User Name
 Contact Number

I
 Any
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