



1
Eksteen & Le Roux CC
BK

Elektriese Ingenieurs

1989/03555/23
Electrical Engineers

SERVICES AGREEMENT

ELECTRICAL RETICULATION

AGREEMENT ENTERED INTO BY AND BETWEEN

**CENTRAL PROPERTY DEVELOPMENTS JOHANNESBURG
(PTY) LTD**

AND

RUSTENBURG LOCAL MUNICIPALITY

FOR

WATERKLOOF EAST EXT. 6

Situated on:

The Remaining extent of Portion 70 (A Portion of Portion 56), and Portion 233 (A Portion of Portion 70) of the farm Waterkloof 305 Registration Division JQ- North West Province.



SERVICES AGREEMENT

Description	Page
1. SERVICES AGREEMENT: ELECTRICAL RETICULATION	3
2. ANNEXURES:	
ANNEXURE A: TOWNSHIP LAYOUT PLAN	13
ANNEXURE B: APPROVAL OF TOWNSHIP APPLICATION	14
ANNEXURE C: LIMITATION OF FAR	15

DEFINITIONS:

In this agreement the following words and expressions shall have the meanings set opposite them respectively unless the contrary appears or unless it is irreconcilable with the contents thereof. In this agreement the masculine also denotes the neutral and feminine genders and the single the plural and visa versa unless the contrary appears.

- "Agreement:" The agreement between the parties as set out infra.
- "Local Authority": **RUSTENBURG LOCAL MUNICIPALITY**, a local authority duly established and instituted in terms of the Transitional Act on Local Government (Act No: 209 of 1993) by virtue of Proclamation No: 67 of 1995 and herein represented by _____ In his capacity as _____ duly authorised thereto.
- "Township": **Remaining Extent of Portion 70 (A Portion of Portion 56) and Portion 233 (A Portion of Portion 70) of the farm Waterkloof 305JQ. A new township – Waterkloof East Extension 6**, as indicated on the layout plan attached hereto as Annexure "A".
- "Area": **Remaining Extent of Portion 70 (A Portion of Portion 56) and Portion 233 (A Portion of Portion 70) of the farm Waterkloof 305JQ** in extend approximately 9.3194 Ha, and "property" shall have a consonant meaning.
- "Developer": **Central Property Developments Johannesburg (Pty) Ltd**, a company registered and incorporated in terms of the Company Legislation of the Republic of South Africa with registered address **PO Box 752437, Gardenview, 2047** here-in represented by **P.L. Ludick** in his capacity as Director duly authorised thereto.
- "Parties": The Local Authority and the Developer.
- "Head: Electrical": The Head: Electrical Engineering Services of the Local Authority entrusted with supervision and approval of the works.
- "Consulting Engineer": **EKSTEEN & LE ROUX ELECTRICAL ENGINEERS CC** a Company with full liability duly registered and incorporated in terms of the Company Legislation of the Republic of South Africa and place of business at **Suite No. 2, Highveld Office Park, Charles De Gaulle Crescent, Centurion, Pretoria**.
- "Internal services": All services relating to electricity supply and reticulation within the Township, as defined in the Guidelines mentioned in Ordinance 15, Town Planning and Townships, for engineering services in new Townships.
- "Boundary services": As defined in the Guidelines mentioned in Ordinance 15, Town Planning and Townships, for engineering services in new Townships.
- "Link services": All services related to electricity necessary to link the internal services to the external services and forming part of the scheme.
- "External services": All services relating to electricity supply and reticulation outside the boundaries of the Township and to which internal and link services connect at points determined by the Local Authority as defined in the Guidelines for engineering services in new Townships.
- "Effective date": Date of signature.
- "Date of signature": The last date on which the parties sign the agreement hereto.

- "Date of take-over": The date of completion of the works and certified as such by the Head: Electrical.
- "Works": Any work relating to the construction and/or installation of the internal service.
- "Scheme": The proposed electricity supply and reticulation scheme in and to the Township consisting of all internal and external services.
- "Construction period": The period commencing on date of signature until such date as agreed to between the parties during which the Local Authority undertakes to complete the installation, construction and linkage of all external services.
- "Services": All activities and infrastructure related to the provision of electricity to the Township / extension of boundaries.
- "Approval": Documents with the date stamp of the Head: Electrical and signed by the Head: Electrical.

PREAMBLE:

WHEREAS the Developer is the owner of the property and

WHEREAS the Developer has applied for a new township, **Waterkloof East Extension 6**.

WHEREAS the Local Authority is willing to approve the new township subject to the conditions contained herein;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. RESPONSIBILITY DEMARCATION

- 1.1 Notwithstanding any other provisions contained herein, the responsibility for the installation of the internal services, including design, construction and financing thereof, shall rest with the Developer, the maintenance obligation of which shall be transferred to the Local Authority on date of take-over, subject to clause 6 infra.
- 1.2 Notwithstanding anything to the contrary contained herein, the Local Authority shall be responsible for the installation of the External services.

2. DESIGN AND STANDARDS

- 2.1 Both parties hereby respectively warrant that the design, plans and specifications for the internal and external services and the construction of the internal and external services will be in accordance with the Rationalised User Specification NRS 034, Guidelines for the Provision of Electrical Distribution Networks in Residential Areas, as published by the South African Bureau of Standards, and SABS 0142, the Wiring of Premises, and all other acceptable professional standards and requirements of the Engineering profession as well as the requirements of the Occupational Health and Safety Act, Act 85/1993.

2.2 Internal Services

- 2.2.1 The Developer and Local Authority agree that all plans, specifications and calculations relating to the works shall comply with the requirements of the Local Authority and shall be submitted by the Consulting Engineer for approval.
- 2.2.2 Notwithstanding the provisions of clause 2.2.1 the parties shall by agreement in order to accommodate reasonable requirements of the Head: Electrical amend or add to the plans and documents referred to in Clause 2.2.1.
- 2.2.3 The Developer undertakes to ensure that the construction and installation of the internal and link services are done strictly in accordance with the approved design, plans and specifications.
- 2.2.4 The Developer warrants and shall ensure that all designs, plans and specifications are drawn up and submitted by a registered professional Engineer (s) in terms of the provisions of the Engineers' Professions Act of South Africa, 1990.
- 2.2.5 The Developer shall comply with all acceptable professional standards and requirements relating to materials used in the construction and installation of the internal and link services.
- 2.2.6 The Developer shall be obliged to comply with all statutory provisions and by-laws with regard to the installation of the electrical reticulation and ancillary structures within road reserves or building restriction areas of any public road or relating to any servitude within the area.
- 2.2.7 The Local Authority shall consider such plans as contemplated in clause 2.2.1 hereof and notify the Developer of the approval/disapproval thereof within 10 (ten) working days of the submission thereof by the Developer to the Local Authority and within 5 (five) working days of any submissions of further alterations/ rectification thereof.

2.3 External Services

The Local Authority shall in turn make available to the Developer all plans, specifications and calculations relating to the scheme and particularly the external services, for inspection and consultation.

3. CONSTRUCTION AND INSTALLATION

3.1 Internal and Link Services

- 3.1.1 The Developer shall be responsible for the installation and construction of the internal and link services in accordance with the approved and finalised plans as set out in clause 2.2.1 *supra* and shall, subject to the provisions of clause 8 hereof, bear all risks involved in and related to such construction and installation.
- 3.1.2 The Developer shall not be allowed to conduct any work in terms of this agreement on the structures or cables of the Local Authority without the prior written consent of the Head, Electrical Engineering Services, which consent shall not unreasonably be withheld and shall be granted or refused by the Head, Electrical Engineering Services within 3 (three) working days of written request therefor and vice versa.
- 3.1.3 A registered professional Engineer shall at all times during installation and construction, exercise sufficient and effective control over the works and upon completion thereof, certify same as completed.

3.2 External Services

- 3.2.1 The Local Authority shall be responsible for the installation and construction of all external services in accordance with the plans, specifications and calculations, the completion of such external services to be before or on expiry of the construction period.
- 3.2.2 The local authority shall bear all responsibility and assume all risks relating to the external services.

4. FINANCING

4.1 Internal Services

- 4.1.1 The Developer shall be solely responsible for the costs of the initial installation of the internal service and maintenance thereof up to the date of take-over.
- 4.1.2 The Developer shall, with respect to cables being laid inside the boundaries of the Township, but outside the boundaries of existing servitude, register approved servitude in favour of the Local Authority at the cost of the Developer.
- 4.1.3 The Consulting Engineer of the Developer shall be responsible to indicate all existing electrical services on the network design drawings and how that these services will be accommodated in the new proposed internal services infrastructure.

4.2 Link Services

- 4.2.1 The Developer will be responsible for the cost of the installation of a 95mm sq 3C Al 6.35 / 11kV Type B cable from the existing Waterfall Mall 11kV substation up to the boundary of the development, through the development back to the Waterfall Mall Substation.
- 4.2.2 The Developer shall, with respect to the link service cable being laid outside the boundaries of the Township and outside the boundaries of existing servitudes, register an approved servitude in favour of the Local Authority at the cost of the Developer.

4.3 External Services

4.3.1 The Local Authority shall be responsible for the costs of the installation and maintenance of the external service and any servitude that may result from or be related to such external service.

4.4 Boundary Services

The marginal cost of the future boundary service payable by the developer for this new development amounts to **R 139,342-46 (excluding VAT)** and is estimated as follows;

4.4.1 The total cost of an installed 11 kV circuit breaker panel amounts to: R 98,463-00 (excluding VAT).

4.4.2 The estimated maximum demand capacity of a 95 mm² x 3 core Al 11 kV XLPE Type B cable is 3,611 kVA.

4.4.3 The estimated peak demand of the proposed township is as follows:

Special zoning for offices:

$$\begin{aligned} \text{Demand (kVA)} &= (\text{area of total special zoned area in m}^2) \times \text{FAR} \times 100 \text{ VA / m}^2 \\ &= 30,221 \text{ m}^2 \times 0.7114 \times 100 \\ &= 2,150\text{kVA} \end{aligned}$$

Please Note: FAR used is based on the limited FAR as per the conditions of establishment.

Area zoned for residential 1

$$\begin{aligned} \text{Demand (kVA)} &= (\text{Number of residential 1 stands}) \times \text{ADMD} \\ &= 20 \times 4.71\text{kVA} \\ &= 94.2\text{kVA} \end{aligned}$$

Area zoned for residential 2

$$\begin{aligned} \text{Demand (kVA)} &= (\text{Size of the stand}) \times \text{Units per Ha} \times \text{ADMD} \\ &= 2.2070 \times 30 \times 4.71\text{kVA} \\ &= 310.9\text{kVA} \end{aligned}$$

Total peak demand as a result of the township is therefore 2,555.1kVA (2,150 + 94.2 + 310.9)

4.4.4 The marginal cost payable by the developer is estimated as follows: 2,555.1 / 3,611 x (2 x R 98,463) = **R 139,342-46 (excluding VAT)**.

4.5 Mutual Contributions

4.5.1 Based on present values, the difference in contribution that the Developer will have to pay for the electricity supply to the proposed new development, established by the new Township establishment, in terms of sections 120 and 121 of Ordinance 15 of 1986, Town planning and Townships, amounts to **R 281,188-45 (excluding VAT)** and this amount is estimated as follow:

4.5.2 The after diversity maximum demand (ADMD) of the proposed township is as follows:

Special zoning for offices:

$$\begin{aligned} \text{Demand (kVA)} &= ((\text{area of special zoned area in m}^2) \times \text{FAR} \times 50 \text{ VA / m}^2) / 1.15 \\ &= (30,221 \text{ m}^2 \times 0.7114 \times 50) / 1.15 \\ &= 934.7\text{kVA} \end{aligned}$$

Please Note: FAR used is based on the limited FAR as per the conditions of establishment.

Area zoned for residential 1

$$\begin{aligned} \text{Demand (kVA)} &= (\text{Number of residential 1 stands}) \times \text{ADMD} \\ &= 20 \times 4.71\text{kVA} \\ &= 94.2\text{kVA} \end{aligned}$$

Area zoned for residential 2

$$\begin{aligned} \text{Demand (kVA)} &= (\text{Size of the stand}) \times \text{Units per Ha} \times \text{ADMD} \\ &= 2.2070 \times 30 \times 4.71\text{kVA} \\ &= 310.9\text{kVA} \end{aligned}$$

The total after diversity maximum demand of the special zoned portion is 934.7kVA

The total after diversity maximum demand of the residential portion to the development is 405.1kVA

4.5.2.1. The contribution that the Developer will have to pay amounts to: Abe = (R 637-85 x 934.7 kVA) + (R467-19 x 405.1kVA) = R 785,457-06

4.5.2.2 The contribution that the Council will have to pay amounts to Br = (R 335-99 x 934.7 kVA) + (R469-56 x 405.1kVA) = R 504,268-61

4.5.2.3 The difference between 4.5.2.1 and 4.5.2.2 that the Developer will have to pay amounts to R785,457-06 - R504,268-61 = R281,188-45 (excluding VAT).

4.6 Total of Boundary Services and Mutual Contributions

The total amount of section 4.3, 4.4 and 4.5 that the Developer will have to pay amounts to **R281,188-45 + R139,342-46 = R420,530-91 (excluding VAT)** and is payable to the Local Authority before the commencement of the works.

4.7 Payment of basic charges

The owner of each stand shall be responsible to pay the basic charges, as determined in the electricity tariff, from the date of take-over.

4.8 Existing connections

The Developer shall be responsible for all the costs, to ensure uninterrupted supply to existing clients with existing electrical connections crossing the proposed Township.

5. LIAISON BETWEEN LOCAL AUTHORITY AND DEVELOPER

5.1 The Consulting Engineer of the Developer in charge of the works shall notify the Head Electrical in writing of the commencement date and expected completion date of the works.

5.2 The Head Electrical shall immediately contact the Consulting Engineer should any portion of the works or activity not be conducted to his reasonable satisfaction or should there be any dispute as to the applicable standards and/or specifications, and the Consulting Engineer shall rectify the circumstances giving rise to the complaint as soon as possible and to the reasonable satisfaction of the Head Electrical.

6. MAINTENANCE OF SERVICES

The Local Authority upon signature hereof binds itself to at its cost, without detracting from its normal Local Authority maintenance duties, maintain the scheme from date of take-over: Provided however that the Developer shall be responsible for any costs involved in the rectification of any

defects, other than normal wear and tear, in the internal service, during the 12 (twelve) month period directly after the date of take-over.

7. ESTABLISHMENT OF TOWNSHIP

The Local Authority shall be obliged to render all reasonable assistance and take all necessary steps and provide all necessary documentation, as may be necessary to ensure the establishment of the new township.

8. INDEMNITY AND INSURANCE

8.1 The Developer and Local Authority shall be respectively responsible and assume all liability for the internal, link and bulk services, the construction and installation thereof and any claim resulting from any action or omission relating to such internal, link and bulk services by either parties, or any of their employees, agents, contractors or any other parties related to them and hereby indemnify one another against any and all such claims resulting from any actions or omissions as contemplated herein.

8.2 The parties shall to the ends as set out in clause 8.1 hereof, at their own cost and insofar as their servicing obligations are concerned, take out or maintain adequate insurance and liability coverage and maintain such insurance for the time it takes to complete respectively the internal, link and bulk services.

8.3 The Developer fully indemnifies the Local Authority accordingly, which includes any liability that the Local Authority might attract to act and/or failure to act by any of Local Authority's members and or employees and/or officials.

9. GENERAL

The parties record that:

9.1 The Local Authority has the right to, subject to clauses 4 hereof, connect part of the scheme to any area outside the Township for purposes of providing services to other areas.

9.2 The Local Authority shall only with prior written consent of the Developer, put into service any part of the internal service before the date of take-over.

9.3 Any electricity required by the Developer or his contractors for the installation and construction purposes of the service, shall, if available, be purchased from the Local Authority at the applicable tariff and shall be provided at a reasonable accessible point, and the Developer shall at its own costs be responsible for supplying and installing all temporary cables and distribution boxes necessary.

9.4 In the event electrical services or supply is suspended due to circumstances beyond the Local Authority's control and / or powers, the Developer shall not hold the Local Authority liable for not complying with the Agreement.

10. APPROVAL OF INTERNAL SERVICES

The developer shall, prior to the installation of the internal and link services, submit all relevant drawings to the Head, Electrical Engineering Services for approval.

11. COMPLETION OF THE WORKS

The Developer shall ensure that a Professional Electrical Engineer of the Consulting Engineers shall:

- 11.1 At all times exercise sufficient and effective control over all stages of the construction work.
- 11.2 On completion of the works, certify that all material specified for the installation of the scheme complies with appropriate standards and specifications as set out herein.
- 11.3 Upon completion of the works, certify that the scheme has successfully undergone the prescribed electrical tests under his supervision.
- 11.4 Upon completion of the works, certify that he personally and the Consulting Engineers, with whom he is associated, accept professional responsibility for the engineering works.
- 11.5 Upon completion of the works, provide the Local Authority with final "as-built" drawings on transparent plastic sheets and on DXF-files on electronic media, and certify them as correct.

12. ARBITRATION

- 12.1 Any existing or future dispute arising from the interpretation or the implementation of this Agreement or which relates to any matter set out in this Agreement shall be referred to Arbitration.
- 12.2 The provisions of the Arbitration Act, number 42 of 1965, shall apply in so far as it is not amended by this Agreement.
- 12.3 Subject to the provisions of clause 12.5, a single arbitrator shall determine such dispute. Such arbitrator is nominated by Agreement between the parties after a request thereto by the Municipal Manager to do so within a period determined by him in the written request failing which the President of the Association of Consulting Engineers shall nominate the arbitrator.
- 12.4 Where the nominated arbitrator refuses or becomes incapacitated to act or suffers death or is released of his appointment or if his appointment is terminated the parties shall, within a period determined by the Municipal Manager in writing appoint a substituting arbitrator failing which the President of the Association of Consulting Engineers shall appoint such arbitrator.
- 12.5 If any point of law arises the arbitrator shall refer such point of law to the Transvaal Provincial Division of the Supreme Court of South Africa for determination. Any party shall have the same rights of appeal, which it should have had if it was a civil matter initiated in the Provincial Division.
- 12.6 Subject to the provisions of Section 2 of Act 42 of 1965 the arbitrator is entitled to make any order in regard to the dispute as which the Supreme Court is entitled to.
- 12.7 The arbitrator is entitled to nominate an assessor or assessors to assist him in the exercise of his functions.
- 12.8 Any award of costs is in the discretion of the arbitrator.
- 12.9 Where the arbitrator orders costs against a party such order shall be taxed according to scale B of Portion 3 of table A of Schedule 2 of the Magistrates Court Act number 32 of 1944 as promulgated by the Minister of Justice in Notice R1800 in Government Gazette 7741 of 28 August 1981 or any amendment thereto however that, where a party is represented by an advocate or attorney, costs can only be recovered as if only an attorney acted on behalf of such party.

PROCEDURE:

- 12.10** The arbitrator orders a party to set out its claim under oath within a period determined by the arbitrator and to serve document on its opponent. Simultaneously herewith such party shall disclose all documents which it is obliged to do for purposes of a trail in the Supreme Court.
- 12.11** Within 21 (twenty-one) days of receipt of such claim the other party shall file its plea fully described under oath and serves such plea on the Claiming Party together with a list of all documents, which it is obliged to disclose for a trail in the Supreme Court.
- 12.12** The claiming party shall have a right of reply and such reply shall be filed within 14 (fourteen) days of receipt of the plea.
- 12.13** No further pleadings shall be allowed without the consent of the arbitrator which shall only be given if the arbitrator is convinced that the party which wishes to file such further pleadings will be prejudiced if it is not allowed to do so or if the arbitrator is of the opinion that further pleadings are necessary to determine the dispute.
- 12.14** Pleadings will be deemed closed against filing of the plea, the reply or such further pleading which the arbitrator may allow.
- 12.15** Within 21 (twenty-one) days of close of pleadings the parties shall submit to the Arbitrator the name of an advocate or attorney with at least 20 (twenty) years practical experience to act as chairman at a pre-trial conference. Should the parties neglect to submit such name the Arbitrator shall nominate such a person.
- 12.16** Within a period determined by the arbitrator the parties and their legal representatives shall appear before such advocate or attorney for a pre-trial conference.
- 12.17** Such attorney or advocate is entitled to interrogate the parties, to claim the submission of documents, plans, drawings, modules, reports, photographs and tape recordings, to do inspections and to take such other steps to assist him to determine the precise points of dispute between the parties.
- 12.18** After his enquiry he shall draft a memorandum and submit that to the arbitrator setting out the facts on which the parties agree and the facts or questions of law on which the parties disagree.
- 12.19** A party is only entitled to place in dispute those facts or points of law set out in the memorandum as disputed.
- 12.20** After the chairman has determined the exact points of dispute at the pre-trial conference he shall propose to the arbitrator, in his memorandum, an appropriate scale of costs if costs are awarded to any party.

13. NOVATIO

No postponement, concession or waiver of any of the rights or obligations by any party in terms of this agreement will cause a novatio of this agreement, bind any party hereto or constitute estoppel and the parties declare themselves aware of term estoppel as used aforesaid.

14. TOTAL AGREEMENT

This agreement forms the total agreement between the parties and no amendment thereof, addition thereto or deletion of any terms and conditions herein contained will be valid unless reduced to writing and signed by all the parties hereto.

15. COSTS

The Developer undertakes, upon signature hereof, to pay all costs, if any, in connection with the drafting of this agreement, the finalising thereof, consultations in this regard, stamp duty, which costs will be payable on demand to **EKSTEEN & LE ROUX ELECTRICAL ENGINEERS CC.**

SIGNED at _____ on this _____ day of _____ 2008.

AS WITNESSES:

1. _____

LOCAL AUTHORITY

2. _____

SIGNED at _____ on this _____ day of _____ 2008.

AS WITNESSES:

1. _____

DEVELOPER

2. _____

ANNEXURE A

TOWNSHIP LAYOUT PLAN

ANNEXURE B

APPROVAL OF TOWNSHIP APPLICATION & SECTION 100

ANNEXURE C

LIMITING OF FAR – CONDITIONS OF ESTABLISHMENT
