

# Annexure A

## Audit Finding

The directors of the suppliers listed below are employed by the state and no declaration was made in the MBD4 form that was completed.

No.	Supplier name	Directors Name	State institution where employed	Expenditure (Payment) - current year
1	Remmogo Cybernet Cafe	TH Tebang	NAT: Justice & Constitutional Development	58,80
2	Dipotso General Trading	SD Kontle	NW: Health	12,50
4	Kgakakgolo Construction, Distribution and Trade	BT Lebatle	NW: Public Works, Roads & Transport	82,60
5	Botsangone Tours Transport and Cleaning	BT Lebatle	NW: Public Works, Roads & Transport	18,00
6	Takatso Catering Transport and Tent Hire	PV Baikgaki	NW: Health	104,00
7	Khulaa Mineral Construction and other projects	MM Mokgothu	NW: Health	66,99
8	Khulaa Mineral Construction and other projects	KG Mokgothu	NW: Health	66,99
9	Modimeng Thabole Trading and Projects	M Matshidisho	NW: Education & Training	1,96
10	Kedutse Catering and Projects	MK Seoka	NW: Health	26,70
11	A Rejeng Catering and Decoration	GL Mosimane	NW: Education & Training	93,42
12	Antto & Quinty General Trading & Projects (Pty) Ltd	GM Mosasi	NW: Health	41,95

# Annexure AA



**Physical Address**  
New Ministerial Building, 3rd Floor, 1st Avenue,  
Sector 28, Connaught Place, New Delhi - 110029

**Postal Address**  
Ministerial Bldg, 3rd Flr,  
Connaught Place, New Delhi - 110029

**Tel: 011 2331 4455**  
**Fax: 011 2331 3711**

## DECLARATION OF INTEREST (PART I)

1. I, the undersigned, being a person with power in the name of the State, including a Member of the Council, and while in office, in which capacity of the position to be in some of possible allegations of interest, I declare that the following facts are true, correct, and correct with reference to the facts of the State, it is required that the Member or their authorized representative and no other person in relation to the position of the Member or their authorized representative in order to come effect in the above, this declaration represents and is considered and submitted to the State.

- 1.1. Full Name: \_\_\_\_\_
- 1.2. Identifying Number: \_\_\_\_\_
- 1.3. Position of the Member: \_\_\_\_\_
- 1.4. Is the Member a Member? ☐ Yes ☐ No
- 1.5. Full Representation Number: \_\_\_\_\_
- 1.6. Is the Member a Member? ☐ Yes ☐ No
- 1.7. Is the Member a Member? ☐ Yes ☐ No

2. Have you been in the name of the State for the past twelve months? ☐ Yes ☐ No

3. Have you been in the name of the State for the past twelve months? ☐ Yes ☐ No

4. Is the Member a Member? ☐ Yes ☐ No

5. I, the undersigned, being a person with power in the name of the State, including a Member of the Council, and while in office, in which capacity of the position to be in some of possible allegations of interest, I declare that the following facts are true, correct, and correct with reference to the facts of the State, it is required that the Member or their authorized representative and no other person in relation to the position of the Member or their authorized representative in order to come effect in the above, this declaration represents and is considered and submitted to the State.



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## DECLARATION OF INTEREST (PART II)

7. Are you aware of any relationship (family, friend, other) between a Member and any person in the name of the State who may be involved with the evaluation and or administration of the State? ☐ Yes ☐ No

8. Is the Member a Member? ☐ Yes ☐ No

9. Are any of the company's (owner, manager, principal shareholders, or shareholders) in the name of the State? ☐ Yes ☐ No

10. Is the Member a Member? ☐ Yes ☐ No

11. Is any director, chief or member of the company's (owner, manager, principal shareholders, or shareholders) in the name of the State? ☐ Yes ☐ No

## CERTIFICATION

12. THE UNDERSIGNED (NAME) \_\_\_\_\_

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.  
I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature

Date

Position

Name of Member

13. I, the undersigned, being a person with power in the name of the State, including a Member of the Council, and while in office, in which capacity of the position to be in some of possible allegations of interest, I declare that the following facts are true, correct, and correct with reference to the facts of the State, it is required that the Member or their authorized representative and no other person in relation to the position of the Member or their authorized representative in order to come effect in the above, this declaration represents and is considered and submitted to the State.



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**Fax:** 053 998 3711

## APPOINTMENT LETTER

Ref: KMLM2018-008-UIF&W

Mr. Itumeleng Louis  
Managing Director  
IGKM Management Services (PTY) LTD  
12 Keurtjie Street  
Geelhout Park Ext 6  
Rustenburg  
0300

30 April 2019

Dear Sir

**KMLM2018-008: ASSISTANCE IN THE INVESTIGATION OF UNAUTHORISED, IRREGULAR AND FRUITLESS AND WASTEFUL EXPENDITURE FOR A PERIOD OF 14 MONTHS**

1. Based on the service level agreement entered into by IGKM Management Services (PTY) LTD and Kagisano-Molopo Local Municipality on 15 January 2018, IGKM Management Services (PTY) LTD has been appointed and the said contract is ending 14 January 2021, amongst others as per Annexure B of the service level agreement, to provide:
  - 1.1 Fraud prevention and control strategy and procedures for investigation;
  - 1.2 Internal control policies and procedures formulation and evaluation; and
  - 1.3 Any other services relevant or ancillary to the above, as requested by the client and agreed to by both parties.
2. Based on the above, the municipality wishes to appoint IGKM Management Services (PTY) LTD to assist the municipality with the investigation of unauthorised, irregular, fruitless and wasteful expenditure for the period of 14 months.
3. The investigation of unauthorised, irregular, fruitless and wasteful expenditure is from prior to 2013 financial year until 2019/20 financial year in line with Section 32 of the MFMA and circular 68 of the MFMA.

You are advised that the appointment is subjected to the following:



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- 3.1 The requirements and conditions contained in the terms of reference attached (Annexure A)
- 3.2 The contact amount for the provision of the service or supply of goods is R6 million (excl. VAT) for a period of 14 months, ending 30 July 2020.
4. No variation orders are anticipated in this appointment. In the event of a variation, a written order signed by the Municipal Manager will be issued to your company before any variation costs can be incurred.
5. The Municipality shall not be liable for any costs on variations incurred not approved by the Municipal Manager in advance.
6. The appointment once accepted by your company, will together with the signed service level agreement form a legal and binding agreement AND contract between the **KAGISANO-MOLOPO LOCAL MUNICIPALITY** and **IGKM MANAGEMENT SERVICES (PTY) LTD.**
7. The commencement date of the agreement shall be the date of acceptance of this appointment letter by you company.
8. The onus lies upon you to liaise with the Municipality and in the event that you have any query, please contact Mr. OT Bojosinyane at 053 998 4455.
9. Kindly sign in the space provided below as proof of your acceptance of the terms and conditions of the appointment and return the signed document to the MUNICIPAL MANAGER within 7 working days.

We trust that this appointment will be successful and to the benefit of the community that we serve.

Yours faithfully

  
OT Bojosinyane  
Municipal Manager



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**Tel:** 053 998 4455  
**Fax:** 053 998 3711

**Accepted by:**

**Name:**

ITUMELENG Louis

**Designation:**

MANAGING DIRECTOR

**Date:**

02 - MAY 2019

## **ANNEXURE A**

### **TERMS OF REFERENCE**

#### **Description of Goods/Services:**

Appointment of Service Provider to Assistance in the Investigation of Unauthorised, Irregular, Fruitless and Wasteful Expenditure for a period of 14 months.

#### **1. Purpose**

The purpose of this document is to serve as Terms of Reference for the review of Unauthorised, Irregular, Fruitless and Wasteful Expenditure as contemplated in terms of Local Government: Municipal Finance Management Act (MFMA), 2003 Section 32.

In order to achieve completeness of writing off the Irregular expenditure, the Kagisano-Molopo Local Municipality (KMLM) seeks the services of a service provider that will do an independent assessment on the procedures followed, value for money and whether it is justifiable.

#### **2. Background**

Kagisano-Molopo Local Municipality has incurred Unauthorised, Irregular, Fruitless and Wasteful Expenditure in the previous financial years have not deal with the write-off thereof effectively in the past. Section 32 (2) of the MFMA stipulates that Council must recover Unauthorised, Irregular, Fruitless and Wasteful Expenditure from the person(s) liable for the expenditure, unless the expenditure is, after investigation by the Council Committee (here in referred to as MPAC) certified by the Council as irrecoverable and written off by the Council.

#### **3. Purpose of the investigation**

- To determine whether there are person(s) liable in law for the Unauthorised, Irregular, Fruitless and Wasteful Expenditure incurred.
- To recover Unauthorised, Irregular, Fruitless and Wasteful Expenditure incurred by the person(s) liable for the expenditure, if possible.
- To certify after the investigation, the Unauthorised, Irregular, Fruitless and Wasteful Expenditure as irrecoverable.

#### **4. Scope of Work**

1. The investigation of Unauthorised, Irregular, Fruitless and Wasteful Expenditure is from the prior to 2013 financial year until 2019/20 financial year in line with section 32 of the MFMA and circular 68 of the MFMA.
2. Analysis and review of information which includes but not limited to the following documents to ensure completeness:
  - Unauthorised, Irregular, Fruitless and Wasteful Expenditure registers for the above mentioned years;
  - Payment vouchers that corresponds with the figure disclosed in various documents vs the scope of work and the award value of each project;
  - In year monitoring reports;
  - Previous Annual Financial Statements;
  - Internal and External Audit Reports Issued;
  - Council and Audit Committee Resolutions
3. Gather information through conducting interviews with relevant persons.
4. Secure legal opinion on the legality of contracts identified in the registers.
5. Identify if any person(s) are liable in law for the Unauthorised, Irregular, Fruitless and Wasteful Expenditure.
6. Determine whether the amount of the Unauthorised, Irregular, Fruitless and Wasteful Expenditure resulted in any losses or damages suffered by the institution.
7. Determine whether the loss identified is recoverable from the person identified as liable.
8. If identified as recoverable, institute debt collection processes to enable the municipality collect the loss identified.
9. Compilation of report with clear recommendations on whether the expenditure incurred must be recovered from any person(s) identified as liable in law or classify irrecoverable expenditure to be considered by Council.
10. Develop an Unauthorised, Irregular, Fruitless and Wasteful Expenditure Policy.



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11. Report to Municipal Public Accounts Committee (MPAC) on the findings identified from investigation and guide MPAC on the process of write-off of the Unauthorised, Irregular, Fruitless and Wasteful Expenditure
12. Provide training to MPAC members on section 32 of the MFMA and circular 68 of the MFMA and their role in the investigation of Unauthorised, Irregular, Fruitless and Wasteful Expenditure.

IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT JOHANNESBURG

Case Number: JR 509/20

In the matter between:

KAGISANO MOLOPO LOCAL MUNICIPALITY

Applicant

and

SALGBEC

1<sup>st</sup> Respondent

LINDOKUHE DLAMINI

2<sup>nd</sup> Respondent

IMATY OBE M. MAPHISO & E. MOSARWA

3<sup>rd</sup> Respondent


AFFIDAVIT IN SUPPORT OF PROOF OF SERVICE IN TERMS OF RULE 4(2) (B)

I the undersigned MOMPANI MAHODI (names of deponent) hereby state under oath that on 13 MARCH 2020 (date of service) at or about 11H00 (time), I served the Notice of Motion, Affidavits and Annexures/ Statement of Claim (delete whichever is not applicable) in this matter by:

By fax to the Respondent at fax number 051 480 2743 & 012 665 1014, which I believe to be the correct fax number of the Respondent and I telephonically confirmed receipt of the entire fax transmission with RENE JASIBAHLE (name of the person who confirmed receipt of entire transmission) at the telephone number 051 448 7085 on the 13/03/2019 (date on which telephone confirmation was made). I further attach hereto a copy of the fax transmission report confirming same.

  
Deponent

Thus signed and sworn to before me at HUMUDI  
on this the 13 day of MARCH 2020, the  
Deponent having acknowledged that he /she knows and understands the contents of  
this affidavit, has no objection to taking the prescribed oath and considers the oath to  
be binding on his/her conscience.

 0525354  
Commissioner of Oath

Full names: OKAPELENG KLAAS TSATZ  
Address: 2098 MOSIAPOTA  
Designation: WARRANT OFFICER

SUID AFRIKAANSE POLISIEDIENS SOUTH AFRICAN POLICE SERVICE
HUMUDI
2020-03-13
COMMUNITY SERVICE CENTRE
TIRELO YA MAPODISI A AFRIKA BORWA



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## OFFICE OF THE MUNICIPAL MANAGER

Our Ref: O. Bojosinyane / LR

Your ref:

05 March 2020

**IMATU REGIONAL OFFICE  
75 KRAUSE STREET  
ORANJESIG  
BLOEMFONTEIN  
9301**

**ATTENTION: PAUL GREYLIN, SHAGAN WINDVOGEL**

**RE: APPLICATION IN TERMS OF SECTION 145 OF THE LABOUR RELATIONS ACT NO: 66 OF 1995 AS AMENDED.**

- 1) The above refers and confirm receipt of the Commissioner's Arbitration award on 27 February 2020.
- 2) We further confirm having perused and noted the arbitration award, particularly the findings thereof.
- 3) Paragraph 20 of the said award state the following  
***"Respondent is ordered to retrospect reinstate the applicants by no later than the 16<sup>th</sup> March 2020".***
- 4) Therefor we hold firm instructions to request your good selves to ask your members not to report on duty as indicated on or before 16 March 2020 as the municipality hold strong view that the Commissioner committed number of gross irregularities in his award, as a result thereof we shall serve and file the abovementioned application on or before 10 March 2020.
- 5) We trust you find the above in order.

Your faithfully

*Mr. OT Bojosinyane* (05/03/2020)

Mr. OT Bojosinyane

Municipal Manager



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**OFFICE OF THE MAYOR**

**Our Ref: K Fuleni**  
**Your Ref:**

**Date: 22 September 2020**

**COGHSTA**  
**OFFICE OF THE MEC**  
**2ND FLOOR**  
**GARONA BUILDING**  
**MMABATHO**

**Dear Hon MEC B Molloa**

**RE: 1. WASTEFUL EXPENDITURE: MFMA SEC 32 COST RECOVERY AGAINST MUNICIPAL MANAGER FOR FAILURE IN DECLARING COUNCILLOR VACANCIES TO INDEPENDENT ELECTORAL COMMISSION (IEC)**

**2. DUTY TO IMPLEMENT DISCIPLINARY REGULATIONS AGAINST MUNICIPAL MANAGER FOR FAILURE TO DECLARE COUNCILLORS VACANCIES TO INDEPENDENT ELECTORAL COMMISSION (IEC)**

1. The above subject matters refers.
2. The writer confirms have seen your letters both dated 7 September 2020, on Kagisano Molopo Local Municipality – Whatsapp group being posted by Cllr P Moeng.
3. Same letters were now emailed to my office on 16 September 2020 and reached my office on the 17<sup>th</sup> day of September 2020.
4. First I never reacted to the contents of those letters until such time I decided to contact your offices to verify the authenticity of those letters, hence they were forwarded to me on the 16<sup>th</sup> of September 2020.
5. After receipt thereof as indicated herein above, I perused both letters with interest, but I could note that MEC's letter had time lines, and its content were noted.
6. This communique serves to enquire from the office of the MEC of the following issues:
  - 6.1 Whether an enquiry into gross misconduct of the Municipal Manager was conducted;



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- 6.2 If so, kindly furnish the Municipality with such report;
  - 6.3 Whether the office of the MEC had quantified the cost to be recovered from Municipal Manager;
  - 6.4 If so, kindly furnish the Municipality with the cost report;
  - 6.5 To be furnished with the sworn statements or affidavits of identified possible witness(s), alternatively names of such witness(s) to strengthen the evidence against the alleged misconduct.
7. We shall appreciate it if the office of the MEC can furnish us with the above mentioned reports or information to action the MEC's request in terms of disciplinary regulations for senior managers.
  8. However in relations to the status quo to the subject matter, please see attached hereto the following correspondence:
    - 8.1 Letter from Cllr Emmanuel Baya Gender receipt 11 September 2020, Attached to his letter is notice of motion for application for rescission of judgement rescinding the disputed court order which the Hon MEC is referring to;
    - 8.2 Letter dated 21 September 2020 from Katlego Motlagodisa, President F4SD, letter that dispute the nominated person;
    - 8.3 Letter from the office of the Municipal Manager to IEC South Africa dated 16 September 2020, and;
    - 8.4 Letter dated 25 November 2019 to IEC South Africa from F4SD by Mr. Elics Mogoru.
  9. We trust you find the above in order.

Yours faithfully

**SV MERE**  
**MAYOR**



Forum 4 Service Delivery  
570 Fehrsen Street  
Brooklyn  
0181

22-09-2020

**TO : THE HONOURABLE MAYOR : KAGISANO MOLOPO MUNICIPALITY**

**: THE SPEAKER : KAGISANO MOLOPO MUNICIPALITY,**

**: THE MUNICIPAL MANAGER : KAGISANO MOLOPO**

**RE: THE INTENDED SWEARING IN OF MR TONG**

1. We place on record that the intended swearing in of Mr.Tong as a Councillor for Forum 4 SD will be unlawful as the Party has not sanctioned that Mr.Tong be sworn in as its Councillor. The directive of the MEC for Local Government is misplaced and thus should be disregarded.
2. We as Forum 4 SD distance ourselves from the letter by the MEC which is misleading to the Municipal Manager and the IEC.
3. We are in agreement with the letter by Biya Gender for the following reasons:
4. The letter by MEC is factional and does not represent real facts of what is happening in Mahikeng High Court.
5. We are aware of the Court Order that the MEC is referring to. That order is being challenged and thus the letter does not have substance.
6. The so-called court order by Forum 4 SD does not have any legal standing because it is being challenged in a court of law.
7. It has come to our attention that the Councillors for Forum For Service Delivery have submitted a motion of no confidence against the Municipal Manager to be tabled at the next Council meeting.

06  
mm  
Office of the Mayor  
Speaker  
Per [Signature] after  
[Signature]

8. The Forum For Service Delivery hereby place on record that the submission by the Councillors is of no force and effect as the Party never sanctioned them nor mandated the said Councillors to submit the said motion.
9. The motion has no legal basis in that the issue of discipline, suspension and or dismissal of a Municipal Manager should be dealt with in terms of the Disciplinary Regulations for Senior Managers.
10. In line with the above Regulations, the Mayor , in the event that there is an allegation of misconduct against the Municipal Manager, has to table a report before Council for a resolution.
11. There is no provision in the Regulations that empowers a Municipal Council to discuss a motion of no confidence against a Municipal Manager.
12. It is clear from the Regulations that only a Municipal Council can decide to take any action against a Municipal Manager, and thus, the MEC'S directive to Council to discipline a Municipal Manager is not valid in law.
13. Councillors, as representatives of Political Parties , are expected to act in accordance with instructions from the Party that they represent, and thus any deviation from the Party's stance should for all intents and purposes, be disregarded.
14. It is our directive therefore, that the motion allegedly submitted by Councillors representing Forum for Service delivery, be disregarded as the Party has not mandated such

Yours faithfully

KATLEGO MOTLAGODISA  
PRESIDENT  
F4SD  
DATE : 2020/09/21



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**OFFICE OF THE MUNICIPAL MANAGER**

**Our Ref: OT Bojosinyane**

**Date: 16 September 2020**

**Your Ref:**

**IEC SOUTH AFRICA  
GENERAL MANAGER / ELECTORAL MATTERS**

**Dear Sir**

**RE: REPLACEMENT FOR FORUM FOR SERVICE DELIVERY (F4SD)**

1. The above refers and previous correspondence.
2. We write to confirm receipt of your letter dated 16 September 2020, and the content thereof are well noted.
3. We also confirm receipt of letter from Mr. Emmanuel Baya Gender dated 11 September 2020 with attachments.
4. Pertinent to the issues mentioned therein specifically attachment referring to the application for rescission of judgement, after we have perused the content of your letter as indicated herein above, your institution did not address nor refer to paragraph 5.5 prayed by Mr Emmanuel Baya Gender.
5. It must be mentioned herein that Kagisano Molopo Local Municipality is not a party to the proceedings before Court of law and it is not at privy to the merits and demerits of the case.
6. However, we kindly request your institution to assist and/or to advise the Municipality on the following issues:
  - 6.1 What are the legal implications of effecting or actioning court order dated 17 December 2019, despite being furnished with an application for rescission of judgement?
  - 6.2 Is your institution aware of such application and what is the progress thereto.
  - 6.3 Should we implement a disputed court order, as it is alleged by Mr Emanuel Baya Gender, despite being made aware of the pending application of rescission of judgement.



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- 6.4 Should it be accepted under the circumstances that IEC South Africa is disregarding the pending application brought by Mr Emmanuel Baya Gender.
- 6.5 Your paragraph 3 indicated that "the Electoral Commission is functus officio," is it your reason(s) IEC South Africa finds 17 December 2019 court order as final, binding and implementable.
- 6.6 Having perused Mr. Emmanuel Baya Gender's letter as indicated herein above in paragraph 3, it is prayed that 17 December 2019 court order, should be stayed pending finalization of the rescission of judgement brought by the application, is it your instruction or submission to Kagisano Molopo Local Municipality, that should disregard that aspect.
7. We trust you find the above in order and look forward to your assistance in this regard, of your earliest convenience.

Yours faithfully

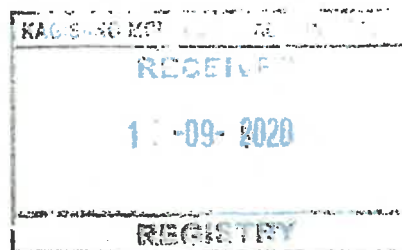
  
**OT BOJOSINYANE**  
**MUNICIPAL MANAGER**

**PROVINCIAL ELECTORAL OFFICE  
INDEPENDENT ELECTORAL COMMISSION  
PROTEA OFFICE PARK  
SEKENA ROAD  
2745**

Dear Provincial Electoral Officer

**RE: KAGISANO MOLOPO LOCAL MUNICIPALITY / FORUM 4 SERVICE  
DELIVERY**

1. This communique is inculcated by a letter that was forwarded to your office by the Hon. Boitumelo Moiloa, MEC for Corporate Governance, Human Settlement and Traditional Affairs dated 02 September 2020.
2. Further to that it is inculcated by the fact that I am the interested party in this matter, however there was no decency by the office of the MEC to either bring the content of the letter to me or to involve the Municipality at least to solicit a respond where necessary.
3. However, it is relevant to mention that the content of the letter of the MEC Boitumelo Moiloa is one sided and it does not deal with all the relevant facts to the issues before your table for proper approach determination and considerations.
4. I am legally advised, advice which I strongly accept, that this matter is still sub judice under case number: UM229/19 in the High Court of South Africa, North West Division, and it is appropriate also under the circumstances to forward the contents MEC Boitumelo Moiloa's letter dated 02 September 2020 of this letter to your legal department to visit the Registrar of the High Court situated at Mahikeng to peruse and to scrutinize the court file , for your advice and to be favoured with real facts of the matter before that competent Court of law.
5. The basis of this letter without dealing with the merits or demerits of the case are as follows:



**5.1 It is correct that Forum 4 Service Delivery obtained a Court order on or around 17 December 2019 under case UM229/2019, such order was delivered by an e-mail to the Municipal Manager of Kagisano Molopo Local Municipality on or around 08 January 2020.**

**5.2 The Municipal Manager of Kagisano Molopo local Municipality brought this court order to our attention and demanded our resignation letters.**

**5.3 Immediately after obtaining the said court order from the office of the Municipal Manager, we approached our Attorneys of record Mr. M.I.T Tshoga of MIT Tshega Attorneys for legal advice and assistance.**

**5.4 A Letter was immediately drafted and forwarded to the Attorneys of Forum 4 Service Delivery namely Moshoeshoe Attorneys based at Kempton Park informing them of our intention of challenging the said Court order issued on or around 17 December 2019. Attached hereto is our letter to Moshoeshoe Attorneys for your reference marked 'EBG1'**

**5.5 In our notice of motion in terms of Rule 42 of the Uniform Rules the following were prayed for:**

**"1 Rescinding and setting aside an order granted by this Honourable Court on 17<sup>th</sup> day of December 2019 under UM229/19**

**2 Staying the enforcement of the order mentioned above pending finalization of the recession brought by this application"**

**See attached hereto notice of motion marked 'EBG2'**

**6. Having perused MEC Boitumelo Moiloa's letter dated 02 September 2020, Annexure B is the order obtained on 27 January 2020, which was obtained mala fide and it serves no purpose to consider it as it will be an academic exercise to put any weight on it or whatsoever, more so there is a pending case against the order which was obtain on 17 December 2019.**

**7. It is therefore my emphasis herein that you are kindly requested not to action nor to take into consideration the contents of MEC Boitumelo Moiloa letter dated 02 September 2020 which are misleading and one sided.**

8. Should you proceed to action nor declare vacancy in line with the disputed court order, I hold firm advice to approach a competent court of law on urgent basis to exercise my Constitutional right amongst the others, shall request a Court order against your good self and your institution.

Your faithfully



**Cllr Emmanuel Baya Gender**

**Cc: Honourable Boitumelo Molloa**

**Member of Executive Committee**

**Corporate Governance, Human Settlement and Traditional Affairs**

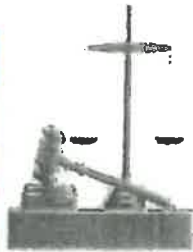
**Cc: Honourable S.R Modise**

**Speaker of Kagisano Molopo Local Municipality**

**CC: Mr OT Bojosinyane**

**Municipal Manager**

**Kagisano Molopo Local Municipality**



**M.I.T TSHOGA ATTORNEYS**

**MASHOESHOE ATTORNEYS  
UMVUVU STREET, BIRCH ACRES EXT  
KEMPTONPARK**

Physical Address:

NO 4 Von Wielligh Street  
Rustenburg  
0299

Postal Address:

P.O. Box 6207  
Rustenburg  
0300

Tel / Fax: 014 594 2015  
Fax2email 086 560 1477  
Cell 078 242 2137  
Email address:  
mittshoga@outlook.com

28 January 2020

Our Ref: M.I.T 007/2020

Your Ref: Mr Mashoeshoe /DTM-Urgent F4SD 1/201

Email: [mashoeshoeattorneys@gmail.com](mailto:mashoeshoeattorneys@gmail.com)

Dear Sir/Madam

**RE: FORUM 4 SERVICE DELIVERY // MUNICIPAL MANAGER – KAGISANG  
MOLOPO MUNICIPALITY AND OTHERS**

We refer to the above matter as well as an order as well as an order dated 2 January 2020 served on our client yesterday.

Kindly be advised that we noted and served your office with a notice of motion for rescission of judgement which is set down for the hearing on the 27 February 2020

We however expected your office to refrain from proceeding with the matter until the rescission is heard and finalised. We view your actions as mala fide and misleading to the court.

Kindly, but urgently be advised that your order dated 27 January 2020 was obtained not in good faith and same should be rectified as it prejudices our clients.

Hope to hear from you as a matter of urgency.

Yours Faithfully

M.I.T Tshoga Attorneys

Per Motlane Itumeleng Tshoga

Director: Motlane Itumeleng Theophilus Tshoga  
LLB (UNIVERSITY OF LIMPOPO)

**IN THE HIGH COURT OF SOUTH AFRICA  
(NORTH WEST DIVISION, MAHIKENG)**

**CASE NO: UM 229/19**

**In the matter between:**

**CLLR LORATO GAOBEPE BOEMO**

**1<sup>ST</sup> APPLICANT**

**CLLR EMMANUEL BAYA GENDER**

**2<sup>ND</sup> APPLICANT**

**And**

**FORUM 4 SERVICE DELIVERY**

**1<sup>ST</sup> RESPONDENT**

**KEGOMODITSWE MAFORA**

**2<sup>ND</sup> RESPONDENT**

**SYLVESTER MODIRWA**

**3<sup>RD</sup> RESPONDENT**

**THE MUNICIPAL MANAGER:**

**4<sup>TH</sup> RESPONDENT**

**KAGISANO -MOLOPO MUNICIPALITY**

**SPEAKER OF COUNCIL:**

**5<sup>TH</sup> RESPONDENT**

**KAGISANO MOLOPO MUNICIPALITY**

**MUNICIPAL COUNCIL :**

**6<sup>TH</sup> RESPONDENT**

**KAGISANO MOLOIKPO MUNICIPALITY**

**INDEPENDENT ELECTORAL**

**7<sup>TH</sup> RESPONDENT**

**COMMISSION (I.EC)**

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**NOTICE OF MOTION**

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**KINDLY TAKE NOTICE that Applicant intends to make an application to the above Honourable court on 27/02/2020 at 10h00 or soon thereafter as the applicant / his counsel may be heard for an order in the following terms:**

- 1. Rescinding and setting aside an order granted by this Honourable Court on the 17<sup>th</sup> day of December 2019 under UM 229/19**
- 2. Staying the enforcement of the order mentioned above pending the finalization of the Rescission brought the Application.**
- 3. Ordering the costs of the Application to be paid by those of the Respondents who may oppose this Application, joining and severally one paying the other to be absolved and,**
- 4. Granting further and /or Alternative relief to the Applicant.**
- 5. Enrolling on this matter a normal court date.**

**BE PLEASED TO TAKE FURTHER NOTICE that an affidavit by CLLR LORATO GAUBEPE BOEMO on behalf of the Applicant together with other relevant document will be annexed herein and used in support of this application**

**TAKE FURTHER NOTICE that if you intend to oppose this application, you must WITHIN 20 DAYS from receipt of this application file your**

**IN THE HIGH COURT OF SOUTH AFRICA  
(NORTH WEST DIVISION, MAHIKENG)**

**CASE NO: UM 229/19**

**In the matter between:**

**CLLR LORATO GAUBEPE BOEMO**

**1<sup>ST</sup> APPLICANT**

**CLLR EMMANUEL BAYA GENDER**

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**And**

**FORUM 4 SERVICE DELIVERY**

**1<sup>ST</sup> RESPONDENT**

**KEGOMODITSWE MAFORA**

**2<sup>ND</sup> RESPONDENT**

**SYLVESTER MODIRWA**

**3<sup>RD</sup> RESPONDENT**

**THE MUNICIPAL MANAGER**

**KAGISANO-MOLOPO MUNICIPALITY:**

**4<sup>TH</sup> RESPONDENT**

**SPEAKER OF COUNCIL**

**KAGISANO MOLOPO MUNICIPALITY:**

**5<sup>TH</sup> RESPONDENT**

**MUNICIPAL COUNCIL**

**KAGISANO-MOLOPO MUNICIPALITY:**

**6<sup>TH</sup> RESPONDENT**

**INDEPENDENT ELECTORAL**

**COMMISSION (I.E.C):**

**7<sup>TH</sup> RESPONDENT**

*NR*

*L. E*

Notice of Intention to oppose and thereafter by no later than **10 DAYS** to file your opposing Affidavit if any, with the Registrar of the above Honourable court as well as on the applicant.

**TAKE FURTHER NOTICE THAT** the Applicant elects the following address **No.4 Von Wielligh Street Rustenburg**, email: **mittshoga@outlook.com** at which the Applicant will receive all notices, correspondence and processes in this matter.

**Kindly place the matter on the Roll accordingly.**



**MIT TSHOGA ATTORNEYS**

**APPLICANT'S ATTORNEYS**

**No. 4 Von Wielligh Street**

**Rustenburg 0299**

**014 94 2015**

**Fax: 086 560 14 77**

**Email: mittshoga@outlook.com**

**Info@tshogaattorneys.co.za**

**C/O MOKHETLE ATTORNEYS**

**18 HAVENGA STREET**

**GOLFVIEW**

**MAHIKENG**

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT  
MAHIKENG HIGH COURT**

**AND TO: MASHOESHOE ATTORNEYS**

**"Per Email"**

**ATTORNEYS FOR 1<sup>ST</sup>, 2<sup>ND</sup> & 3<sup>RD</sup> RESPONDENTS**

**Umvumvu Street, Birch Acres Ext**

**Kempton Park**

**Tel: 060 745 9625**

**Fax: 086 510 2746**

**Email: [mashoeshoelaw@gmail.com](mailto:mashoeshoelaw@gmail.com)**

**C/O MOKAA ATTORNEYS**

**Mmabatho**

**Ref: Mr Mashoeshoe/DTM-Urgent F4SD 1/2019**

**AND TO : THE 4<sup>TH</sup> , 5<sup>TH</sup> , 6<sup>TH</sup> RESPONDENTS**

**"Per Email"**

**C/O OFFICE OF THE SPEAKER:**

**KAGISANO MOLOPO LOCAL MUNICIPALITY**

**MUNICIPAL OFFICES**

**GANYESA**

**Email: [nlebaka@gmail.com](mailto:nlebaka@gmail.com)**

**[olaotsekmim@gmail.com](mailto:olaotsekmim@gmail.com)**

**AND TO : INDEPENDENT ELECTORAL COMMISSION**

**North West**

**"Per Email"**

**Email: [kresfelder@elections.org.za](mailto:kresfelder@elections.org.za)**

**[tsipenen@elections.org.za](mailto:tsipenen@elections.org.za)**



**Physical Address**  
New Municipal building, Tlaskameng Road  
(next to Ganyesa clinic), Ganyesa, 8613

**Postal Address**  
Private Bag X522  
Ganyesa, 8613



**Tel:** 053 998 4455  
**Fax:** 053 998 3711

## MEMO

**TO : OFFICE OF THE MUNICIPAL MANAGER**  
**FROM : OHS/EMPLOYEES WELLNESS OFFICER**  
**SUBJECT : ROOF REPAIR**  
**DATE : 11 JUNE 2019**

### PURPOSE

To request the employer to provide healthy, hygiene and safe environment to the employees.

### BACKGROUND

The Municipal main building of the institution does not comply with the following regulations:

1. Environmental Regulations for Workplace :
  - 6(2)(e) states that "Keep the roof and the walls of every indoor workplace sound and leak-free"
  - 6(2)(d) states that " Keep all floors and walkaways skid-free and free from obstruction and waste materials."
  - 6(2)(a) states that "make at least 2025m2 available for every employee working in an indoor workplace"
2. Electrical Installation Regulations:
  - 7(2) states that "Obtain a new certificate of compliance for all electrical installations on the premises issued by an accredited person"

The roof of the main building is leaking heavily during rainy seasons and it is not safe for the employees to work under that environment. The condition of the building may lead to closure of the offices by Department of labour.



**Physical Address**  
New Municipal building, Tlaskgameng Road  
(next to Ganyesa clinic), Ganyesa, 8613

**Postal Address**  
Private Bag X522  
Ganyesa, 8613



**Tel:** 053 998 4455  
**Fax:** 053 998 3711

## MOTIVATION

In terms of the OHS Act 85 Facility Regulations 9 states "that every employer shall maintain all the rooms and facilities which are prescribed or provided for in terms of the provisions of these regulations, in a clean, hygienic safe, whole and leak-free condition and in a good state of repair"

## RECOMMENDATIONS

THAT:

- The employees be moved to the other municipal buildings.
- The roof be revamped.
- The certificate of compliance be issued.

Hope you will find the above in order

Kind Regards

**LORATO INNO**  
**OHS/EW OFFICER**

**DEPARTMENT OF LABOUR**  
OFFICE OF THE CHIEF DIRECTOR:  
PROVINCIAL OPERATIONS



**DEPARTEMENT VAN ARBEID**

KANTOOR VAN DIE HOOF DIREKTEUR:  
PROVINSIALE OPERASIONELE WERKE

Telephone/Telefoon

082 317 9148

Enquiries/Navrae

Collin Papier

Ref. No.

Verw. No.

0044/06/2014

The Municipal Manager

Kagisano Molopo Local Municipality

REGIONAL MANAGER  
DEPARTMENT OF LABOUR

P.O. BOX 461

2100 2014

KLERKSDORP

Date of inspection

Datum van inspeksie

24-26/6/2014

Accompanied by

Vergesel deur

TEL: 018 464 8700

FAX: 018 462 7517

**IMPROVEMENTS/  
CONTRAVENTION NOTICE**

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993

I have carried out an inspection of your premises in terms of section 29 of the above-mentioned Act.

In terms of section 30 of the aforesaid Act, you are hereby directed to take the steps specified below within 60 days from the date of this notice. Should you be unable to meet this deadline, you may make representations to this office stating when and how you propose to comply herewith, in order that an extension of time may be considered.

**FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS NOTICE, OR WITH THE PROVISIONS OF THE REGULATIONS, CONSTITUTES A CRIMINAL OFFENCE AND WILL RENDER YOU LIABLE TO PROSECUTION.**

REGIONAL MANAGER  
DEPARTMENT OF LABOUR

P.O. BOX 461

25-03-2014

KLERKSDORP

**VERBETERINGS/  
OORTREDINGSKENNISGEWING**

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993

I have carried out an inspection of your premises in terms of section 29 of the above-mentioned Act.

In terms of section 30 of the aforesaid Act, you are hereby directed to take the steps specified below within 60 days from the date of this notice. Should you be unable to meet this deadline, you may make representations to this office stating when and how you propose to comply herewith, in order that an extension of time may be considered.

**VERSUIM OM AAN DIE BEPALINGS VAN HIERDIE KENNISGEWING TE VOLDOEN, OF AAN DIE BEPALINGS VAN DIE REGULASIES, IS 'N KRIMINELE OORTREDING EN STEL U BLOOT AAN VERVOLGING.**

**GENERAL SAFETY REGULATIONS**

- GSR 2(1) Make an evaluation of the risk attached to any condition which may arise from the activities of the employer (Municipality) (All municipal activities).
- GSR 3(4) Have persons readily available during normal working hours who are in possession of valid certificates of competency in first aid.

Regulation  
RegulasieELECTRICAL INSTALLATION REGULATIONS.

- ER 2 Be responsible for the safety, safe use and maintenance of the electrical installation (Installation in the switchboard & kitchen in the main building).

GENERAL ADMINISTRATIVE REGULATIONS.

- GA 6(1) Consult in good faith and conclude an agreement with registered organised labour on election; term of office and training of health and safety representatives.

FACILITIES REGULATIONS.

- FR 9. Maintain all rooms and facilities prescribed or provided for in terms of these regulations. (Toilets, dining areas in all municipal buildings)

REGULATIONS FOR ENVIRONMENTAL ~~WORKPLACE~~ REGULATIONS FOR WORKPLACE

- ERW 6(2) Make at least 2,25m<sup>2</sup> available for every (a) employee working in an indoor workplace. (Finance section)
- ERW 6(2) Keep all floors, walkways and ~~as~~ gangways (d) in a good state of repairs, free of obstructive waste and material. (Revenue office, registry, Mookweng Thuto Centre Boardroom, Hub office)

Received:

  
MUNICIPAL MAN.
14/07/14  
DATE

DATE

**DEPARTMENT OF LABOUR**OFFICE OF THE CHIEF DIRECTOR  
PROVINCIAL OPERATIONS**DEPARTEMENT VAN ARBEID**KANTOOR VAN DIE HOOF DIREKTEUR  
PROVINSIALE OPERASIONELE WERKE

Telephone/Telefoon.....

082 317 9148

Enquiries/Navrae.....

Collin Papier

The Municipal Manager

Kagiso Mo'opo Loc. Mun.

Ref. No.

Verw. No. 0044/06/2014

REGIONAL MANAGER DEPARTMENT OF LABOUR
Kantoorstempel
25-06-2014
KLERKSDORP
TEL: 018 464 8700
FAX: 018 462 7751 / 8781

Date of inspection

24-26/6/2014

Datum van inspeksie

Accompanied by

Vergesel deur

**PROHIBITION NOTICE****OCCUPATIONAL HEALTH AND SAFETY ACT, 1993**

I am of the opinion that the circumstances specified below threaten, or are likely to threaten, the health and/or safety of persons.

In terms of the powers vested in me by section 30 of the aforesaid Act, I hereby prohibit you from continuing or commencing with the following:

Use of fire hose to clean in that it is meant for fire fighting ONLY. (Sec 15 of the Act)  
(Mordweney Library)

I will consider revoking or amending this prohibition only after arrangements to my satisfaction have been made to dispose of or substantially reduce the threat which gave rise to the imposition of this prohibition.

Inspector

Inspekteur

**VERBODSKENNISGEWING****WET OP BEROEPSGESONDHEID EN VEILIGHEID, 1993**

Na my oordeel word die gesondheid en/of veiligheid van persone vanweë die omstandighede hieronder uiteengesit, bedreig of sal dit waarskynlik bedreig word.

Kragtens die bevoegdheid aan my verleen deur artikel 30 van die voormelde Wet, verbied ek u hiermee om met die volgende voort te gaan of te begin:

Ek sal oorweeg om hierdie verbod op te hef of te wysig slegs indien reëlins tot my bevrediging getref is om die bedreiging wat tot die oplegging van hierdie verbod aanleiding gegee het of die weg te ruim of wesenslik te verminder.

Received: *[Signature]*  
MUNICIPAL MAN.

14/07/14  
DATE

DATE

**REVOCATION OF A PROHIBITION NOTICE**

In terms of section 30 (1) (d) of the aforesaid Act, the prohibition notice served on you on.....  
is hereby revoked.

Inspector

Inspekteur

**OPHEFFING VAN 'N VERBODSKENNISGEWING**

Ingevolge artikel 30 (1) (d) van die voormelde Wet word die verbodskennisgewing wat op.....  
op u bestel is hierby opgehef.

Date

Datum

14/07/14

Regulation  
RegulatsieGENERAL SAFETY REGULATIONS

LRB Display corresponding symbolic signs.  
(Thursong <sup>Fire ext.</sup> Entities, Library in Moidokheng and  
for evacuation in all buildings)

FACILITIES REGULATIONS.

- FR 2(3) Make toilet paper available free of chg.  
(a) to employees. (All municipal buildings).
- FR 2(3) Supply towels or disposable paper towels or  
(c) hot air blower at washbasins. (All municipal  
buildings).
- FR 2(3) Provide toilet soap or a similar cleansing  
(d) agent free of charge to employees. (All  
municipal buildings).
- FR 2(4) Provide hot and cold or premixed hot  
(e) and cold running water for washbasins  
and showers (All municipal buildings).

ELECTRICAL INSTALLATION REGULATIONS.

- EIR 7(1) Have a valid certificate of compliance  
for the electrical installation. (All municipal  
buildings).

ELECTRICAL MACHINERY REGULATIONS.

- EMR 7 Mark or label ~~and~~ controlling apparatus  
(4). permanently to identify the system or  
part of the system it controls (Library in  
Moidokheng).

ENVIRONMENTAL REGULATIONS FOR WORKPLACES.

- ERN(6) Keep the roof and walls of every indoor  
(e) workplaces sound and leak-free. (All municipal  
buildings)



**Physical Address**  
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**Postal Address**  
Private Bag X522  
Ganyesa, 8613



**Tel:** 053 998 4455  
**Fax:** 053 998 3711

ENQUIRIES: N.GREEFF

OFFICE OF THE MUNICIPAL MANAGER

DATE: 04 MAY 2020

**The Director**  
**Dephetogo Cleaning & Security**  
**Vannell Building**  
**Office 510 C/o OR Tambo & Boom Street**  
**Klerksdorp**  
**2571**

**Dear Mr. Theo Gaarekoe**

**RE: APPOINTMENT – DISINFECTION OF MUNICIPAL OFFICES AND BUILDINGS IN  
TERMS OF REUGULATIONS FOR COVID-19.**

1. The above refers and your quotation.
2. In line with the National Government regulations, namely Government Gazette No. 43257 signed by 29 April 2020 by Mr T.W Nxesi, Minister of Employment and Labour, has determined that it is necessary to adopt and implement occupational health and safety measures to reduce and eliminate the escalation of COVID 19 infections in a workplace.
3. However this letter serves as an appointment letter to your company to render disinfecting services at Kagisano Molopo Local Municipality specifically at the following places:
  - 3.1 Temporary offices situated next Ganyesa Clinic
  - 3.2 Municipal Chamber;
  - 3.3 Municipal Boardroom;

- 3.4 Ablution facilities, and
- 3.5 Ganyesa Community hall and Auditorium
4. That it is expected of your company to immediately resume with the disinfections at the abovementioned places at least for a period of six (6) months effectively from 06 May 2020 until 31 October 2020.
5. That should you have any queries relating to the subject matter, please contact the Municipal Manager, Mr.O.T.Bojosinyane at 066 476 0010 or Chief Financial Officer, Mr.R Ferris at 083 292 9827.
6. Trust you find the above in order and look forward to your assistance on an urgent basis.
7. Please be further informed that you shall be expected to sign service level agreement immediately after acceptance of this letter.



**Olaotse Theophilus Bojosinyane**  
**Municipal Manager.**

I/WE Segolo T Gacurekce OF DEPHETOGO CLEANING AND SECURITY  
DO HEREBY ACCEPT THIS APPOINTMENT FOR DISINFECTION OF MUNICIPAL  
OFFICES AND BUILDING.

**NAMES**

**SIGNATURE**

**POSITION:**

**DATE:**

Segolo T Gacurekce  
Managing Director  
4 May 2020



**Physical Address**  
New Municipal building, Tlaskameng Road  
(next to Ganyesa clinic), Ganyesa, 8613

**Postal Address**  
Private Bag X522  
Ganyesa, 8613

**Tel:** 053 998 4455  
**Fax:** 053 998 3711

## COVID-19 Expenditure

Covid 19 Allocation - DORA		Covid Allocation - From Own Funds	Total Covid Allocation	YTD Expenditure – 31 December 2020			
R268 000	R4 708 000	R 440 000	PPE Incl. Musk and Sanitisers	Decontamination	Water	Quarantine sites	Other
			R 728 588.00	R 1 504 623	R0.00	R0.00	R0.00
		<b>TOTAL EXPENDITURE</b>	2 233 211.00				

*An Ingenious and Dynamic Municipality that Radically Improve the Economy and Lives of all Communities*