

PD-ABT-212

**Twelfth MIU Board of Directors Meeting
No. 01/200
and
MIU Progress Report
October 1999 - December 1999**

**ASSISTANCE TO THE SOUTH AFRICAN
MUNICIPAL INFRASTRUCTURE INVESTMENT UNIT (MIU)**

CONTRACT NO. 674-03120-C-00-8023-00

PROJECT NO. 674-0312-3-70210

PROJECT OFFICE: USAID/SOUTH AFRICA

Prepared by
PADCO, Inc.



Funds for production of this report were provided by the
United States Agency for International Development

**TWELFTH MEETING OF THE BOARD OF DIRECTORS OF THE
MUNICIPAL INFRASTRUCTURE INVESTMENT UNIT (MIIU)
TO BE HELD ON FRIDAY 18 FEBRUARY 2000
IN CR20, DBSA BUILDING,
LEVER ROAD, MIDRAND
TIME: 9:00 – 13:00**

CHAIRPERSON: MS MARLENE HESKETH

A G E N D A

- | | | | |
|-----|---|-------------------------------------|-------------|
| 1. | WELCOME AND INTRODUCTIONS | Chair | |
| 2. | APOLOGIES | Chair | |
| 3. | ADOPTION OF PREVIOUS MINUTES | | A |
| 4. | MATTERS ARISING
Review of contracts (DBSA/USAID etc.)
Separation of contracts signed vs closed
1-pager on key bottlenecks to PPPs in WSA
Request of meeting with Minister DPLG
Summary of USAID Contract
Exit Strategy | Chair
Chair/Sub-committee
CEO | B
C
D |
| 5. | MID-TERM EVALUATION REPORT | R. Tomlinson | |
| 6. | PROGRESS REPORT 1 OCTOBER 1999 TO
31 DECEMBER 1999 | | E |
| 7. | RELATIONSHIP WITH GOVERNMENT | Chair | |
| 8. | REPLACEMENT OF CEO | Chair | |
| 9. | PROPOSED STUDY TOUR | CEO | F |
| 10. | INVITATION TO PPU STRATEGIC SESSION | CEO | |
| 11. | CLOSURE | Chair | |

DOCUMENTS FOR INFORMATION

- | | | | |
|----|---|--|---|
| 1. | Copies of articles on the GJMC-Mondi Recycling Plant | | G |
| 2. | Draft Municipal Systems Bill: What's new | | H |
| 3. | Brief on the Water Services Act | | I |

PREVIOUS MINUTES

**MINUTES OF THE MIIU BOARD OF DIRECTORS MEETING
HELD ON 19 NOVEMBER 1999 IN CR20, DBSA BUILDING**

Present: Marlene Hesketh (Chair),
Fanyana M Madlala*
John Barton-Bridges
Mzimkula Msiwa
Roland White
Brian Whittaker
Sisa Njikelana
David Ferreira*
Nomagugu Mjijima.

Apologies: Neil Macleod
Nonhlanhla Mjoli-Mncube
Noma-India Mfeketo.

Absent: Dr Crispian Olver

Functionaries: Monhla Hlahla
James Aiello

- arrived after the start of the meeting.

[At the beginning of the meeting, no quorum was present. The Board sat as a committee of the whole, and considered matters not requiring consideration by a quorum of the Board.]

1. MATTERS ARISING

Highlights of current issues.

Monhla Hlahla briefly explained the purpose of the Highlights section of the Quarterly Report to be a short statement of significant events since the last Board meeting. John Barton-Bridges then gave a short explanation of the Nelspruit financing deal. He explained that the commercial banks were reticent to provide long-term loans because of uncertainty with regard to certain provisions of the LGTA and Water Services Act. BiWater has approached the lending group and asked the DBSA to be the lead arranger. It is intended, at the end of the day, that DBSA will have one third of the debt and other lending institutions will have two thirds. The debt portion represents about 40% of the total project cost of R148 million.

Mr Barton-Bridges indicated that PPPs are a new sector for South African banks, and they are uncertain of how to

proceed. Issues of concern are still revenue collection, and the DWAF Minister's power of intervention that can affect existing contracts.

Roland White explained that there is a possibility of National Government proposing constitutional amendments to clear up some ambiguities regarding local governments, provinces, and the supervisory powers thereof. He suggested forwarding any suggestions regarding constitutional amendments to either himself or Michael Shur.

Roland White asked what kind of lobbying role can the Board of Directors play in resolving the constitutional, statutory, and regulatory problems. He suggested that Board members may wish to personally contact Members of Parliament and the Minister of Water affairs. He noted that unless something is done with regard to the intervention powers of the Minister of Water Affairs, there will be few additional water and sanitation concessions, a major part of our pipeline.

JBB

Mr Barton-Bridges expressed his appreciation for the support and comments of the other Board Members. He would like to have a special meeting to inform the Board of the details of the issues at hand. He believes the Board has a responsibility to put its view forward to Parliament and relevant Ministers.

Chair/
CEO

Brian Whittaker, supported by Roland White suggested that a three-page document that addresses the core issues should be prepared and sent to the President, with a copy to the shareholding Minister, or to the Minister with a copy to the President.

[At this point, Messers Ferreira and Madlala appeared, and, because a quorum was now present, the Board convened as a Board of Directors for purposes of electing a Chairperson.]

2. ELECTION OF MIU CHAIRPERSON

This portion of the meeting was chaired by James Aiello. He recognised the two representatives from Ernst and Young. Mr Joseph Njoroge of Ernst and Young gave a report that concluded that only one candidate, Marlene Hesketh, had been properly nominated. Another nomination slip had been received, but it lacked the signature of a second Board Member. The Board was asked whether any other member of the Board wished to sign the nomination slip. No member responded positively. Thereafter, a motion to accept the report was carried unanimously. By direction of the Chair, Marlene Hesketh was declared the new Chairperson of the

MIIU.

The meeting was, once again, chaired by Ms Hesketh.

The next order of business was the election of the Deputy Chair. The Board decided to nominate and vote for the position at this meeting. Fanyana M Madlala was nominated and elected as Deputy Chair.

3. ADOPTION OF PREVIOUS MINUTES

The minutes of the previous meeting were approved as presented.

4. HIGHLIGHTS OF THE LAST QUARTER

A discussion was held on the last quarter's highlights. Mzimukula Msiwa noted that the focus in the document was on privatisations, rather than on extension of services. There was a general discussion on the fact that :-

- * the MIIU is demand-driven, that privatisations, particularly of money losing activities, free up municipal funds that can be used for service provision;
- * that the MIIU is developing models that can be used for asset divestiture with technical assistance alone, and not grant funding; and, finally,
- * that the pipeline itself is well balanced, it's just that a series of divestitures happened to come to fruition last quarter.

PPU

The presentation of the exit strategy was deferred to the February 2000 meeting.

PPU

Resubmission of the business plan was the next item for discussion. An explanation was provided by Monhla Hlahla, of the proposed revision contained in Annexure "E" of the Quarterly Report. Mzimkula Msiwa suggested that in Chart No. 1, of Key Performance Indicators, page 7 of the plan, the number of contracts signed, be broken up into two categories, one that would indicate contracts signed, and another for contracts that have been brought to financial closure. This was agreed by consensus.

Envisaged Targets				
PPP Contracts Signed	5	6	8	11
PPP Contracts Closed	2	3	4	5

The next discussion was the meeting with the Local

Government Transition Programme (LGTP). Monhla Hlahla reported on her meeting with this organisation. There is the potential for lots of duplication between the LGTP and the MIIU. There seems to be no possibility of the MIIU getting any funding from the LGTP. Mike Madlala explained that the LGTP board is not an independent board, like the MIIU. It is more like a department of the DCD. Until the DCD decides on the LGTP's mandate, a meeting is premature. The mandate may be finalised by the next MIIU board meeting, after which it would be appropriate to meet with them. Mzimkula Msiwa suggested that the Minister give clarity on this issue as both organisations are within his ministry. PPU

The Chair suggested to the PPU that a letter be sent to the Minister noting the MIIU's desire to meet with him on this issue.

The Management Contract between the DCD and the DBSA expires next March. A report was provided suggesting three alternatives. The Chair expressed her opinion that there were additional matters that needed to be addressed, namely : How the contracts with the DBSA and USAID are managed. In this regard, it was noted that the MIIU is a shell that doesn't employ anyone, that all staff are supplied by either the DBSA or USAID. A review of the terms of both contracts was suggested.

The second matter to be addressed was the staffing of the existing DBSA contract. The Chair noted the resignation of Anthony Still. The Board of Directors should have some input into his replacement.

And, the third matter was that the DBSA wanted to raise the salary of the CEO, and therefore, the budget between the DBSA and the MIIU had to be amended to accommodate the increase in salary.

The Chair indicated that it was a foregone conclusion that the contract with the DBSA would be extended, but prior to determining the period, the matters she had noted should be decided.

John Barton-Bridges stated he would recuse himself on the vote for the CEO's salary increase. He noted that the DBSA would also like amendments to the agreement. He indicated that Anthony Still's vacancy had been filled by another person from within the Bank. The existing contract doesn't give the MIIU Board the right of approval of replacement staff. With regard to remuneration, the process is within the DBSA's personnel structure. There are annual and merit increases. Chair, RW, MM, JBB

The amendments to be proposed are as to the line of authority of the CEO. Should she report to the MIIU Board, and remove her from the DBSA jurisdiction?

The Chair reminded the meeting that the contract did not have to be renewed until March, and that the Board was meeting in February.

A sub committee of Roland White, Marlene Hesketh, John Barton-Bridges and Mike Madlala was formed for the purposes of : (1) reviewing the Articles of Association, (2) reviewing the terms of both the DBSA and USAID contracts, and (3) recommending changes to the DBSA/DCD contract to deal with the staffing and salary matters raised. The Chair suggested the sub-committee be prepared to report back at the February meeting.

Brain Whittaker asked for a two-pager on the USAID contract. James Aiello stated that the USAID contract was a government-to-government contract between the Government of South Africa and the U.S. Government, that it had a contracting officer to oversee its implementation, and a contracting officer's technical representative who was his direct contract supervisor. He stated that the Quarterly Report received by the Board was also the periodic report to USAID required by the contract. In light of who the parties to the contract are, the appropriateness of providing the Board with a copy should first be ascertained.

5. MIIU ANNUAL REPORT

The **annual report** was noted.

6. CLOSURE

The meeting was **adjourned** at 11:20 a.m.

MATTERS ARISING FROM MINUTES OF MEETING OF
19 NOVEMBER 1999

- * JBB to address special meeting to inform Board members of details of the issues at hand so that they may put its view forward to Parliament and relevant ministers.
- * PPU to send a 3-pager that addresses the core issues with regard to PPPs in South Africa to the President, with a copy to the shareholding Minister.
- * PPU to present Exit Strategy at February Board Meeting.
- * The Chair and CEO to prepare a letter to the Minister noting the MIIU's desire to meet with him regarding the LGTP.
- * The sub-committee, consisting of Chair, Deputy Chair and Roland White to meet to review the Articles of Association, review the DBSA and USAID contracts, review and meet with DBSA recommending changes to the management contract to deal with staffing and salary matters raised at the meeting. This sub-committee to report back at the February Board Meeting.
- * PPU to amend business plan to reflect contracts signed versus financial closure.



KEY BOTTLENECKS TO PPPs IN WSA

“Deal Breakers”

The Water Services Act

Introduction.

The Board of Directors have asked for a brief explanation of the “deal breakers” in the Water Services Act. During discussions at the last meeting of the Board, questions were raised as to the constitutionality of certain of these provisions as being unduly invasive of the powers and prerogatives of local government. Resolution of such questions will require legal action in a court of competent jurisdiction; hence the recitation set forth below contains no opinion as to the constitutionality of the provisions discussed.

1. *Chapter II, Standards and tariffs.*

§10. Norms and standards for tariffs.

The Minister, with the concurrence of the Minister of Finance, may prescribe norms and standards in respect of tariffs for water services. These standards may differentiate on an equitable basis between different users, types of water services, and geographic areas. *They may place limitations on surplus or profit and the use of income generated by the recovery of charges.*

This is the major “deal breaker” in the Water Services Act, and the provision that contributed to the withdrawal of the non-DBSA lenders in the Nelspruit project. The problem is the retroactive application of any norm or standard for tariffs enacted by the Minister after the execution of a concession agreement. Banks are unwilling to take the risk that the Minister may subsequently enact a norm or standard in respect of the profit of a particular tariff because it could require the concessionaire to lower the tariff to the point that the debt could not be serviced.

The argument was advanced that all such regulations should be prospective in application only. DWAF, to date, has been unwilling to adopt that position.

2. *Chapter III Water Services Authorities.*

§19. Contracts and joint ventures with water services providers.

A contract may be entered into with a private sector provider after the municipality has considered all known public sector water services providers which are willing and able to perform the relevant functions.

This has turned out to be a less than major deal breaker, because local government officials have shown a willingness to “consider” their relevant water board, if there be one. At one time, the unions were using this section as a tool to attack proposed concessions, but there hasn’t been much noise over this provision lately.

Another minor annoyance in this section is a requirement that the private sector service provider disclose any rate of return it may gain by entering into the contract.



SUMMARY OF USAID CONTRACT

Contract Summary
USAID-PADCO
Contract No 674-0312-C-00-8023-00
Technical Assistance to the Municipal Infrastructure Investment Unit
For the period 12 March 1998 through 11 March 2001

The contract is a "Standard Form" prescribed by the Government Services Agency (GSA), and was the principal document under which the competition was conducted.

Part I defines the purpose of the contract, the type of contract, its estimated costs, and illustrative budgets which will make up the cost items.

Purpose: to provide technical assistance to the South African Municipal Infrastructure Investment Unit (MIIU).

Type: It is a cost plus fixed fee contract.

Cost: The estimated cost is US\$3,307,190.00, approximately R19 843 140.

The substance of the contract is in the Description/Specifications/Work Statement. Section:

Objective: The objective of the contract is to further USAID's aim of providing local governments with access to credit and finance for municipal infrastructure from the private sector.

Goal: The overall goal is to assist in creating a mature market that will facilitate the flow of private capital to local governments to fund municipal infrastructure. Through this effort, capacity will be imparted to local government and the private sector to package and secure this financing. An indicative measure of this goal will be the number of municipal infrastructure projects created by local governments and their consultants.

Purpose: The Contractor will provide long and short-term technical assistance to the MIIU. The contract will be for an initial three year period with an optional fourth year.

A background statement is set forth in the contract that describes the setting in which the technical assistance will be provided, a history of the founding of the MIIU, and its organisational structure. It notes that the MIIU is conceived as a medium term intervention and that an exit strategy must be developed.

Against this background, the Statement of Work details the duties of the Contractor:

Capacity and Market Building:

Development of a framework for achieving the MIIU's objectives;

Creation of a process whereby municipalities that are prevented from accessing private finance are identified;

Consult with public and private funders on ways to assist in developing a sustainable bond market;

Determine project eligibility criteria;

Establish fund operating principles;

Preparation of community participation and cost recovery guidelines;

Design an exit strategy; and

Disseminate information regarding municipal infrastructure to potential financial participants in the emerging equity and municipal bond market.

Operation of the Fund.

Design and dissemination of criteria by which proposals will be evaluated;
Package and submit prioritised projects for approval;
Provide oversight/assistance to local government's contracting with consultants;
Design and disseminate a framework to guide the preparation of investment packages; and
Provider general quality control oversight of individual project preparation activities.

Next, the contract describes the expertise required of the long and short term personnel. The section concludes with the admonition that while the MIU will assist local government officials and consultants in putting deals together, the ultimate responsibility for proceeding rests with the local authority. Following sections deal with matters relevant to shipping goods to be used in the undertaking, registering expatriate technical advisors, securing work permits, and the monitoring and evaluation plan imposed by USAID on the contractor.

Additionally, the contract contains the requirement of a quarterly Performance Monitoring Report (PMR). The PMR can be identical to any quarterly report required by the MIU Board. Annual and Completion report requirements are also specified.

Contract Administration provisions follow that govern the implementation of the contract between USAID and the Contractor. Among the administrative details is the requirement of a quarterly meeting between the USAID project manager and the Contractor. There are also Special Contract Requirements concerning international travel, insurance, expenditures for IT resources, logistic support, subcontracting, and conflicts of interest.

Several U.S. Federal Acquisition regulations are incorporated that are usually applicable to all Federal contractors. Finally, there is a statement that the option to extend the term of the contract must be given at least 60 days prior to termination. In any event, **the contract may not exceed four (4) years.**

EXIT STRATEGY

EXIT STRATEGY PROPOSAL

1. INTRODUCTION

An exit strategy for the MIU is necessitated by its founding Cabinet Memorandum which gives the company a five-year lifetime of operation. The strategy will attempt to formulate processes and outputs which can assure the share-holder that the MIU has met its mission and mandate in that period.

An exit strategy for the MIU will therefore start with an agreed understanding of the strategic direction and priorities of the MIU. The strategic direction can be described in terms of our mission, our main goals, and specific objectives that have been reduced to a number of key performance and success indicators. The exit strategy will identify the most significant objectives to be achieved and, where necessary, describe the mechanisms to be used to withdraw from financing an activity as and when the related objective, or indicator, has been achieved. Particular indicators may be reached at different times in different sectors and/or areas of activity.

The operational environment will have an effect on both the strategic direction and the exit strategy. The impact of re-demarcating municipal boundaries is already being felt. Some councils and officials are reluctant to make commitments, and some potential deals are being delayed to await clarity on the ultimate boundary of a service area. This may indicate that the MIU should shift emphasis to creating workable models and templates rather than expecting to increase deal flow.

This revised discussion note is based on the original one that was tabled for the Board on October 15th 1998. It has been revised in the light of subsequent experience and practice, and guidance from the Board. The draft exit strategy which follows is a proposal by the Project Preparation Unit to the Board of Directors for approval. The document is very broad and does not intend to be specific on exit from individual sectors or types of projects. It is a live document and some of its features will change over time.

2. KEY FEATURES OF THE OPERATIONAL ENVIRONMENT

➤ External Environment

The current external operating environment is characterised by the following:

1. Continuing backlogs and needs of infrastructure and services in local government
2. Commitment by the new Cabinet to service delivery and support for PPPs in infrastructure and service delivery
3. Growing innovation in the delivery of municipal infrastructure and services
4. Increasing capacity to structure and package MSP projects in both local government and the advisory community

5. New municipal demarcation and local government elections which will impact the growth and maturity of the MIIU's project pipeline (in positive and negative ways)
6. Potential exponential growth in demand for MIIU services post demarcation
7. Continuing constraints in the Legislative and Regulatory environment e.g., Water Services Act and LGTA
8. Diminishing donor support to the South African government since 1994
9. Continued organised labour resistance to PPPs
10. South African banks are still hesitant to lend for municipal infrastructure.

➤ **Internal Environment**

1. There is no confirmation of any further funding from the national government or any of its donor sources.
2. The MIIU-DBSA management agreement expires at the end of March 2000 and is currently under review for possible extension and restructuring.
3. The USAID-SA government agreement to supply three technical specialists to the MIIU provided for 3 years of support, with a possible one year extension. The current international personnel may start leaving in the first quarter of 2001.
4. There is no clarity as to whether the Department of Provincial and Local Government will retain the mission and objectives of the MIIU as outlined in the founding Cabinet Memorandum.
5. The MIIU has gained enough experience in some sectors to start developing more standardised documents to be made readily usable by municipalities, independent of MIIU financing.

3. STRATEGIC DIRECTION

The MIIU strategic direction, as provided by its Mission Statement, is to:

- Encourage and optimise private sector investment in local authority services, on a basis that is sustainable for both the local authority and at a national level.
- Assist the development of an established market containing informed local authority clients, private sector advisors, and private sector investors and service providers, so that the MIIU can be wound up no later than five years after the date of its original establishment.

4. KEY PERFORMANCE AND SUCCESS INDICATORS

- **Goal 1: Encouraging and optimising private sector investment in local authority services.**

Primary Key Performance and Success Indicators to be maximised:

1. number of projects with contracts signed
2. number of projects with financial closure
3. number of active projects (feasibility study and preparation)
4. the amount of private sector funding leveraged for provision of infrastructure (as a result of MIIU-supported deals)

Secondary Indicators:

5. number of households expected to benefit from projects (grouped by levels of income where known)

The implications of these indicators include an emphasis on projects that are most likely to come to a successful closure, that are likely to mobilise significant amounts of capital and that enable services to be extended to significant numbers of hitherto under-served residents. They also imply that far-flung projects entailing heavy person-costs in travelling, and once-off highly complex projects requiring intensive interactions are likely to be relegated to a lower priority.

- **Goal 2: Establishing a market**

Primary Key Performance and Success Indicators to be maximised:

1. the number of municipalities assisted (and hopefully empowered to deal directly with the market)
2. the number of private sector consulting companies in MIIU projects
3. the number of companies participating in contract implementation.

All of the above indicators are from the approved MIIU Business Plan. However, there may be a need for additional indicators, and a slight shift in emphasis in view of the external environment. If the MIIU is serious about a five year life (or even earlier if grant finance runs out), then the second goal, or set of objectives, (establishing a market) is far more important than the first. The second set of objectives must therefore provide the basis for an exit strategy while the first set of objectives will inform the way in which the MIIU level of activity is measured. The measurement of activity will need to be carefully handled in order to avoid creating incentives that may be inimical to our main goal to facilitate a fully functioning market within five years.

- Furthermore, if deal flow in the near future is likely to be restricted by municipal re-demarcation, then the MIIU may need to be less ambitious in its indicators and devote more attention to writing up experience, codifying approaches and producing templates for everything. With such an emphasis, the MIIU should consider the following indicators in addition to those already mentioned.

Supplementary Indicators:

4. the range of standard contract documents produced by MIIU
5. the range of infrastructure sectors
6. the range of projects e.g. from small through to large.

- The MIU should also consider the need to identify and empower a successor organisation within which intellectual capital, information and appropriate skills (eg independent advice) can reside after closure of the MIU. It is proposed that this would be a function of the MIU Board: to deliberate on the nature of such an organisation, criteria and procedure for identifying it, a process for empowering it and for managing such a transition. With that in mind, the following are offered as broad strategic indicators for the MIU Board.

Strategic Indicators for the Board:

1. Sufficient funds raised to meet needs
2. Good match between staffing levels and workload
3. Agreed strategy to reduce inputs in specific sectors, areas etc
4. Criteria and procedure for identifying and engaging a successor organisation
5. A plan for handing over.

4. EXIT STRATEGY

- **The guiding principle of the exit strategy** is that after an appropriate level of experience has been achieved in a sector, and with particular processes, models and standard documents will be developed and made accessible to municipalities and their advisors. Thereafter MIU assistance will be limited to technical assistance at most. The assessment of adequate experience will depend on the level of comfort and understanding of sector issues by MIU/PPU staff. Different sectors may require different numbers of projects to achieve such comfort and understanding.

The development of standard documents should therefore be a high priority. Efforts should be made to develop user-friendly, flexible but robust standardised approaches as soon as possible based on a range of project types and any other unique situations or outcomes. Eventually, the MIU can stop making grants available and give technical assistance or only ad hoc advice and standard documentation.

During the period in which the MIU grant offers are being reduced, exceptions will be made (ie preference given) for "different" projects eg in size, complexity or geographical spread, to test whether the standard or template approach can cope with them. The rate at which MIU grant offers decline will obviously depend on the demand for grant finance and prospects for replenishing the grant fund. Current indications are that with no replenishments, grant offers will be reduced to almost zero by the end of year three.

- Repository of MIU information

The level of staffing will need frequent review and steps taken to ensure a sufficient staff complement for the tasks, supplementing with short-term and/or seconded personnel as appropriate, especially after departure of the USAID-funded personnel. There is a need to identify a successor organisation and to design an appropriate transition plan. Personnel from the successor organisation may be seconded to the MIU to gain experience and to replace expatriate staff. This may be the responsibility of a Board Sub-committee on human resources.

**PROGRESS REPORT
1 OCTOBER 1999 TO
31 DECEMBER 1999**

(Financials to be distributed at Board Meeting)

HIGHLIGHTS OF THE QUARTER

➤ **GJMC Rand Airport**

On 17 January 2000, the GJMC announced the sale of Rand Airport to the Rand Operators' Association Pty Ltd, for R18 million. The association comprises 24 tenants of the airport (50% ownership), the Germiston Council (20%), and empowerment group Mayondi (30%).

The winning bidder has agreed to meet all GJMC bid requirements, including the protection of municipal jobs, promotion of airport business, protection of all current tenants, and improved utilisation of the attached property.

Rand Airport is an R8 million-a-year business, employing 58 staff. It currently registers operating losses of about R300,000 per year, and for a number of years has been unable to finance any capital investment to improve the capacity of the airport. These problems with the airport led GJMC officials to approach MIIU for assistance in September of 1998. In addition to grant funding that helped support feasibility study work, bid document preparation, pre-qualification, and final negotiations, MIIU prepared scopes of work for consultants, draft contracts for all technical and legal advisors, and provided quality control of all consultant products. MIIU's role was especially important in helping the city choose among PPP options.

➤ **GJMC Metro Gas**

In late November 1999, the GJMC announced a preferred bidder for Metro Gas, the municipal gas distribution business that serves approximately 15,000 business and residential customers in the metropolitan area. The preferred bidder is the Egoli Gas Consortium, led by Synergy Global Power, an international gas production, transmission, and distribution company, headquartered in the U.S. Synergy's partners include South African empowerment companies High Beam Gas, Makhosi, Pulamadiboho Investments, and Meragfe Investments. The bid for Metro Gas was R110 million.

Metro Gas is being sold because the city views it as a non-core function that loses considerable amounts of money annually. Because of budget constraints, the city has deferred capital investment and major repairs for years—a factor in the rapid increase in "unaccounted for gas," which has seriously undercut revenue-generation. Many of the underground pipes are over 90 years old.

GJMC asked MIIU for help with Metro Gas in mid-1998, making it one of MIIU's first projects. MIIU has provided grant funds and MIIU staff have assisted with technical advice through all phases of the project, from feasibility assessment, pre-qualification, bid document packaging,

contract drafting, preferred bidder selection, and contract negotiation. In early December 1999, the preferred bidder returned a "marked-up" contract of sale to the city, which indicated the various conditions under which they were willing to conclude the deal. Since that time, GJMC, assisted by MIIU, has been engaged in intense discussion to finalise the document. Because of complex land transfer and environmental clean-up issues, the final contract may not be signed until April 2000, but the preferred bidder has already deposited with the city a "performance guarantee" in the amount of 1% of the sale price to establish good faith in the negotiations.

For most of the last 18 months, Metro Gas was the most advanced of GJMC PPP projects. Among other things, it meant that Metro Gas was the pioneer project in terms of forcing council consideration and approval of the various elements of a successful PPP deal, including procedures for pre-qualification, proposal evaluation criteria and weightings, procedures for public meetings with stakeholders, and even the wording of newspaper announcements. MIIU assistance has included reports and memos to the various council committees, meetings with senior GJMC politicians and management, and constant capacity-building for mid-level officials forced to champion the process.

Harrismith Water and Sanitation

As the Harrismith project nears deal closure, it has developed into one of the MIIU's most innovative attempts to help weak municipalities deal with problems in the delivery of essential services to citizens. By mid-1999 an MIIU co-financed feasibility study had confirmed that without radical change, the water and sanitation system in Harrismith would soon begin an overall rapid decline in the quality and levels of service. The system was already experiencing problems with revenue performance, and it would require major capital investment within a few years. The city's capacity to borrow capital to pay for needed improvements has been declining for years.

A natural solution to these problems would have been a long-term concession contract, but MIIU and Harrismith's consultants realised that town officials lacked the technical capacity and political will to carry through such an arduous process to a successful conclusion. Instead, MIIU recommended a "phased" approach, with the city entering into a three-year management contract first to improve operations, address revenue performance, and begin the collection of data needed to initiate a full-fledged concession contracting process. A three-year arrangement would also help city officials become much more acquainted and comfortable with the concept of "contracting out" city services. Local union officials have agreed to the idea of an interim management contract and have actively participated in the planning and negotiating of the deal.

In the process of exploring market interest in such an arrangement, Rand Water made an unsolicited proposal that qualifies under MIU's Board-approved procurement policy for consideration in terms of a sole-source contract appointment. Rand Water proposed to operate Harrismith's water and sanitation system for three years at cost (based on fixed direct costs associated with Rand Water personnel). At the end of three years Rand Water guarantees to give back to the city a fully ring-fenced, corporatised utility, plus all the operating data necessary for the preparation of bid documents to be used in competitive selection of a long-term concession contractor. Rand Water will be permitted to bid for the long-term concession, but its information reporting requirements--as stipulated in the management contract drafted with MIU assistance--should guarantee that the city will have enough information on operations to insure a fully competitive concession contracting process. In addition, the management contract will include no confidentiality clauses with regard to Rand Water information on system operations.

MIU helped draft a memorandum of understanding signed by Rand Water and Harrismith in early December 1999, committing each side to negotiate a performance-based management contract drafted with MIU assistance, and allows the council to test the unsolicited proposal in the market place to determine if better offers are available. (Most competitors however seem content to wait for the concession contract competition in three years.) The management contract is expected to be signed by 1 April 2000. This will most likely be the first public-public partnership facilitated by MIU.

➤ **Eastern Cape Municipal Support Services**

The Presidential Project Team created to assist local governments in the Eastern Cape has established a computerised customer information system that links 18 Eastern Cape towns to a computer mainframe located in East London. The system integrates billing and other consumer information to provide the towns with a comprehensive, computerised approach to billing and collections, service level monitoring, as well as a capability for quick response to customer queries. Such capabilities represent a huge advance in a province where many towns are still using manual systems for these tasks. The computer system is managed by a Sect. 21 company, known as Eastern Cape Municipal Support Services (ECMSS), created and owned by an initial group of system clients, but the Presidential Project Team still provides overall guidance and direction to ECMSS.

A small MIU grant helped contribute to an initial study in 1999 to examine ways of engaging a private partner in the management and delivery of key ECMSS services, to help ensure that ECMSS is fully institutionalised and sustainable after the Presidential Project Team phases out its assistance work to ECMSS in early 2000.

Additional MIIU funding has helped ECMSS select a private partner, PSU International, and finalise a management contract, initially conceptualised and drafted by MIIU staff, which establishes a quasi-joint venture relationship between the two partners, with profit sharing, and other special incentives to help motivate the private partner, but without any of the usual joint venture risks accruing to ECMSS. A final version of the contract has been tentatively agreed to by the management of both organisations, and awaits approval by their respective boards. The contract is expected to be signed early in February.

➤ **Richards Bay Airport**

Richards Bay has an airport that operates at a annual loss of approximately R1 million. The city wants it to remain a functioning airport, but prefers that city taxpayers no longer support the airport's deficits. The city recognises that the airport needs some capital investment to develop and perhaps expand airport operations. They would like to receive some operating income from the airport, if only to help pay for loans taken out by the city over the last decade to build and expand the airport.

Beginning in late 1998, a comprehensive feasibility assessment process was undertaken, with MIIU assistance, to determine which PPP option best suited the Richards Bay situation. Based on an extensive review of city needs and market preferences, it was concluded in mid-1999 that a concession contract with a private partner offered the best hope of a successful deal in the interests of the council. Under a concession the city will maintain ownership, and could perhaps sell the airport later at a better price.

A preferred bidder, Black & Veatch and local partner Sirius Development Foundation, was announced in November 1999. The winning proposal commits to taking over all city loans for the airport, plus pay the city a modest annual concession fee. The airport has no permanent municipal employees, so labour issues are not problematic. A draft concession contract has been prepared, based in part on MIIU lessons learned from concessions negotiated in Nelspruit and Dolphin Coast. Negotiations are underway. The transaction team sees no major obstacles to contract signing, and expects a contract to be agreed to by late February, with council approval to follow in March.

➤ **MIIU - WRc Concession Contract Workshops**

In early December 1999, MIIU arranged for financial assistance from British Trade International to pay for the services of internationally recognised expert on PPP contracting, Mr. David Milnes, of WRc, England. Milnes' brief was to do a page-by-page assessment of the concession contracts and RFPs used in the Nelspruit and Dolphin Coast concession projects, then share his findings with MIIU and other invited

parties in a series of workshops that took place in Midrand on December 6 and 7.

MIIU carried out a formal, competitive procurement process to select Milnes, and reviewed over a dozen CVs before a choice was made. Milnes is the senior international water sector PPP expert in WRc, International, now a private consulting firm that is highly respected world-wide. Milnes has 26 years experience in the water sector, including extensive experience in water utility management, as well as experience on both sides of the PPP negotiating table. He has negotiated PPP contracts and managed PPP projects in an unusually large number of countries, in both the developed as well as the developing world, and therefore possessed a considerable amount of "best practice" experience to share with MIIU and its guest.

Milnes' presentations to MIIU included a lively session with the consultants and public officials actually involved in both the Dolphin Coast and Nelspruit, concession projects. It was the first time such a group had ever been assembled, and all participants agreed that such a private discussion of strengths and weakness of those processes was particularly enlightening. Milnes later gave a public address at DBSA, which was attended by a capacity crowd of water industry participants, financial sector representatives, as well as officials from national-level departments such as DWAF.

Milnes is completing his assignment for MIIU with an effort to draft key sections of a state-of-the-art model concession contract that MIIU has agreed to supply to DWAF for use in municipalities nation-wide.

**PROGRESS REPORT FOR THE PERIOD
1 OCTOBER 1999 TO 31 DECEMBER 1999**

1. ADMINISTRATIVE MATTERS

- **Selection of Board Chairperson and Deputy Chairperson**
Ms Marlene Hesketh and Mr Mike Madlala were elected Chairperson and Deputy Chairperson of the MIIU Board of Directors, respectively at the Board of Directors meeting of 19 November 1999.

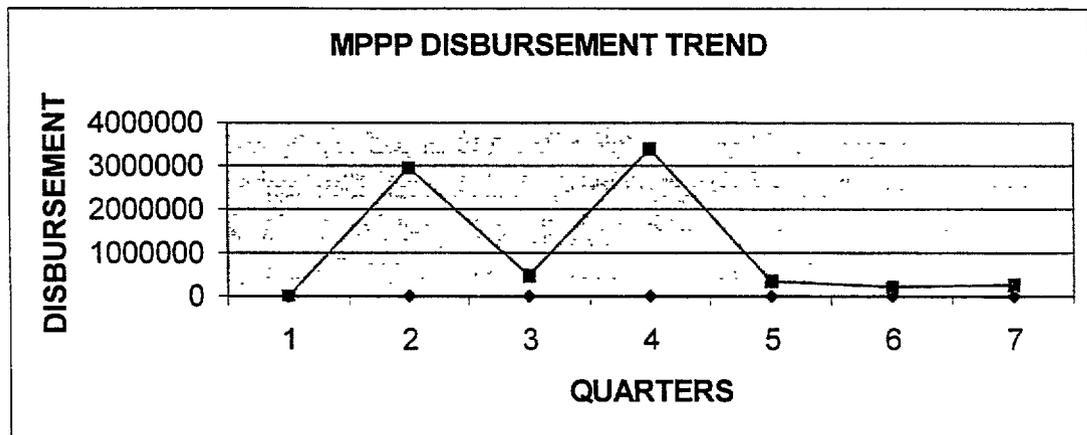
2. PROJECT STATUS

MPPP Projects

The MPPP funds transferred to the MIIU are coming to conclusion as most of the projects have advanced through the project cycle and have received further funding from the MIIU's Project Preparation Fund. This is reflected in the disbursement chart below which shows a continued decline in disbursement of MPPP funds.

Disbursements:

As at 31 December 1999, 71% of MPPP funds transferred to the MIIU were disbursed. The Nkadimeng rural water supply scheme was responsible for the R249, 694 disbursed in the last quarter.



The remaining 29% of the funds are either balances from projects that are not proceeding further with MSP investigations, or the projects have become dormant.

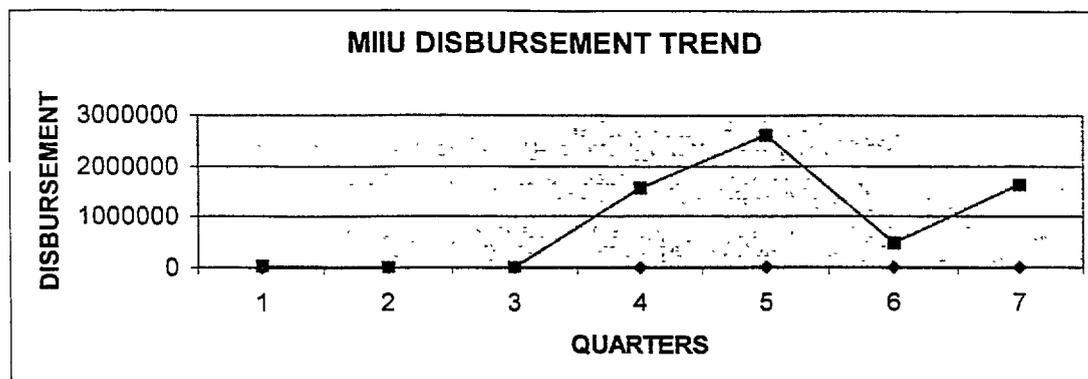
MIIU Projects

The MIIU project pipeline is continuing to grow and mature. Follo-up is beeing made resulting calls of interest from municipalities such as Hangklip-Kleinmond, Ceres, Kingwilliamstown and Kimberely. On the

more advanced projects, preferred bidders were selected for the projects; Johannesburg Metro Gas, the Rand Airport and the Pretoria West Power Station. The GJMC power plants have also moved into bidding, while the Stanger and Tzaneen solid waste projects have moved further towards project preparation.

Disbursements:

Disbursements in the quarter increased significantly as several project



feasibility studies were completed, and municipalities were seeking further funding for project preparation. The projects include the Greater Thohoyandou, West Coast and Queenstown solid waste projects. The high disbursement rate is also due to a few projects in preparation that are close to finalisation. These include the GJMC power generation, Airport, Eastern Cape regional IT, and the Margate sanitation and airport.

The PPU expects disbursement to continue increasing until towards the end of the year when local government elections are to take place.

3. FINANCIAL AND BUDGETARY MATTERS

➤ USAID Contribution to the Project Preparation Fund

On July 6, 1998, USAID South Africa entered into a Fixed Amount Reimbursement Agreement (FARA No.1) with the MIIU to provide financial resources totalling US \$800,00 (South African Rand 4,000,000). This amount was to be utilised in support of the following MIIU activities:

- * Diagnostic/marketing assessments;
- * Feasibility studies; and
- * Project preparation packages

In November 1999, the USAID South Africa, reimbursed the MIIU a total amount of R3 100 000 as per this agreement.

It should be noted that the USAID allocated an additional US \$500 000 to the MIIU in 1999. A formal amendment of the FARA No.1 is underway, and will be concluded in the next quarter.

4. **MARKETING AND PUBLICITY**

➤ **Workshops and Seminars**

- Barry Jackson gave a paper at the CEAC (Civil Engineering Advisory Council) conference "PPPs for 2000 and beyond".
- Barry Jackson represented the MIIU at a workshop convened by DCD on regulations for tariff structures that will follow the Municipal Systems Bill.
- The CEO and Barry Jackson attended part of a conference on "Financing Community Water Supplies and Sanitation" for East and Southern Africa (World Bank, UNDP, UNICEF, SA Government) in White River. Barry Jackson gave a paper and the CEO chaired a session.
- James Leigland and the CEO shared MIIU experiences with officials from Zimbabwe municipalities on a USAID sponsored study tour.
- The CEO addressed the October SCMB PPPs in the water sector conference in Johannesburg.
- In November, the CEO was a respondent to papers presented at the DBSA's workshop on Infrastructure Finance and the African Renaissance.
- The CEO addressed the launch in December of the Development South Africa Journal focussing on Municipal PPPs
- Several PPU staff members attended a reception for British firms in the water and sanitation sector, and the Consul General's residence in Johannesburg.

➤ **Institutions that interacted with the PPU**

- Operators General Des Eaux
 Severn Trent
 PSU (Revenue management company)
 WSSA
- Water Boards Rand Water
- Advisors Ebony Financial Services
 IFC, Southern Africa
 Halcrow
 Halliburton Brown and Root
 Argil financial services
 Stewart Scott Inc.

- Other
 - French Trade
 - Sports for All
 - British Trade (Sir Martin Laing)
 - French Trade
 - Zimbabwean delegation of municipalities
 - Ugandan delegation of municipalities
 - Bambamanzi (equipment suppliers)

5. STRATEGIC AND POLICY ISSUES – INTERNAL

➤ Proposed quarterly meetings with SALGA

Representatives of the SALGA met with the PPU in December to structure a closer working relationship between SALGA and the MIIU. A decision was made to hold quarterly meetings where policy issues and project experiences will be shared.

➤ ISWIP

As part of the preliminary work in Uthukela Umzinyathi, a meeting was held on 7 December 1999 with the local project working group, DCD, DWAF and the MIIU (MH and JD). The purpose of the meeting was to introduce a proposed strategy for the Uthukela and Umzinyathi regional councils to combine their resources into forming a joint inter-jurisdictional municipal service district for water service delivery. From the MIIU perspective we are striving for joint co-operation between the DWAF funded ISWIP program and the project's request for our assistance. To date the ISWIP program has not recognized this joint effort. The meeting was successful in getting all parties to agree to support the joint effort in principal but fell short of a strong directive to allow the ISWIP funds to be directed toward the joint effort. A follow-up workshop is scheduled for 16 February 2000 in Ladysmith to pursue this matter further.

6. STRATEGIC AND POLICY ISSUES – EXTERNAL

➤ Municipal Systems Bill

The version of the Municipal Systems Bill published in the 6 August 1999 *Government Gazette* has been amended in several particulars as disclosed by the 20 January 2000 draft recently reviewed by PPU staff. They include:

- Defining a "service utility" as a separate, municipal juristic person providing a municipal service via a service delivery agreement, and authorising a municipality to contract with a service utility for the provision of municipal services.

- Deleting the requirement that the Integrated Development Plan (IDP) must specify any service delivery agreement being contemplated.
- Changing the phrase "private sector business enterprise" the name previously used to denote a private sector service provider, to "any other person legally competent to operate a business activity."
- Requiring the selection of a service delivery mechanism that will be equitable, accessible, and financially and environmentally sustainable instead of a detailed cost-benefit analysis.
- Permitting direct negotiations between a municipality and a Municipal Business Enterprise, service utility, another municipality or a national or provincial of state, but requiring competitive bidding for the provision of a municipal service by any other entity.
- Maintaining the authority to delegate the collection of service fees from users, but deleting the previously-articulated authority to delegate the power to "impose" tariffs.
- Deleting the prohibition against amending competitively-bid contracts for reasons other than "unforeseen circumstances", requiring only that all amendments be adopted after notice and hearing.
- Deleting the requirement that there be pre-qualifying in all cases of competitive tender.
- Allowing a Cabinet member, after consulting the Minister of Provincial and Local Government, to establish "essential national standards and minimum standards for any municipal service" in the Cabinet Minister's functional area.
- Granting an extremely broad authority to enact regulations and guidelines, but requiring that all draft regulations and guidelines be published in the *Government Gazette* for public comment before enactment.
- Allowing the Minister to determine that certain provisions of the Act do not apply to specified municipalities before a certain date.

In sum, the comments of the MIU with regard to the undue amendment restriction on parties to a competitively-bid contract appear to have been accepted as well as those counselling against mandatory pre-qualification. However, the broadening of the types of entities with whom a municipality may negotiate direct service provision contracts is

worrisome. The requirement that all guidelines and regulations be published in the *Government Gazette* is a positive step.

Assuming that the authority to delegate collection responsibility is not diluted by the deletion of the authority to delegate the imposition of tariffs, the Bill continues to merit MIIU support.

➤ **Regulations of the WSA**

Section 19(5) of the Water Services Act, 1997, allows the Minister of the Department of Water Affairs and Forestry (DWAf), after consultation with the Minister of Provincial and Local Government, to prescribe matters which must be regulated by a contract between a water services provider and a water services authority, including compulsory provisions to be included in such contract. Pursuant to this authority, DWAf have prepared draft Section 19(5) regulations, met with PPU staff, received PPU comments, and issued another set of draft regulations, dated 14 January 2000, for further comment.

The regulations are, for the most part, straightforward and non-controversial, prescribing that certain provisions appear in contracts for the provision of water services without dictating the contents of those provisions. It is noteworthy that these provisions would apparently apply to contracts with water services providers that are not private sector entities such as water boards.

These latest draft regulations add a classification mechanism for water services contracts that, depending upon the services provided, duration of the contract, number of consumers served, and total annual value of the contract, require compliance with some, or all of the regulations. Most of the contracts that might arise from pending MIIU water and sanitation projects would require compliance with all of the regulations.

The one troublesome provision in the draft is §3.4 stating the contract must provide that the structure of the tariffs will be in accordance with the norms and standards promulgated by the Minister. §10(2)(b) and (c) of the Act allow the Minister to promulgate norms and standards for tariffs that place limitations on surplus or profit, or on the use of income generated by the recovery of charges. This possibility is preventing many South African financial institutions from participating in water services concessions. They fear that a norm and standard in respect of a tariff placing limitations on profit or the use of income generated by the recovery of charges, adopted by a Minister subsequent to the execution of a long-term concession contract, will render the debt servicing supported by the tariffs inadequate. The PPU suggested to DWAf that the regulation be re-written to require only compliance with such norms and standards in respect of tariffs placing limitations on profits or the use of income as they existed on the date the contract was executed. Our suggestion was not reflected in the latest draft.

One positive note with regard to our interaction with DWAF in this regard, the previous draft contained severe restrictions on the ability of the parties to modify or adjust tariffs. We suggested such restrictions were inappropriate, and this draft only requires that a contract provide for the periodic review of tariffs at regular intervals based upon a predetermined, clear and specific formula.

➤ **CBO/Community based partnerships**

The Deputy President's Office in the national government launched a Community public private partnership programme with the following mandate:

- To develop a conceptual framework with the focus on
 - Legislative/regulatory framework
 - Enabling conditions for CPPPs
 - Institutional framework
- To develop and promote models of sustainable resources
 - Linking partnerships in conservation with economic empowerment and sustainable job creation
- To develop bankable CPPP models (ownership, management, operations and maintenance)
 - Project packaging
 - Financial structure/modelling
 - Markets
 - Project finance
- To identify related support programmes
 - Facilitation and management
 - Training
 - Financial services
 - Feasibility studies/Scoping

An interdepartmental steering committee has been established made up of departments of Trade and Industry (SDI), Environment and Tourism (Bio-diversity), Agriculture (Land Care), DWAF (Forestry and conservation), IUCN.

Comment: The institutional arrangements arising out of this arrangement may be useful for the Department of Provincial and Local Government's initiatives to find an appropriate home for community based partnerships.

6. ANNEXURES

- A – MPPP Project Status
- B – MIIU Project Status
- C – Geographic and Sector Distribution of Projects
- D – Financial Statements (to be distributed at meeting)

EXPRESSIONS OF INTEREST as at 31 DECEMBER 1999

No.	LOCAL AUTHORITY	SECTOR	PROVINCE
1.	Bloemfontein	Water/sanit	Free State
2.	Uthukela/Umzinyathi	Water/sanit	Kwazulu/Natal
3.	Richards Bay	Solid waste	Kwazulu/Natal
4.	Kimberley	Resorts	Northern Cape
5.	DME Uthungulu	Non Grid	Kwazulu/Natal
6.	King Williamstown	Waste water	Eastern Cape
7.	Bergville TLC	Waste water	Kwazulu/Natal
8.	GJMC-Jhb	Zoo	Gauteng
9.	Ceres	Bulk water	Western Cape
10.	Wolseley	Solid waste	Western Cape
11.	Klerksdorp	Water	Northern Province
12.	GJMC-Jhb	Water /sanit	Gauteng
13.	Hangklip -Kleinmond	Water/sanit/waste	Western Cape
14.	Masabe - Mashashane	Water	Northern Province
15.	Hangklip -Kleinmond	Caravan Park	Western Cape

PROJECTS IN NEGOTIATION as at 31 DECEMBER 1999

No.	LOCAL AUTHORITY	SECTOR	PROVINCE	ENVISAGED	CONSULTANTS
1.	Nkadimeng	Rural water supply	Northern Province	CNTR. TYPE	Consortium-Africon
2.	Harrismith	Water/sanit	Kwazulu/Natal	Mngmt contr.	Black & Veatch/Palmer
3.	GJMC - Jnb	Metro Gas	Gauteng	Sale	Fieldstone
4.	Richards Bay	Airport	Kwazulu/Natal	Concession/Sale	P/waterhouse/Coopers
5.	East Cape	Regional IT	Eastern Cape	Mngmt contr.	Black&Veatch
6.	GJMC	Airport	Gauteng	Sale	Khuthele

CONTRACTS CLOSED as at 31 DECEMBER 1999

NO.	LOCAL AUTHORITY	SECTOR	PROVINCE	CONTRACT TYPE	CONCESSIONAIRE	CONTRACT PERIOD
1.	Dolphin Coast	Water/sanit	KN	Concession	Siza Water Co./SAUR	30 years
2.	Nelspruit	Water/sanit	MP	Concession	GNUC/Biwater	30 years

PROJECTS WITHDRAWN AS AT 31 DECEMBER 1999

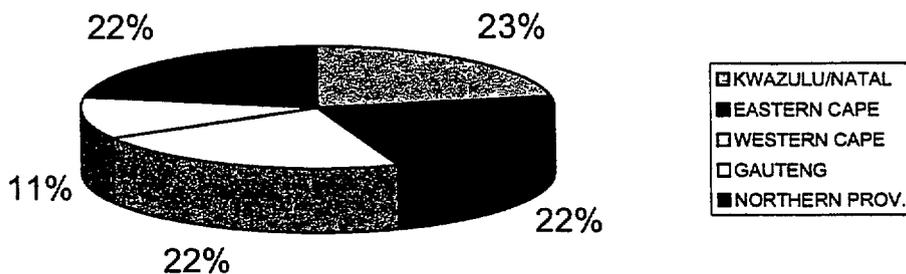
No.	LOCAL AUTHORITY	SECTOR	PROVINCE	REASON OF WITHDRAWAL
1.	GJMC - Jnb	Unacc.for water	Gauteng	Council decided not to go ahead with project
2.	Lambert's Bay	Harbour & prec.	Western Cape	MIU cannot proceed until MSP element is realised

CONTRACTS SIGNED as at 31 DECEMBER 1999

NO.	LOCAL AUTHORITY	SECTOR	PROVINCE	CONTRACT TYPE	CONCESSIONAIRE	CONTRACT PERIOD
1.	Nelspruit	Water/sanit	MP	Concession	GNUC/Biwater	30 years

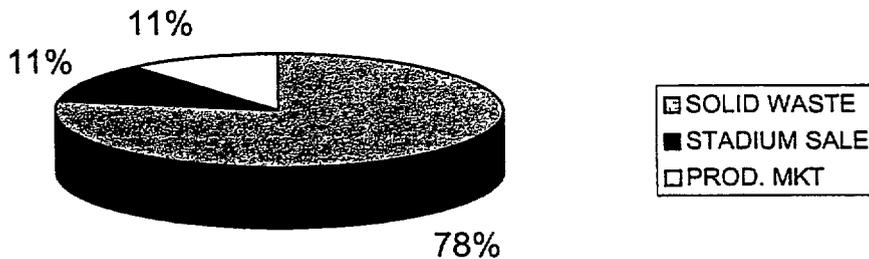
KWAZULU/NATAL	22%
EASTERN CAPE	22%
WESTERN CAPE	22%
GAUTENG	11%
NORTHERN PROV.	22%

PROJECT IN FEASIBILITY STUDY PHASE - FEASIBILITY STUDY UNDERWAY- BY PROVINCE



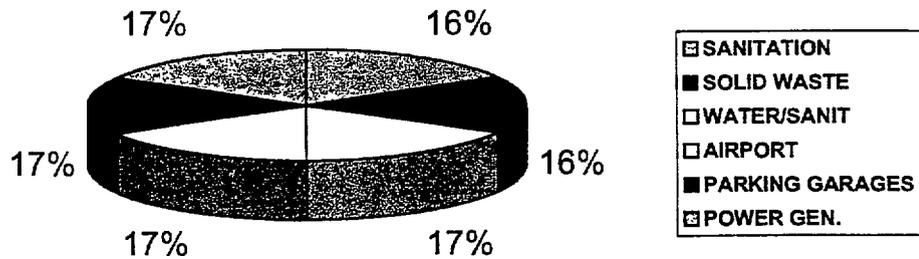
SOLID WASTE	78%
STADIUM SALE	11%
PROD. MKT	11%

PROJECTS IN FEASIBILITY STUDY PHASE BY SECTOR - FEASIBILITY STUDIES UNDERWAY



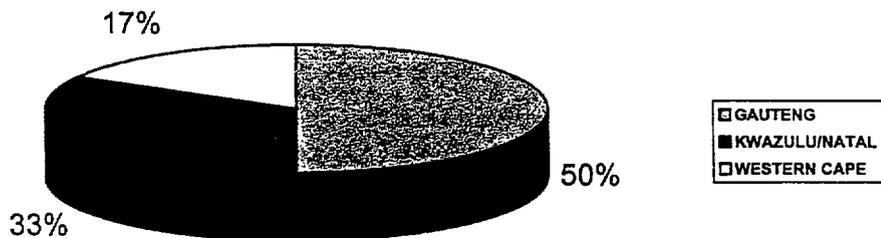
SANITATION	17%
SOLID WASTE	17%
WATER/SANIT	17%
AIRPORT	17%
PARKING GARAGES	17%
POWER GEN.	17%

PROJECTS IN PREPARATION PHASE BY SECTOR



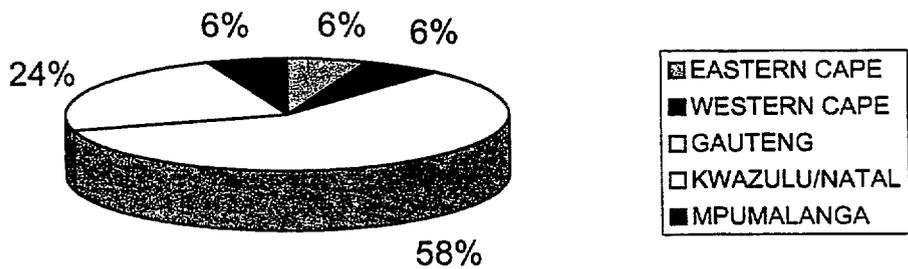
GAUTENG	50%
KWAZULU/NATAL	33%
WESTERN CAPE	17%

PROJECTS IN PREPARATION PHASE BY PROVINCE



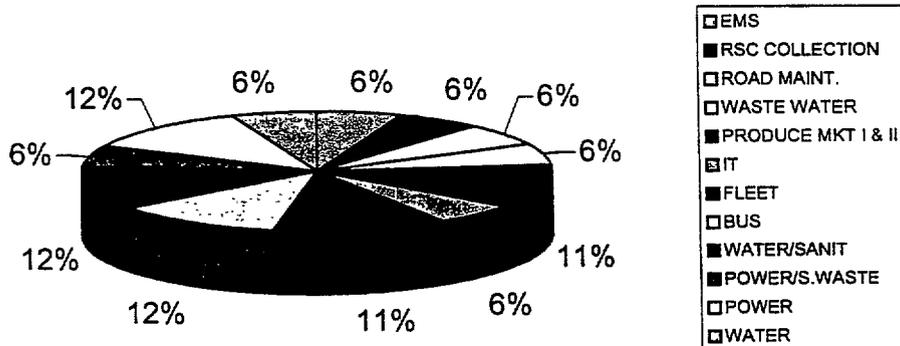
EASTERN CAPE	6%
WESTERN CAPE	6%
GAUTENG	59%
KWAZULU/NATAL	24%
MPUMALANGA	6%

PROJECT IN FEASIBILITY PHASE - FEASIBILITY STUDIES COMPLETE

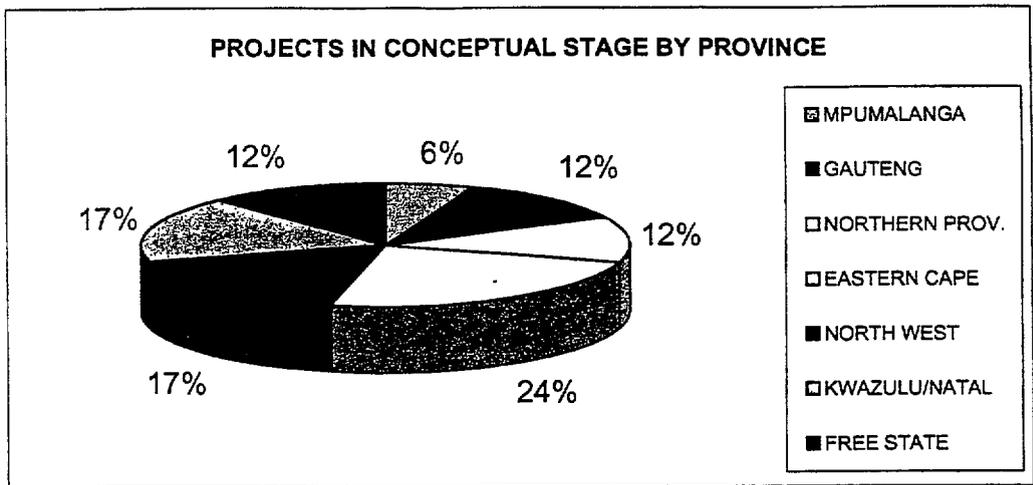


EMS	6%
RSC COLLECTION	6%
ROAD MAINT.	6%
WASTE WATER	6%
PRODUCE MKT I & I	12%
IT	6%
FLEET	12%
BUS	12%
WATER/SANIT	12%
POWER/S.WASTE	6%
POWER	12%
WATER	6%

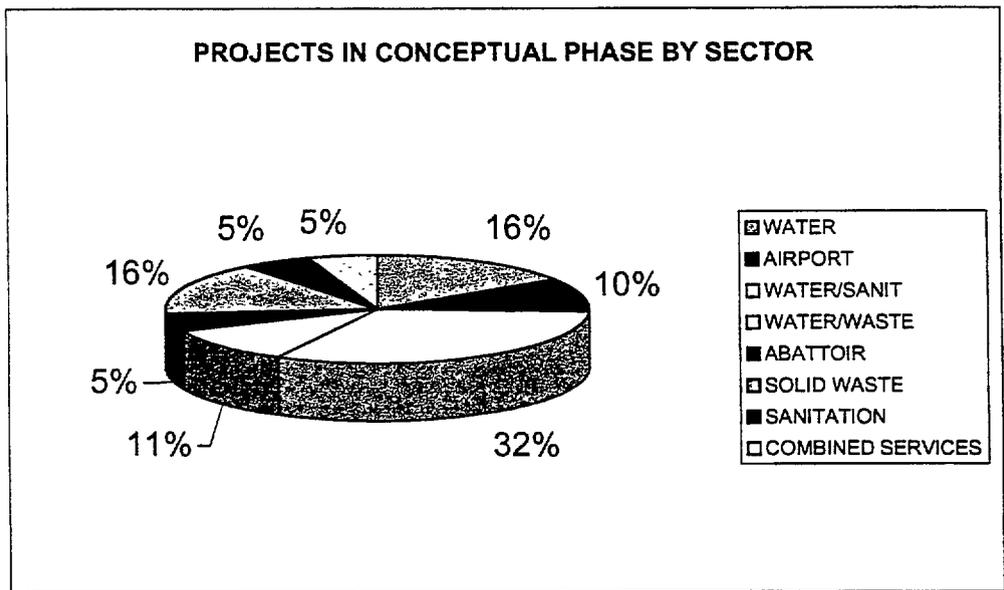
PROJECTS IN FEASIBILITY PHASE - FEASIBILITY STUDIES COMPLETE



MPUMALANGA	6%
GAUTENG	12%
NORTHERN PROV.	12%
EASTERN CAPE	24%
NORTH WEST	17%
KWAZULU/NATAL	17%
FREE STATE	12%



WATER	18%
AIRPORT	11%
WATER/SANIT	35%
WATER/WASTE	12%
ABATTOIR	6%
SOLID WASTE	18%
SANITATION	6%
COMBINED SERVIC	6%



45

B. FEASIBILITY STUDIES COMPLETED											
1.	SMLC	Solid waste	GA	50,000	50,000					50,000	
1.	Port Elizabeth	Water/sanit	EC	100,000						-	
2.	Johannesburg Metro	Fleet	GA	243,000			213,600			213,600	
3.	Johannesburg Metro	IT	GA	1,120,000			967,250	76,380		1,043,630	
4.	Johannesburg Metro	Bus	GA	296,000			296,000			296,000	
5.	Johannesburg Metro	Prod. Mkt	GA	200,000				236,800		236,800	
6.	Cape Town	Power/SW	WC	160,000				160,000		160,000	
7.	Johannesburg Metro	Power	GA	240,000			240,000			240,000	
8.	Pretoria	Power	GA	300,000				180,000		180,000	
9.	Richards Bay	Water	KN	100,000				80,131		80,131	
10.	Richards Bay	Wastewater	KN	200,000			79,370	24,858		104,228	
11.	Lowveld RDC	RSC Collection	MP	243,000						-	
12.	Margate	Road Maint.	KN	296,000						-	
13.	Johannesburg Metro	EMS	GA	95,389			20,611			20,611	
14.	Stanger	Water/sanit	KN	200,000						-	
15.	Johannesburg Metro	Fleet (PII)	GA	490,000						-	
16.	Johannesburg Metro	Bus (PII)	GA	443,800						-	
17.	Johannesburg Metro	Prod. Mkt (PII)	GA	350,000						-	
TOTAL:				5,127,189	50,000	-	-	1,816,831	240,131	518,038	2,625,000

PROJECTS IN PREPARATION PHASE as at 31 DECEMBER 1999											
1.	Plett Bay	Water/sanit	WC							-	
2.	WMLC	Solid Waste	GA							90,000	
3.	Margate	Airport	KN						90,000	136,200	
4.	Margate	Sanit	KN						136,200	136,200	
5.	GJMC - Jhb	Transport	GA							81,600	
6.	GJMC - Jhb	Power gen.	GA	200,000					81,600	81,600	
TOTAL:				200,000	0	0	0	0	0	307,800	307,800

PROJECTS IN NEGOTIATION as at 31 DECEMBER 1999

1.	Nkadmeng	Rural water suppl	NP									-
2.	Harrismith	Water/sanit	KN						98,934	58,094		157,027
3.	GJMC - Jnb	Metro Gas	GA			50,000	-					50,000
4.	Richards Bay	Airport	KN				600,000					600,000
5.	East Cape	Regional IT	EC							76,380		76,380
6.	GJMC	Airport	GA				208,000			144,887		352,887
				0	0	0	50000	808000	98933.68	279360.54		1236294.22

PROJECTS WITHDRAWN AS AT 31 DECEMBER 1999

1.	GJMC - Jnb	Unacc.for water	GA							33,918		33,918
2.	Lambert's Bay	Harbour & prec.	WC							30,000		30,000
				0	0	0	0	0	0	63,918		63,918

CONTRACTS COMPLETED as at 31 DECEMBER 1999

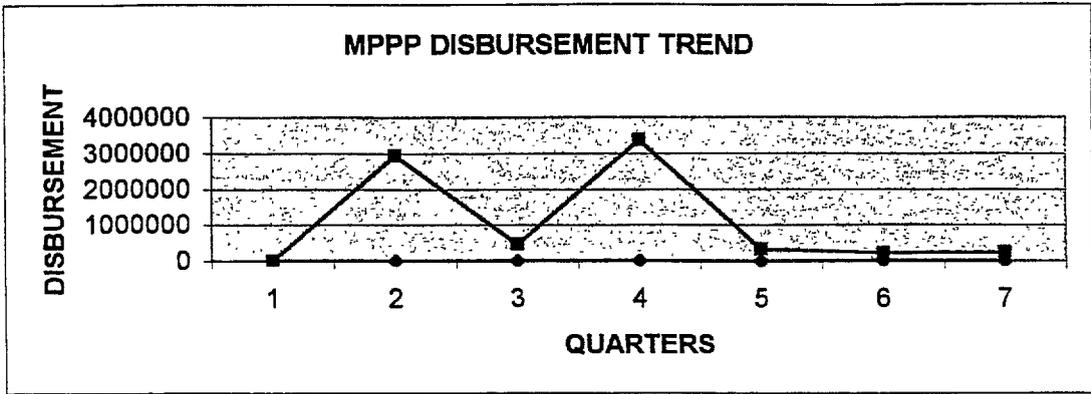
1.	Nelspruit	Water/sanit	MP				635,244					635,244
2.	Dolphin Coast	Water/sanit	KN				884,337					884,337
	TOTAL			-	-	-	1,519,581	-	-	-	-	1,519,581

TOTAL: PIPELINE	50,000	-	1,569,581	2,624,831	497,209	1,635,611	6,377,232
	1%	0%	25%	41%	8%	26%	100%

48

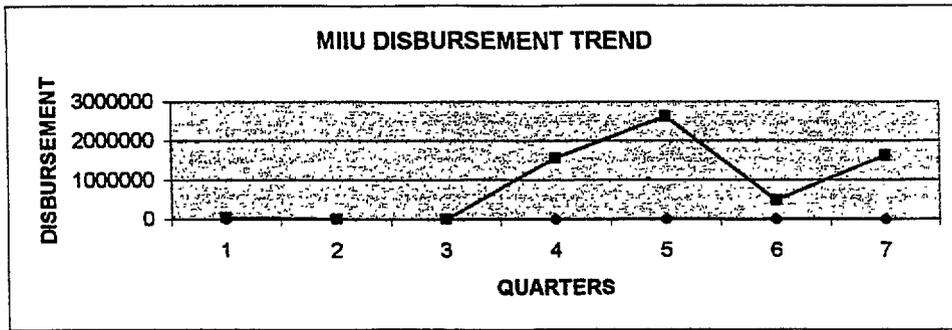
DISBURSEMENT BY QUARTER SINCE INCEPTION - MPPP

QUARTER	Disbursements
1	-
2	2,952,779
3	461,126
4	3,381,364
5	330,880
6	218,434
7	249,649
TOTAL	7,594,232



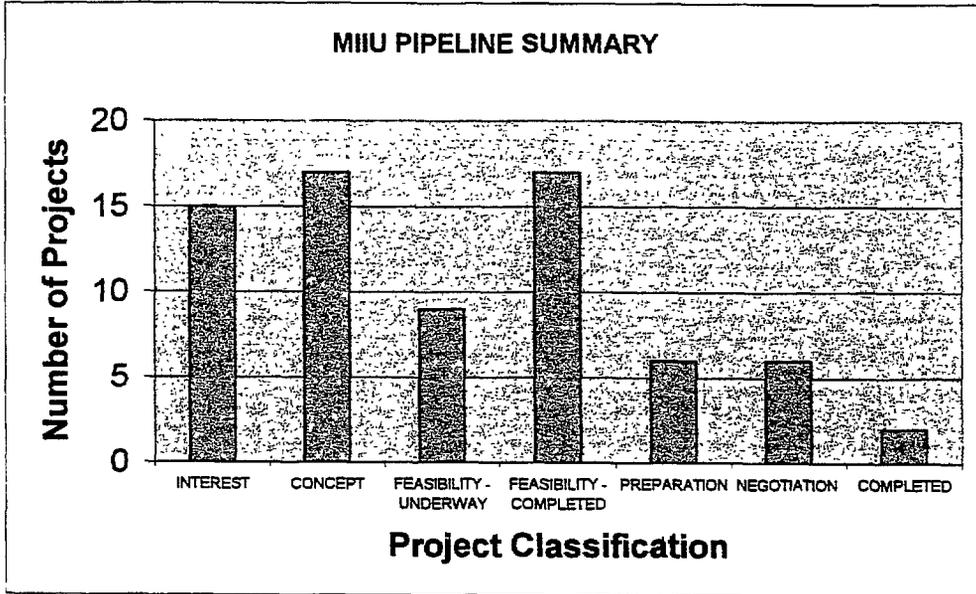
DISBURSEMENT BY QUARTER SINCE INCEPTION - MIIU PIPELINE

QUARTER	Disbursements
1	50,000
2	-
3	-
4	1,569,581
5	2,624,831
6	497,209
7	1,635,611
TOTAL	6,377,232



MIU PIPELINE SUMMARY

Project Classification	
INTEREST	15
CONCEPT	17
FEASIBILITY - UNDERWAY	9
FEASIBILITY - COMPLETED	17
PREPARATION	6
NEGOTIATION	6
COMPLETED	2



MPPP PROGRAMME - as at 31 December 1999

City	Type of Project Sector	Consultants Contract	MPPP Grant Approved	Disbursed by DCD	Transferred to MIU	Actual disbursements				Disbursement		Balance Remaining	disbursement		Status and comments
						Apr 98 - Mar 99	Apr - Jun 1999	Jul - Sep 1999	Oct - Dec 1999	MIU to date	Jan-Mar 00		Apr-Jun 00		
1	Nkandimeng Water supply	TBD	ENRO Water Co 1	250,000		250,000	-	-		249,849	249,849	351			Negotiations underway
2	Port Elizabeth Water/sanit	TBD	BKS Consortium	1,000,000	55,588	844,434	364,845	-	9,170		373,815	570,819	300,000	270,819	FS evaluated decision - consultants awaiting further instruction from PEM
3	Stanger Solid waste	TBD	Lombard & Ass/DBSA	505,000		505,000	-	-	132,330		132,330	372,670			P1 complete - Issuance of tender Docs. for P2 underway under MIU
4	Bloemfontein Transport	TBD	Buscon Consortium	300,000		300,000	187,289	93,425			280,724	19,276			Feasibility study complete
5	Dolphin Coast Water/sanit	Concessor	DBSA	1,000,000		1,000,000	974,274	-			974,274	25,726			Contract signed 29 Jan. 1999 implementation since 1 Apr 1999
6	JNB Metro 1) Informal trading	TBD	Urban Solutions	500,000	-	500,000	500,000	-			500,000	-			Feasibility study complete. Council considering the findings & next steps
	2) Solid waste	FS	Bohlwekl Env Consort	500,000	-	500,000	278,459	-	78,934		355,393	144,607	73,847	73,847	Feasibility study complete. Awaiting decision to form solid waste utility
7	Lekoa/Vaal Water/sanit	Sect. 21	Booz-Allen	600,000		600,000	600,000	-			600,000	-			Sect. 21 formed; - no more disbursement from programme
8	Nelspruit 1) Water/sanit (PPP)	Concessor	DBSA	2,947,289	2,047,818	899,453	899,453	-			899,453	-			Concess. contract signed 21 Apr. 1999 Financial closure 1 Nov. 1999
	2) Water/sanit (Capex)	Capex only	N/A	5,874,851	3,594,852	2,079,999	1,563,238	-			1,563,238	516,763	258,382	258,381	Tekwane development activities continuing
9	Plettenberg Bay Water/sanit/s waste	TBD	Stewart Scott, Inc	280,000		280,000	280,000	-			280,000	-			Project Prep for 1st stage analysis complete Docs for Pre-qual & RFP
10	Richards Bay Solid waste	TBD	Cathy Lee	451,000	-	451,000	87,524	198,245			293,769	157,231			Transition to MIU
11	Tzaneen Solid waste	TBD	V3 Engineers	275,000		275,000	233,790	41,210			275,000	-			Transition to MIU- no more disbursement from programme
12	Cape Town Water/sanit	TBD	Gibb Africa	672,155	217,155	455,000	-	-			-	-			Dormant - City to implement part of study
13	Durban Waste-to-energy	Concessor	IFC	1,000,000		1,000,000	816,588				816,588	183,412			Dormant - City to decide on how to proceed
14	Khayalami Waste water	Concessor	Boaz-Allen	400,000		400,000					-	400,000			Dormant - project cancelled
15	Kimberley Resorts	TBD		250,000		250,000					-	250,000			Dormant - project cancelled
TOTAL				16,805,275	5,915,389	10,689,886	6,795,286	330,880	218,434	249,849	7,594,230	2,640,858	632,229	802,847	
% of the disbursements against approved grant				100%	36%		64%	3%	2%	2%	71%	25%			

PROPOSED STUDY TOUR

RESUBMISSION OF A PROPOSAL FOR A STUDY TOUR

PPU staff began preparing the motivation for USAID funding of a study tour in March of 1999. The primary motivation for the tour was that because South African PPPs were reaching the contract implementation stage, it would be appropriate to introduce our municipal officials and elected representatives to the PPP regulation techniques that had been implemented in successful PPPs throughout the Southern Hemisphere.

This motivation was presented to USAID and approved. A terms of reference was drawn up, and in September, USAID awarded PADCO, Inc., a task to put the study tour together. The tour envisaged will visit PPPs in Buenos Aires and Mendoza - Argentina, Sao Paulo - Brazil, Santiago - Chile, and Sydney, Brisbane, and Melbourne - Australia. Suitable projects have been identified, and they include water and sanitation and solid waste projects using both concession and BOT contracts. The tour would take fourteen (14) days. The total number of participants would be between ten (10) and fifteen (15). Participants would include elected representatives and officials from South African municipalities with current or soon-to-be-implemented PPPs, selected strategic participants from municipal associations and institutes, and PPU staff.

When it became clear that the tour details could not be finalised to allow its occurrence before the festive season, PADCO were instructed to plan an itinerary for the month of February. Delays in tying down specific project visit dates resulted in a request that the tour occur in March.

During the festive season, the PADCO representative handling the tour arrangements made a trip to South America. Upon her return, on 21 January 2000, she informed us that tour details had been solidified to the point that attendees should be identified, the itinerary finalised, and tickets purchased in order to "lock in" the ticket price.

With municipal elections looming in November, and the current work load of PPU staff, it was determined that a pause should take place to assess the Board's views with regard to the continued usefulness of the study tour and the appropriateness of it occurring prior to the elections. One of the potential consequences of a further delay is an increase in costs of airfares and accommodation that might threaten the current budget for the undertaking.

**ARTICLES ON THE GJMC-MONDI
RECYCLING PLANT**

Mondi boosts recycling and job creation in greater Johannesburg

In the first co-operative venture of its kind in South Africa, the Western Metropolitan Local Council of Greater Johannesburg (WMLC) and Mondi Recycling have established a paper recycling buy-back centre at the old Robertville transfer station in Roodepoort.

"The centre will buy for cash waste paper collected by local hawkers," said Mondi Recycling national marketing and sales manager Mr Peter Hunter. "There are many opportunities for entrepreneurs to make money through the recycling of waste paper. We have guaranteed that we will buy every ton of paper collected, which otherwise would have taken up 3m³ of landfill space."

WMLC executive officer cleansing, Mr Roelf de Beer, said entrepreneurs have to be encouraged to enter the recycling market to create opportunities for other individuals to become self-employed and earn a reasonable living as hawkers.

"This is one of the major benefits of our co-operative venture with Mondi. It is our ultimate aim to create an autonomous black empowerment enterprise with Mondi Recycling," de Beer added. Other benefits expected to arise from the operation of the Robertville buy-back centre are a significant reduction in the overall waste stream, a cleaner environment and an extension of the life of municipal solid waste landfill sites, where waste paper can account for up to one-third of the landfill space.

"It is in the interests of all residents within WMLC boundaries that we collect and recycle as much waste as possible because the cost reduction impacts can be significant, contributing to more cost-effective services to ratepayers," de Beer said.

"The WMLC anticipates recovering more than its investment of capital and



The Robertville waste paper buy-back centre is open for business. With the newly erected signage are (from left): Mr Roelf de Beer (WMLC executive officer cleansing), Mr Peter Hunter (Mondi Recycling marketing and sales manager), Mr Desmond Moloisi (Mondi Recycling small business manager) and Ronnie Recycler.

resources in the project through a reduction in council waste collection and solid waste landfill costs."

An indication of the economic spin-offs from organised recycling is the fact that Mondi Recycling, South Africa's largest recycler of paper, last year paid out more than R9-million to small businesses and hawkers.

"Over the last five years this sector of our business has grown dramatically," said Mr Hunter. "More than 5 000 people are now involved in supplying us with waste paper from their own small collection businesses, or as individual hawkers. "The tonnage of waste paper we are now sourcing from the small business/hawker segment of the market has increased by 190% over the past five years. We are delighted to have been selected by the WMLC as a long-term partner in the Robertville venture."

The Robertville buy-back centre has been completely refurbished. While it has

capacity to sort waste into different grades, most of the waste paper it receives will have been pre-sorted by the hawkers.

Mondi Recycling will be providing a number of specially designed and constructed 'Paperbarrows' to assist hawkers in collecting waste. "We hope this venture will prove so successful that we will soon have to seek out larger premises for the buy-back centre," said Mr Hunter.

De Beer said that in the future the WMLC envisages similar projects to collect and process other recyclable materials, particularly aluminium and steel cans, glass and plastics. The feasibility of establishing a recycling theme park in conjunction with Mondi is also being investigated.

"As far as the current project is concerned, our intention is that in addition to purchasing waste from small businesses and entrepreneurs, we will also co-operate with Mondi Recycling to increase Kerbside Paper Pick-Up collections and establish neighbourhood drop-off centres in the form of collection bins and cages — all designed to increase waste paper collection and reduce the amounts going to landfill sites."

The agreement also provides for the establishment of satellite buy-back centres throughout the WMLC. This will benefit hawkers operating in the WMLC area by reducing the distances they have to travel to sell their waste paper.

Anyone who would like to know more about the WMLC Robertville project and Mondi Recycling's small business programmes and recycling services can call 0800 022 112 (toll-free).

BEST AVAILABLE COPY

Collections to increase weekly

THE frequency of waste paper collection from about 30 000 homes in Roodepoort, serviced by Mondi Recycling Kerbside Paper Pick-up, is to be increased to weekly from the beginning of February.

The areas receiving the service will remain unchanged, and collections will now coincide with municipal refuse removal days.

Mondi Recycling national sales and marketing manager, Peter Hunter, says the new weekly service will make it easier for residents of Roodepoort North and South to remember collection days and participate in waste paper recycling.

"We have the full co-operation of the Western Metropolitan Local Council (WMLC) in increasing the frequency of the service," says Hunter.

"It is part of our joint commitment to maximise the benefits of recycling in the Roodepoort area by reducing the amount of paper going to landfill sites; and encouraging local entrepreneurs to enter the recycling market and create opportunities for other individuals to become self-employed.

"The collections will be carried out by small businesses acting as Mondi Recycling service providers. Their earnings will be based on tonnage collected, and they will use small trucks that clearly identify them as service providers to Mondi Recycling." Ronnie bags, into which unwanted newspapers and magazines can be placed for collection, will

be supplied to all houses in the collection area during this month (January).

Residents should place the bags containing their unwanted paper on the kerbside at the front gate of their home before 8am on collection day. The Ronnie Bag will be emptied by the collection service and returned for re-use. Hunter says residents taking part in the recycling exercise could take pride in the fact that every ton of paper collected - almost 100 Ronnie Bags - and recycled, saves the fibre that would otherwise be obtained from 17 pine trees. Every ton collected also means that three cubic metres of valuable space is left unoccupied in municipal landfill sites, extending the service life of the site.

"If every home in the collection area participates fully in the collection programme, Roodepoort residents could save about 5 000 pine trees every week and 900 cubic metres of landfill space, which over a year would be the equivalent of nine Olympic-size swimming pools," says Hunter, adding that there were other environmental benefits from waste paper recycling. Fibre derived from waste paper can be re-processed using less energy, which, apart from the saving of strategic natural resources, has many other green spin-offs. Residents requiring further information on the weekly collection service can call Mondi Recycling's Kerbside Paper Pick-up Hotline at 0800022112 or the WMLC at 470-3660/3649/3680.

**DRAFT MUNICIPAL SYSTEMS BILL :
WHAT'S NEW**

Comparison of relevant provisions between the 6 August 1999 Gazetted version and the 20 January 2000 version of the Municipal Systems Bill.

6 August 1999 Version	20 January 2000 Version
<p>Chapter 1, Definitions. Defines the terms "cost-benefit", "executive obligation," "legislative authority," "municipal service."</p>	<p>Drops the definitions of "cost-benefit," "executive obligation," "legislative authority," "municipal service." Adds a definition for "labour legislation," Changes the definition of a <i>municipal business enterprise</i> to specify that substantial funding cannot come from a municipal revenue fund or a rate on property, tax, levy, duty, or surcharge on service fees. NB, In the "Sections Amended" portion of the bill, no reference is made to amending or repealing the Promotion of Local Government Affairs Act No. 91 of 1983, which, in §17D thereof, authorises substantially the same type of activity as a municipal business enterprise, but also requires the local authority to "systematically" reduce its shareholding in the company." Changes slightly the definition of "municipality." Defines "national organ of state" and "provincial organ of state" differently. Adds a definition for "ratepayer" that includes a person liable for fees for services provided under a service delivery agreement. Adds a definition for "service authority." Adds a definition for "service utility" – a separate juristic person providing a municipal service via a service delivery agreement. Adds a definition for "stakeholder," that includes a labour organisation. Adds a definition of "structure."</p>
<p>Chapter 2, Legal Nature of Municipalities. §2 defines a municipality, inter alia, as a juristic entity.</p>	<p>Defines a municipality as a corporate entity, among other things. §5 adds "ratepayer" to "residents and communities" in the description of rights and responsibilities.</p>
<p>Chapter 3, Public Participation. Requires participatory governance.</p>	<p>§7. Specifically mentions public participation in the choice of service providers, tariff setting, and credit control policy adoption. §10 requires public notice of regular and special Council meetings "except where time constraints make this impossible" Adds §12 allowing the Minister to enact regulations for public participation.</p>
<p>Chapter 4. Municipal Functions and Powers.</p>	<p>Adds a provision that executive authority includes regulating municipal services</p>

	that are provided by service providers other than the municipality. Deletes the section stating that a copy of the <i>Provincial Gazette</i> containing a by-law is sufficient proof of the passage thereof.
Chapter 5. Integrated Development Planning.	Deletes the requirement in §25 and §26 that the IDP must specify any service delivery agreements being contemplated.
Chapter 6. Performance Management, Requires municipalities to establish certain "core components" in its performance management system.	Includes monitoring the performance of the provision of municipal services, whether by the municipality itself or another service provider. §43(2).
Chapter 8. Municipal Services. §91 allows a municipality to establish or acquire an interest in a MBE, and transfer any of its staff to it. §92 allows the delegation to a service provider of the authority to impose tariffs for services rendered, and recovering tariffs for such services. Limits contract amendments in competitive bid situations to "unforeseen events". §93 requires enactment of by-laws regulating provision of municipal services whether by the municipality or a service provider. §96 requires a detailed cost-benefit analysis of each possible service delivery mechanism, and specifies the components of that analysis. §97 allowed direct negotiations between municipalities, but all other service providers had to compete. §98 sets forth the requirement for competitive bidding for procuring a municipal service except via another municipality; specific modalities with regard to pre-qualification processes are set forth. §99 allows the Minister to make regulations prescribing pre-qualification processes, including minimum pre-qualification criteria and the situations where a particular selection process must be used. Unsolicited proposal regulations would also be issued by the Minister, as well as debarment procedures.	Changes terminology from "another service provider" to "service delivery agreements" in what was §87, now §74. Adds that services may be provided by "service utilities". Changes the private sector identifier from "private sector business enterprises" to "any other person legally competent to operate a business activity. §75 requires by-laws for tariff policy, implementation and enforcement. There are no other service delivery by-law requirements, cf. §93 of previous draft. §78 deletes the requirement for a cost-benefit analysis, but does require an "assessment" that includes some, but not all, of the matters set forth in §96 – i.e., assessing direct and indirect costs and benefits; capacity of the municipality and third party service providers; views of stakeholders, and likely impact on economic development and employment patterns. Requires selection of service delivery mechanism that will best meet requirements of §73(2) – equitable, accessible, financially and environmentally sustainable, and regularly reviewed. Selection must comply with any national sectoral legislation relating to the appointment of a service provider. Adds §80 specifying different procedures for service delivery agreements between a municipality and a service utility, MBE, another municipality or a national or provincial organ of state, or any other entity. (expands on former §97). Allows direct negotiation with the MBE, service utility, other municipality, or national or provincial organ of state, but not with any other entity. [Appears to be a typo in §80(1)(c), because it refers to Part 4, Municipal service districts, instead of Part

	<p>3, dealing with competitive bidding. Previous Part 4 dealt with competitive procurement. §81 seems to limit the authority that can be delegated (compared to the previous §92) in that there is no mention of the authority to impose tariffs, but there is the authority to delegate the collection of service fees from users. (Quare: is "imposing" authority redundant to "collection" authority?) Allows amendment to competitively-bid contracts after notice and hearing. §83 only requires competitive bidding where a private sector business entity is to be the service provider. It does not require pre-qualification in all cases. In selecting a private sector service provider, the requirements of §78 must be followed.</p>
<p>Part 4 of Chapter 8, Municipal Service Districts. §101 allows establishment of internal municipal service districts; §102 allows multi-jurisdictional service districts; §103 describes the contents of multi-jurisdictional service district agreements, §104 the legal status of governing bodies; §105 the powers and duties of such entities; §106 the control of governing bodies, and §107 relates to termination of such entities.</p>	<p>§85 requires public consultation before the formation of an MSD. §86 addresses multi-jurisdictional MSDs. §87 contains requirements for the multi-jurisdictional MSD agreements similar to the old s103. There's a typo in the reference to §84 with regard to delegation of authority to the MSD. The reference should probably be §81(2)(a). As in the previous bill, an MSD is described as a juristic person. The control and termination provisions are not remarkably different from the 6 August version.</p>
<p>Part 5 of Chapter 8, Regulations and Guidelines. These matters are covered in Chapter 12 of the 6 August bill, in §134.</p>	<p>This part, which is comprised of one section -- §92 -- gives the Minister authority, in terms of §119, to enact regulations and guidelines on a wide range of matters covered in the previous sections, including procurement processes, pre-qualification requirements, service deliver option criteria, and so forth. A very broad statement of authority.</p>
<p>Chapter 9, Credit Control and Debt Collection. §108 requires establishment of a customer management system; encourages metering of services, requires regular accounts, and customer complaint resolution mechanisms. §109 requires the development and implementation of a credit control policy, and requires a municipality to collect its debts. By-laws are required to be passed. §§112 and 113 require the municipality to establish supervisory and</p>	<p>The new bill requires establishment of a customer management system in similar terms to the previous bill. Likewise municipalities are responsible to collect their debts; must do so in accordance with a credit control and debt collection policy that is enacted by by-laws, and must also establish a supervisory and implementation authority. As in the other bill, there is a right of access to premises, directions as to keeping consumer accounts, agreements with employers,</p>

<p>implementation authority over debt collection, and provides for a monthly review. Other sections give the municipality the right to a user's premises, the authority to make an arrangement with a debtor's employer for salary deductions, and the Minister the right to enact regulations with regard to debt collection and credit control matters.</p>	<p>and a lengthy specification of areas in which the Minister may enact regulations. Included are the actions that municipalities and service providers may take to secure payment of accounts that are in arrears.</p>
<p>Chapter 10 Provincial and National Supervision. In addition to prescribing the details of provincial supervision of municipalities, §122 allows the Minister to establish essential national standards and minimum standards for any municipal service or function assigned in terms of section 156(1) of the constitution.</p>	<p>This authority is repeated in this bill, except that, in addition, a Cabinet member, after consulting the Minister, can do the same thing in the Cabinet member's functional area. All of this must be published in the Gazette, and SALGA consulted.</p>
<p>Chapter 11, Legal Matters §132 requires that before title to a piece of property can be transferred, all outstanding municipal services accounts must be satisfied.</p>	<p>§110 states that introduction of a copy of a <i>Provincial Gazette</i> is all the proof needed of an official act. The same restraint on the transfer of property obtains.</p>
<p>Chapter 12 Miscellaneous This chapter provided the Minister with the authority to enact regulations. It also repealed or amended legislation set forth in Schedule 2 which had not been drawn up at the time. §137 allowed different effective dates in respect of different provisions of the Act.</p>	<p>§118 prescribes offences and penalties. §119. Notwithstanding all the previously-noted regulatory authority, provides that the Minister, by notice in the <i>Government Gazette</i>, may make regulations and issue guidelines with regard to §§12, 39, 53, 72, 92, and 102; any matter that may be prescribed in the Act, and any matter that may facilitate application of the act. §119(2) allows the Minister's regulations and guidelines to differentiate between different types of municipalities, different categories of municipal services, different categories of service providers, ratepayers, users of services, customers, debtors, and other categories of persons or different categories of ratepayers, users of services, customers, or debtors. §119(4) requires all draft regulations and guidelines to be published in the <i>Government Gazette</i> for public comment before enactment. (6) Guidelines aren't binding. §120 Legislation in Schedule 2 is amended. §122 allows the Minister to determine that certain provisions of the Act do not apply to specific municipalities before a certain date.</p>
<p>Schedule 1, Code of Conduct for Municipal Officials</p>	<p>Both versions are quite similar.</p>
<p>Schedule 2. Legislation Amended. There was no such Schedule printed in</p>	<p>Schedule 2 states that §§31 and 32 of the Municipal Structures Act are deleted.</p>

<p>the 6 August version.</p>	<p>Schedule 4 of the Public Finance Management Act, 1999 is amended by adding a paragraph relating to fines and escheated bails. This is the only legislation mentioned.</p>
<p>Explanatory Memorandum. This memorandum appears to set forth the intent of the bill. This bill is the third piece of legislation to give effect to the Local Government White Paper. It is intended to establish the basic principles and mechanisms to give effect to the vision of "developmental government," and is focussed on the internal systems and administration of the municipality. It is intended to be aligned with pending legislation sponsored by the Department of Finance dealing with financial management. The "suite of bills" is supposed to enable government to repeal the entire body of legislation and provincial ordinances inherited from the apartheid era. <i>It is proposed to deal with the repeal process in a single Bill to be presented to Cabinet in early 2000.</i> Among other things, the MSP processes set forth in the bill are supposed to reflect the COSATU-SALGA Framework signed in December 1998. The bulk of the Bill's provisions are to be effective from the date of the local elections in November 2000. The memorandum acknowledges the provisions of the LGTA, saying that some have to be preserved and others subjected to future legislation.</p>	<p>This version generally follows the language of the previous version, except that it deletes specific reference to the private sector as a service delivery option. It also deletes an the reference in the earlier version to the MIU.</p>

**BRIEF OF THE WATER SERVICES
ACT**

The Water Services Act

§1. Relevant Definitions: "Water services" means the provision of both potable water and sanitation (wastewater treatment) services. "Water board" is an organ of the state established, or regarded as having been established, in terms of the Act, to perform, as its primary activity, a public function. "Water services authority" means any municipality responsible for ensuring access to water services. "Water services provider" means any person who provides water services to consumers or to another water services institution, but does not include a water services intermediary.

§2. Main Objects: To make of record the right of access to basic water supply and sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being; to set national standards and norms and standards for tariffs in respect of water services; to require the preparation and adoption of Water Services Development Plans by water services authorities; to provide a regulatory framework for water services institutions; to provide for the establishment and dis-establishment of water boards and water services committees and their duties and powers; to authorise the monitoring of water services and intervention by the Minister or the relevant Province; to provide for financial assistance to water services institutions; to provide for the gathering of information nation-wide and for distribution of that information; to provide for the accountability of water services providers; to promote effective water resource management and conservation.

§4. Conditions for the Provision of water services. The water services provider sets the conditions, which conditions must be in accord with the Act, to-wit (a) be accessible to the public, (b) be consistent with the by-laws of the jurisdiction in which the services are being provided, provide for conditions of extension of supply, determination and structure of tariffs, conditions for payment, circumstances under which water services may be limited or discontinued; procedures for same, and measures to promote water conservation. Procedures for limitation or discontinuation of water services must be fair and equitable, provide for reasonable notice, with certain limited exceptions, and not result in a person being denied access to basic water services for non-payment, where the person is unable to pay for basic services. Persons who use water services do so subject to any applicable condition set by the water services provider.

§6. Access to water services through nominated water services provider. Subject to certain exceptions, no person may use water services from a source other than a water services provider nominated by the water services authority having jurisdiction.

§9. Standards: The Minister may prescribe compulsory national standards relating to provision of water services; quality of water taken from or discharged into any system; use of water resources for water services; the operational efficiency of water services; requirements for persons who install and operate water works; the construction and functioning of water works and consumer installations. These standards may differentiate between different users, and geographic areas, taking into account the socio-economic and physical attributes of the area. In prescribing compulsory standards, Minister must consider: quality of life; equitable access to water services; any norms and standards; any other laws; obligations of the national government as custodian of water resources, among others. Every water services institution must comply with the standards prescribed.

Norms and standards for tariffs. §10. The Minister, with the concurrence of the Minister of Finance, may prescribe norms and standards in respect of tariffs for water

services. They may differentiate on an equitable basis between different users, types of water services, and geographic areas. They may place limitations on surplus or profit, and the use of income generated by the recovery of charges, and provide for tariffs to be used to promote conservation. In prescribing these norms and standards, the Minister must consider any national standards already in place, social equity, the financial sustainability of the water services, the recovery of costs for providing the water services, the redemption period of any loans for the provision of water services, the need for a return on capital invested, and the need to provide for drought and excess water availability. No water services institution may use a tariff substantially different from any prescribed norms and standards.

§19. Contracts and joint ventures with water services providers. A water services authority (municipality) may be a water services provider itself and may enter into a written contract with a water services provider or form a joint venture with another water services institution to provide water services. (2) A contract may be entered into with a private sector provider after the municipality has considered all known public sector water services providers who are willing and able to perform the relevant functions. Before entering into a contract with a water services provider, a municipality must publicly disclose its intention to do so. Any water services provider entering into a contract with a municipality must disclose any other ancillary or associated interests with the municipality and any rate of return it may gain by entering into the contract. (5) The Minister may, after consultation with the Minister for Provincial affairs and Constitutional Development, prescribe matters which must be regulated by a contract, compulsory provisions to be included, and joint venture requirements to ensure, among other things, that the contract is fair and equitable and complies with this Act. As soon as the contract is concluded, a copy must be supplied to the Minister and Province. The Minister may provide model contracts as a guide.

§21. Bylaws. Every water services authority (municipality) must make bylaws for the provision of water services and which must provide for the items listed in the Section. The Minister may provide model bylaws.

§22. Approval to operate as water services provider. No person may operate as a water services provider without the approval of the water services authority (municipality) having jurisdiction in the area. Approval must be for a limited period and subject to conditions.

§23. Water services provider must give information. Must give information to the water services authority, the relevant Province, the Minister, a consumer or a potential consumer.

§27. Monitoring performance of water services providers and water services intermediaries. Every water services authority must monitor the performance of water services providers within its area of jurisdiction to ensure that standards and norms and standards for tariffs prescribed under sections 9 and 10 are complied with; any condition set by a water services authority under sections 6, 7, and 22 is met, and any contract is adhered to.

§29. Primary activity of water boards Is to provide water services to other water services institutions within its service area.

§30. Other activities of water boards. A water board can perform other activities if it is not likely to limit the water board's ability to perform its primary activity and is not likely to be to the financial prejudice of itself, any water services institution, existing

consumers and other users serviced by it within its service area. Other activities allowed include providing management services, training and other support services to water services institutions, providing catchment management services, with the approval of the water services authority having jurisdiction, acting as a water services provider to consumers, providing water services in a joint venture with water services authorities, and performing water conservation functions.

§62. Monitoring of water services institutions. The Minister and any relevant province must monitor the performance of every water services institution.

§63. Intervention. If a water services authority has not effectively performed its duties, the Minister may, in consultation with the Minister for Provincial Affairs and Constitutional Development, request the relevant Province to intervene in terms of section 139 of the Constitution, and if the Province fails to do so, intervene. Before a Province intervenes, it must provide notice to the Minister.

§71. Procedure for making regulations. The Minister must publish draft regulations in the *Gazette* for public comment within a specified time; send copies and invite comments from the Minister for Provincial Affairs and Constitutional Development; any relevant Province; any relevant organisation representing municipalities; and any relevant water board. The Minister must consider all comments timeously received and on request, report on the extent to which a specific comment or comments have been taken into account. The Minister must, within 30 days after making a regulation, table it in Parliament for consideration under §75.

§75. Consideration of draft regulations. Parliament must, when considering draft regulations submitted to it by the Minister, consider whether the regulation is consistent with the objectives of the Act, within the powers conferred by the Act, and consistent with the Constitution. Parliament may within 30 days after a regulation has been submitted, reject that regulation. Parliament must explain its reasons for rejecting it. The Minister must repeal the regulation within 30 days after being informed that Parliament has rejected the regulation.

§83. State bound by Act. This Act binds the state and its organs.

**TWELFTH MEETING OF THE BOARD OF DIRECTORS OF THE
MUNICIPAL INFRASTRUCTURE INVESTMENT UNIT (MIU)
TO BE HELD ON FRIDAY 18 FEBRUARY 2000
IN CR20, DBSA BUILDING,
LEVER ROAD, MIDRAND
TIME: 9:00 – 13:00**

CHAIRPERSON: MS MARLENE HESKETH

A G E N D A

- | | | | |
|-----|---|---------------------|---|
| 1. | WELCOME AND INTRODUCTIONS | Chair | |
| 2. | APOLOGIES | Chair | |
| 3. | ADOPTION OF PREVIOUS MINUTES | | A |
| 4. | MATTERS ARISING | Chair | |
| | Review of contracts (DBSA/USAID etc.) | Chair/Sub-committee | |
| | Separation of contracts signed vs closed | CEO | |
| | 1-pager on key bottlenecks to PPPs in WSA | | B |
| | Request of meeting with Minister DPLG | | |
| | Summary of USAID Contract | | C |
| | Exit Strategy | | D |
| 5. | MID-TERM EVALUATION REPORT | R. Tomlinson | |
| 6. | PROGRESS REPORT 1 OCTOBER 1999 TO
31 DECEMBER 1999 | | E |
| 7. | RELATIONSHIP WITH GOVERNMENT | Chair | |
| 8. | REPLACEMENT OF CEO | Chair | |
| 9. | PROPOSED STUDY TOUR | CEO | F |
| 10. | INVITATION TO PPU STRATEGIC SESSION | CEO | |
| 11. | CLOSURE | Chair | |

DOCUMENTS FOR INFORMATION

- | | | |
|----|--|---|
| 1. | Copies of articles on the GJMC-Mondi Recycling Plant | G |
| 2. | Draft Municipal Systems Bill: What's new | H |
| 3. | Brief on the Water Services Act | I |

**TWELFTH MEETING OF THE BOARD OF DIRECTORS OF THE
MUNICIPAL INFRASTRUCTURE INVESTMENT UNIT (MIIU)
TO BE HELD ON FRIDAY 18 FEBRUARY 2000
IN CR20, DBSA BUILDING,
LEVER ROAD, MIDRAND
TIME: 9:00 – 13:00**

CHAIRPERSON: MS MARLENE HESKETH

A G E N D A

- | | | | |
|-----|--|-------------------------------------|-------------|
| 1. | WELCOME AND INTRODUCTIONS | Chair | |
| 2. | APOLOGIES | Chair | |
| 3. | ADOPTION OF PREVIOUS MINUTES | | A |
| 4. | MATTERS ARISING
Review of contracts (DBSA/USAID etc.,)
Separation of contracts signed vs closed
1-pager on key bottlenecks to PPPs in WSA
Request of meeting with Minister DPLG
Summary of USAID Contract
Exit Strategy | Chair
Chair/Sub-committee
CEO | B
C
D |
| 5. | MID-TERM EVALUATION REPORT | R. Tomlinson | |
| 6. | PROGRESS REPORT 1 OCTOBER 1999 TO
31 DECEMBER 1999 | | E |
| 7. | RELATIONSHIP WITH GOVERNMENT | Chair | |
| 8. | REPLACEMENT OF CEO | Chair | |
| 9. | PROPOSED STUDY TOUR | CEO | F |
| 10. | INVITATION TO PPU STRATEGIC SESSION | CEO | |
| 11. | CLOSURE | Chair | |

DOCUMENTS FOR INFORMATION

- | | | |
|----|--|---|
| 1. | Copies of articles on the GJMC-Mondi Recycling Plant | G |
| 2. | Draft Municipal Systems Bill: What's new | H |
| 3. | Brief on the Water Services Act | I |