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City of Joburg Property Company SOC Ltd.

1st Floor
Forum 2
Braam Park
33 Hoofd Street
Braamfontein
2017

PO Box 31565
Braamfontein
2017

Tel +27(0) 10 219 9000
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www.jhbproperty.co.za

12 June 2017

**DIBA / PALCONI CIVIL JV
29 JAKKALSBESSIE STREET
HEUWELOORD
0157**

Your Ref:

Our Ref: Diba/ Palconi Civil JV

Attention: Nandipha Rambau

Tel / Cell: 012 751 8319 / 012 656 1206

E-mail: info@diba.co.za

By Hand

LETTER OF AWARD-APPOINTMENT OF DIBA / PALCONI CIVIL JV FOR THE CONSTRUCTION OF CIVIL SERVICES AT VICTORIA EXTENSION 3 TOWNSHIP UNDER RFP NUMBER: 04 /2017 ON BEHALF OF CITY OF JOBURG PROPERTY COMPANY SOC LTD (JPC)

Dear Madam

City of Joburg Property Company (SOC) Limited ("JPC"), acting on behalf of the City of Johannesburg ("COJ"), have pleasure in confirming your appointment for the construction of civil services at Victoria Extension 3 township on behalf of City of Joburg Property Company SOC Ltd (JPC).

1. GENERAL CONDITIONS OF APPOINTMENT

This appointment is made in terms of JPC's standard general conditions of appointment. **This letter shall be the entire agreement between JPC and Diba / Palconi Civil JV.** All previous correspondence, which has taken place between the two parties in connection with this appointment, shall be deemed to be of no force and effect and to be replaced by this appointment letter.

2. SCOPE OF WORK

The scope of works and services is as follows:

- Construction of civil services at Victoria Extension 3 Township on behalf of City of Joburg Property Company SOC Ltd (JPC) as per attached Bills of quantities marked Annexure "A".
- Any other services relating to the above as per the attached Bills of quantities.



Non-Executive Directors: Patrick Corbin (Chairperson), Prof Aly Karam, Mphethi Morojele, Owen Kemp, Oscar Maseko, Maggie Mojapelo, Nompumelelo Mpofu, Newton Baloyi
Executive Director: H. Botes (CEO)
Finance Director: I. Bhamjee
Company Secretary: C.L. Matthews
City of Joburg Property Company SOC Ltd.
Registration Number: 2000/017147/07



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3. TIME FRAMES

The appointment is effective from **13 June 2017 until 18 August 2017**. On termination by effluxion of time or otherwise, Diba / Palconi Civil JV will hand over all work in progress to JPC and will have no claim for cost other than stipulated in this letter of award.

4. PAYMENTS TO DIBA / PALCONI CIVIL JV

As full compensation to Diba / Palconi Civil JV for works executed and services rendered and in compliance with all terms and condition of this letter of appointment, JPC shall pay to Diba / Palconi Civil JV an amount of **R9 533,035.65 (Nine Million Five Hundred and Thirty Three Thousand Thirty Five Rand and Sixty Five Cents)** , including VAT but excluding contingencies.

4.1 Payments shall be effected against Diba / Palconi Civil JV invoice within 30 days (Thirty) after invoice and statements.

4.2 The tax invoice shall contain at least the following information:

- Contract Number and Description;
- Contract address where services were rendered and works executed;
- Monthly payments for the amount on the invoice if applicable; and
- VAT numbers.

4.3 Invoices must be submitted to:

City of Joburg Property Company (Pty) Ltd
P O Box 31565
Braamfontein
2017

JPC will not be liable for any additional costs incurred by Diba / Palconi Civil JV through whatever cause, unless JPC has specifically instructed Diba / Palconi Civil JV to incur such costs due to a substantial and material change to the services rendered and works executed which has been caused by an act of omission on JPC' part.

GENERAL CONDITIONS OF APPOINTMENT

1. **Appointment in Force and Authorized Signatories:** This appointment is considered to have come into force immediately after all the necessary signatures have been appended.
2. **Independent Contractor:** The consultant is appointed as an independent contractor and no contract of agency and/or employment is created. Save as may be expressly authorized by JPC from time to time in writing, the consultant shall not hold itself out to be the agent of JPC and/or commit JPC to any contract or obligation of whatever nature.



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3. **Alterations:** Should circumstances arise which call for modifications of the appointment, these may be made by mutual consent given in writing. Proposals in this respect from one party shall be given due consideration by the other party.
4. **Assignment:** The Consultant shall not without the prior written consent of JPC, cede or assign any of the benefits and obligations under this appointment.
5. **Sub-Contracts:** Any sub-contracts or modifications or termination thereof relating to the performance of the services by the Consultant shall be made only with the prior written consent of JPC.
6. **Compliance with Laws, By-laws and Ordinance:** The consultant shall comply strictly with every applicable law, by-law and ordinance including every regulation, code of conduct or other directive to which the consultant may be subject in its professional capacity. In this regard, the consultant's particular attention is drawn to the requirements of the Occupational Health and Safety Act (OHSA) and its regulations as well as to the Financial Intelligence Centre Act (FICA).
7. **Insurance:** The consultant shall at its own cost and expense maintain professional indemnity insurance and public liability insurance with an insurer approved of by JPC in an amount and for duration as specified in the letter of appointment to which these general conditions of appointment relate.
8. **Postponement and Termination:** JPC may give written notice to the Consultant at any time of its intention to abandon the services, in whole or in part, or to terminate this appointment. The effective termination date of this appointment shall not be less than fourteen (14) days after receipt of such notice, or such other shorter or longer periods as may be agreed between the parties. Upon receipt of such notice, the Consultant shall take immediate steps to bring the services to a close and to reduce expenditure to a minimum. Upon termination of the appointment the consultant shall deliver to JPC the originals of all documents in the possession of the consultant relating to and/or in connection with the appointment in both hard copy and (insofar applicable) electronic format.
9. **Force Majeure:** The Consultant shall promptly notify JPC, in writing, of any situation or event arising from circumstances beyond its control and which he could not reasonably foresee, which makes it impossible for the Consultant to carry out in whole or in part, his obligations under this appointment. Upon the occurrence of such a situation or event, the services shall be deemed to be postponed for a period of time equal to the delay caused by the Force Majeure and a reasonable period not exceeding two weeks.
10. **Claims for Default:** Any claims for damages arising out of default and termination, shall be agreed between JPC and the Consultant, or failing agreement, shall be referred to arbitration in accordance with clause 20.
11. **Rights and Liabilities of Parties:** Termination of this appointment for whatever reason shall not prejudice or affect the accrued rights or claims and liabilities of either party to this appointment.
12. **Confidentiality:** The consultant shall maintain all information relating to the appointment in the strictest confidence.
13. **Indemnity:** The consultant indemnifies JPC and holds JPC harmless against any loss or damage that may be suffered by JPC (including and without limiting the generality of the foregoing any claim that may be brought or threatened against JPC by any third party) arising from or by reason of the failure by the consultant to comply with its obligation in terms hereof.
14. **Skill, Care and Diligence:** The Consultant shall exercise all reasonable skill, care and diligence in the performance of the services under the appointment and shall carry out all his responsibilities in



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accordance with recognised professional standards. If any documentation prepared or submitted by the consultant to JPC is approved by JPC such approval shall not limit the professional liability of the consultant in respect thereof. The consultant shall remain professionally liable in respect of such documentation notwithstanding the approval thereof by JPC.

15. **Faithful Advisor:** The Consultant shall, in all professional matters, act as a faithful advisor to JPC and, in so far as his duties are discretionary, act fairly as between JPC and third parties.
16. **Indirect Payments:** The remuneration of the Consultant charged to JPC, shall constitute his only remuneration in connection with the appointment and neither he nor his personnel shall accept any trade commission, discount, allowance or indirect payment or other consideration with or in relation to the appointment or to the discharge of his obligations thereunder.
17. **Royalties:** The Consultant shall not have the benefit, whether directly or indirectly, of any royalty on or of any gratuity or commission in respect of any patented article or process used on or for the purposes of the appointment, unless it is agreed to by JPC in writing that he may.
18. **Ownership of Equipment, Materials, Supplies and Facilities:** Equipment, materials, supplies and facilities furnished to the Consultant by JPC or purchased by the Consultant with funds wholly supplied or reimbursed by JPC shall be the property of JPC and shall be so marked. Upon completion or termination of the services under this appointment, the Consultant shall furnish to JPC, inventories of the equipment and materials referred to above as it then remains and dispose of same as directed by JPC.
19. **Copyright:** All copyright in and to all documents, plans, designs and other material of whatever nature prepared or produced by the consultant in the course and scope of its appointment shall be and remain vested in JPC for which purpose the consultant cedes to JPC all such copyright.
20. **Settlement of Disputes:**
 - a. Any dispute or difference arising out of this appointment, including those considered as such by only one of the parties, shall be finally settled by Arbitration.
 - b. Such arbitration shall be conducted in accordance with the provisions of the Arbitration Act (Act No. 42 of 1965, as amended from time to time), provided that:
 - i. The arbitration proceedings shall take place at Johannesburg.
 - ii. It shall not be compulsory to strictly apply the requirements of the law of procedure or procedure of the usual rules of evidence.
 - iii. The arbitrator shall be a practicing senior advocate as appointed by the chairman of the Johannesburg Bar Council.
 - iv. The arbitrator shall be entitled to call for the evidence of specialists as required by the nature of the dispute.
 - v. The decision of the arbitrator shall be final and binding on both parties and may be made an order of a competent court.
 - c. Unless otherwise requested by JPC, the implementation of the project shall, despite the submissions of a dispute to arbitration, in no manner be suspended or in any way delayed by the consultant.

Please advise in writing by **13 June 2017** if you accept the appointment on the above mentioned terms and, if so, furnish the following information within Five (05) days:



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- (i) The name and address to be used for all correspondence and payment purposes. Payment is made directly, electronically into your bank, so please provide us with your banking details;
- (ii) The name of the Partner/Director who will be handling the assignment;
- (iii) The names of the key personnel together with their designations and functions who will be engaged in the project;
- (iv) Project Plan and Approach and health and safety file;
- (v) Roll out and implementation Plan;
- (vi) Proof of insurances and cash flow;
- (vii) Public liability insurance;
- (viii) Empowerment Plan; and
- (ix) List of local sub-contractors to sub-contracted
- (x) Proof of capacity (Equipment and financial)

Please note that the material developed/generated as a consequence of this appointment remains the sole property of the City of Joburg Property Company SOC Ltd and the City of Johannesburg, and that copyright for such material vests solely with JPC. Permission is therefore to be sought from JPC should any party wish to make use of the information generated as part of the project.

You will be required to sign a GCC with the company for the works execution and rendering the services stated above. Terms and conditions will be communicated to you in due course. Please contact the Manager: Facilities Management Mr. Asogan on 010 219 9000 or amaistry@jhbproperty.co.za to make an appointment at your earliest convenience.



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Please signify your acceptance of appointment by signing the endorsement at the foot of this letter and returning same to us.

Signed for and on behalf of City of Joburg Property Company SOC Ltd.

Name: Helen Botes

Title: Chief Executive Officer

Signature: _____

Date: _____

26/6/2017

Signature on behalf of Diba / Falconi Civil JV

Name: Takalani Maurice Rambau

Capacity: Project Director

Signature: _____

Date: 26 June 2017



Non-Executive Directors: Patrick Corbin (Chairperson), Prof Aly Karam,
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