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City of Joburg Property Company SOC Ltd.

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29 May 2014

Your Ref:
Our Ref: 93/2013

**BAYETE – PAMOJA CONSORTIUM
ISLE OF HOUGHTON, OFFICE 202,
HARROW COURT 1
HOUGHTON ESTATE, 2198**

BY HAND

**LETTER OF AWARD-RFP 93/2013 -APPOINTMENT OF A TURNKEY PROGRAM MANAGER FOR
THE OFFICE SPACE OPTIMISATION PROGRAM**

Dear Sirs

City of Joburg Property Company SOC Limited ("JPC"), acting on behalf of the City of Johannesburg ("COJ"), has pleasure in confirming award of the tender for the appointment of a Turnkey Program Manager for the office space optimisation program, to you upon the following terms and conditions:

1. GENERAL CONDITIONS OF AWARD

This appointment is made in terms of JPC's standard General Conditions of Appointment.

This award is made subject to the successful conclusion of a service level agreement between the JPC and yourselves.

All previous correspondence, if any, between the two parties in connection with this tender, shall be deemed to be of no force and effect and will be replaced by this letter of award.

2. SCOPE OF WORK

The scope of works is defined as the **Turnkey Program Management** of the implementation of the Office Space Optimisation Programme (OSOP) together with nominated sub-consultants.

Functions of the Program Manager

The appointed service provider will be required to design a plan for the implementation of the OSOP under the direction of JPC acting as agent for the City of Johannesburg Metropolitan Municipality and after approval, by JPC and COJ, manage the implementation of the approved plan together with appointed sub consultants.



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L. Itholeng, Dr. D Sekhukhune
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In this regard the Scope of work has been defined in the following functional areas:

Area of Work	Sub- area of work	Broad Scope definition
PROGRAM MANAGEMENT	Program Management and packaging	<ul style="list-style-type: none"> • Conceptualisation of entire OSO project • Establishment of frameworks and parameters for roll out of program across entire city (including office space standards, urban design principles, selection of locations for offices) • Over-all management and reporting on project • Establishment and operation of PMO office with panel of oversight professionals. • Provide individual Program Manager . • Assumes ultimate Responsibility for program
	Transformation	<ul style="list-style-type: none"> • Development of transformation plan to ensure that the stated projects are achieved • Develop comprehensive training development and empowerment strategy to ensure availability sufficient skills to match targets • Implementation of program • Monitoring of program during construction to ensure compliance • Skills transfer to COJ and JPC staff
	Communication marketing and stakeholder management	<ul style="list-style-type: none"> • Media plan for program • Communication on all aspects of project • Development of marketing and promotional material • Compilation of book on development
TECHNICAL IMPLEMENTATION	Technical Implementation (design and construction)	<ul style="list-style-type: none"> • Completion of precinct plans per node. • Completion of all designs (urban design plans, services, building, urban environment) • Technical implementation to be managed as individual project for each office node
	Tenant and User Management	<ul style="list-style-type: none"> • Confirm user requirements • Complete audit and space allocation per office node • Agree on office specifications • Space Planning • Temporary offices and relocations • Complete tenant negotiations and signature of lease agreements
	Facilities	<ul style="list-style-type: none"> • Development of facilities Management plan for all new



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	Management	offices <ul style="list-style-type: none">• Implementation of FM• Management and monitoring of FM• Ensuring capacitation and transformation of JPCs FM unit.
FUNDING AND FINANCIAL ARRANGEMENTS	Funding and financing	<ul style="list-style-type: none">• Overall funding model• Development feasibility• Compliance with City finance requirements• Arranging lease financing with COJ• Facilitating the Raising of capital for construction

The program manager shall further appoint, sub-consultants, in accordance with budgets approved by JPC for specific areas of work (when activated) and thereafter manage and pay the appointed consultants. All sub-consultants shall be appointed in accordance with the approved project budget and shall be subject to JPCs written approval prior to appointment.

The functions of work of the program manager are further defined as follows:

1. The program manager shall be the single point of integrated responsibility for development project and shall be the single point of communication with the client.
2. The management of the time, cost and quality specifications agreed for the program and ensuring that the above requirements are met. In this regard the program manager shall prepare monthly reports on the implementation of the project in the formats agreed.
3. Preparation of reports and presentations required by COJ for approvals.
4. Attendance of all meetings with stakeholders
5. Appointment of a full professional team for the investigation, planning, design and construction supervision as further sub-consultants. The team will include all professionals required to complete the project.

Two Stage Program

The program will be implemented in two stages, for which the scope of work is detailed below:

The successful service provider will be appointed for both stages, but the appointment will initially only be activated in accordance with approvals received and available funding. At this time the appointment is activated for the following stages:

- Stage 1: completion of all work to finalise the business plan



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- Stage 2 :Design of Phase 1A of the Metro Precinct (Council chamber) and construction of earthworks and piling for the chamber.

On successful completion of Stage 1 and approval of the business plan the scope for Stage 2 of the program will be further defined and, subject to agreement being reached regarding scope and costs, Stage 2 will be activated by written instruction.

Further stages of work will be active by written instruction only.

STAGE 1: FINAL BUSINESS PLAN

This stage shall involve the revision of the preliminary business plan prepared by JPC and the finalisation of the business plan for the program and obtaining approval for the proposed plan by the Council of the City of Johannesburg. This stage shall particularly include:

- i. The revision and finalization of a **Funding Plan** for the implementation of the project based on the leveraging of rentals received or to be received from Council/ME tenants including an assessment of project feasibility and a returns model and the approval of such funding plan by the Council to the extent that authorisation is given to proceed with the project. The scope includes all consultation with stakeholders required to obtain support and approval for the plan.
- ii. The development of **Transformation and Empowerment plan** to outline the strategy and mechanisms to be employed to achieve the empowerment targets stated for the program, including mechanisms for skills development, and for monitoring and enforcement of transformation both construction, pre-construction and post construction stages, as well the quantification and qualification of the empowerment benefits. The scope includes all consultation with stakeholders required to obtain support and approval for the plan.
- iii. The **selection and Identification of Precincts** for the eight office nodes based on prevailing city strategy and the objectives of the OSO. The scope includes all consultation with stakeholders required to obtain support and approval for the identification

STAGE 2: IMPLEMENTATION OF THE BUSINESS PLAN IN EACH OF THE EIGHT IDENTIFIED MUNICIPAL OFFICES NODES.

The scope of the implementation of the project (phase 2) will be further defined in the SLA and implementation plans to be completed in phase 2, but is expected to include:



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2.1 Development of **Optimisation Framework per Precinct**. This framework shall be based on the office requirements identified in the Office Space Optimisation Plan developed above and shall:

- Be based on international best practice for the development of a world class municipal office precinct.
- Take into account all functional relationships between Departments and MEs to be accommodated in the precinct.
- Provide an optimal framework for delivering effective and efficient customer service.
- Create a vibrant mixed use, pedestrian orientated, world class public environment.
- Be public transport orientated
- Integrate the precinct with the adjoining urban fabric.
- Create an iconic location for the Municipality's head office.
- Provide a phasing plan for the relocation of offices to the site based on operational requirements and lease restrictions of Departments/MEs
- Include development of a fly-through computer model to adequately present the proposed development.

2.2 The completion and approval of an **urban design framework** for each precinct

2.3 Completion of **detailed designs** for the public environment and buildings to be constructed., as well as Civil, Electrical, telecommunication, IT and other infrastructure), building and public environment upgrades.

2.4 **Facilitate the raising the required funding** to complete the development. In this regard the appointment excludes the actual raising of funding which is a competency of the COJ and for which a service provider shall be procured in accordance with the City's supply chain policy.

2.5 Facilitation of the **appointment of developers** in accordance with the City's Supply Chain Management policy. In this regard the appointment of developers is excluded from the appointment as such appointments will be effected in accordance with the City's supply chain policy.

2.6 **Management and Monitoring of the development** including ensuring that the empowerment objectives of the program are achieved which will include the management of training, development incubation programs which the service provider will be required to design and implement.

2.7 **Management of all communication** regarding the projects including development of a public relations and marketing program, brand identity, as well as advanced site communication interventions



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3. TIME FRAMES

The Program Manager and its nominated subconsultants shall commence with the work on date of appointment and complete all work in accordance with the timeframes to be agreed in the SLA.

You are to advise timeously of any difficulties that you may be experiencing in carrying out any of the deliverables. Any changes to the specified timeframes may only be implemented if authorised in writing by JPC.

4. PAYMENTS

4.1 Payments for Phase 1 Work

As full compensation for full and complete performance of all the work and compliance with all the terms and conditions of Phase 1 of this appointment, JPC shall pay ~~Valumax Projects (Pty) Ltd~~ an amount not exceeding R4 620 000-00, excluding VAT. 
~~ENSTE - PAMQA CONSORTIUM~~

4.2 Payments for Phase 2 works

The payment of any costs for Phase 2 of the works shall be subject to:

- i. The notification by JPC in writing of the activation of specific works in phase 2. In this regard only the Design of Phase 1A Council chamber is activated in terms of this letter.
- ii. The approval of a detailed project budget indicating all sub-consultants and appointment values by JPC in writing.

The Program manager and sub-consultants shall be entitled to re-numeration for all work completed in phase 2 based on:

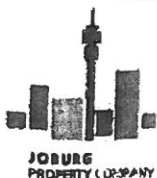
- i. All costs of the technical implementation in accordance with budgets approved by JPC.
- ii. A management fee of not more than 5% of the above technical implementation costs (excluding financing costs)

5. SUBMISSION OF INVOICES

5.1 Payments shall be effected against invoice within Thirty (30) days after invoice and statements.

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

- Project Number
- Project address where services took place
- Monthly payments for the amount on the invoice if applicable



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5.4 Invoices must be submitted to:

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JPC will not be liable for any additional costs incurred by the service provider through whatever cause, unless JPC has specifically instructed the Service Provider to incur such costs due to a substantial and material change to the scope of the project which has been caused by an act of omission on JPC' part.

You will be required to sign a service Level agreement with the company for rendering the services stated above. Terms and conditions will be communicated to you in due course. Please contact the Project Manager: Alan Dinnie on 010 219 9100 or aland@jhbproperty.co.za to make an appointment at your earliest convenience.

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

Name: Helen Botes

Title: Managing Director

Signature: 

Date: 29-05-2014

JPC Supply Chain Manager:

Signature: 

Date: 29-05-2014

Signature on behalf of Service Provider

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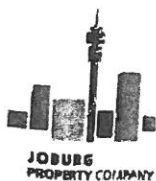
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Name: Lemane Sambudua

Title: MD BAYGIE

Signature: [Handwritten Signature]

Date: 2019-05-29



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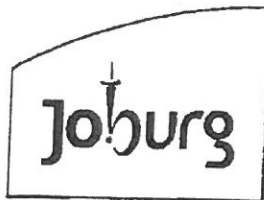
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GENERAL CONDITIONS OF APPOINTMENT

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.
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 thirty (30) 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 accordance with recognised professional standards.



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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.

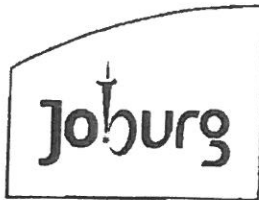
21. EVENTS OF DEFAULT AND CONSEQUENCES

21.1 An event of default on the part of the Service Provider shall occur if:

- 21.1.1 the Service Provider defaults in the performance of any of its obligations of in terms of or arising from this agreement, and fails to remedy such default within 07 (Seven) days of receipt of a written notice from JPC calling upon it to remedy such default;
- 21.1.2 the Service Provider continuously fails to perform or under performs any obligation/s in terms of or arising from this agreement, including but not limited to the rendering of services at appropriate service levels, which



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non- performance or under performance shall be consistent with the inference that the Service Provider is unable or unwilling to perform such obligation/s in terms of the provisions of this agreement; and

- 21.1.3 *the Service Provider commits an act, which would amount to an act of insolvency as envisaged in the Insolvency Act, 1936, as amended.*
- 21.2 *Upon the occurrence of an event of default as contemplated in 21.1 above, JPC shall be entitled to cancel this agreement forthwith, without prejudice to its rights to claim damages, or any other rights, which JPC may have in law or in terms of this agreement.*
- 22.3 *An event of default on the part of JPC shall occur if JPC defaults in the performance of any material obligations in terms of or arising from this agreement, and fails to remedy such default within 7 (Seven) days of receipt of a written notice of demand from the Service Provider calling upon it to remedy such default.*
- 22.4 *Upon the occurrence of an event of default as contemplated in 22.3 above, the Service Provider shall be entitled to cancel this agreement forthwith, without prejudice to its rights to claim damages, or any other rights, which the Service Provider may have in law or in terms of this agreement.*
- 22.5 *In the event of the termination of this Agreement for whatsoever reason before the expiry date, JPC shall be responsible for all Fees payable to Valumax Projects (Pty) Ltd for services actually rendered and duly certified by the Project Manager;*



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