



## 27. OPERATIONAL DISPUTE RESOLUTION

- 27.1 Matters referred for resolution by the DSM shall be dealt with in accordance with the City's Operational Dispute Resolution Protocol.
- 27.2 Where both Parties to the Operational Dispute accept the Adjudicator's Recommendation, upon such written acceptance the Adjudicator's Recommendation shall become final and binding upon them.
- 27.3 If a Party to the Operational Dispute does not accept the Adjudicator's Recommendation and has indicated in writing its non-acceptance of same then:



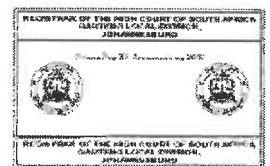
- 27.3.1 (if the dispute is a dispute of a financial nature) the dispute shall thereupon be referred by the DSM to the National Treasury in terms of the provisions of Section 44 of the MFMA, within 15 (fifteen) Business Days of the DSM receiving written notice from the Adjudicator seized with the matter that the Party concerned has elected not to accept the Adjudicator's Recommendation as contained in the relevant Dispute Resolution Report; or
- 27.3.2 any other type of dispute, a Party who is aggrieved by the non-acceptance of the Adjudicator's Recommendation by the other Party, shall thereupon (through the DSM) be obliged to declare a formal intergovernmental dispute between the Parties in relation to the subject matter of the former Operational Dispute, on the basis contemplated in the IRFA, and to pursue such dispute to finality in accordance with the regulations and guidelines promulgated under the IRFA.



## 28. THE TERMINATION PROCESS

The termination of this Agreement is initiated by notice of cancellation given by the City in circumstances where it is entitled to give such notice in terms of this Agreement pursuant to clauses 29.2.2, 29.2.3 or 32. Notwithstanding the giving of notice of cancellation, this Agreement shall only terminate following implementation of the transitional provisions contemplated in clause 34.

## 29. BREACH AND CONSEQUENCES THEREOF

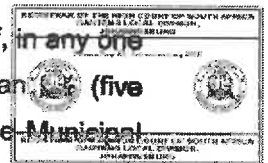


29.1 An event of default by JPC shall occur if:

- 29.1.1 JPC breaches any of its obligations in terms of this Agreement and persists with such breach for a period of 14 (fourteen) Business Days after delivery by the City of written notice requiring JPC to remedy such breach; or
- 29.1.2 JPC commits an act which is or would (if committed by a natural person) be an act of insolvency as defined in the Insolvency Act No. 24 of 1936 (as amended) or an act defined in terms of the Companies Act;
- 29.1.3 JPC is unable or ceases for any reason whatsoever to provide the Services in the ordinary and regular manner; or
- 29.1.4 JPC compromises or attempts to compromise or defer payment of any indebtedness owing by it to its creditors, generally; or
- 29.1.5 any assets of JPC are attached under writ of execution and JPC fails within 15 (fifteen) Business Days after becoming aware, or after it should reasonably have become aware, of such attachment, to take the necessary steps to have such attachment set aside and thereafter to successfully pursue such steps with due diligence; or



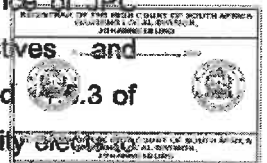
- 29.1.6 JPC is removed from the Register of Companies or placed under judicial management; or
- 29.1.7 JPC sells, transfers, exchanges or otherwise disposes of, in any one transaction or a series of related transactions, a material portion of its business or undertaking or changes its asset structure, except in the normal course of its business; or
- 29.1.8 JPC sells, transfers, exchanges or otherwise disposes of, in any one transaction or a series of related transactions more than **five** (five percent) of its Assets other than in accordance with the **Municipal Asset Transfer Regulations**; or
- 29.1.9 JPC allows any bond, lien, charge or encumbrance on any of its assets other than in accordance with its Business Plan and/or the Municipal Asset Transfer Regulations; or
- 29.1.10 any order of court (whether provisional or final), unless pursuant to a reorganisation, reconstruction or amalgamation approved in writing by the City, is granted for the winding up of JPC (whether voluntarily or compulsorily); or
- 29.1.11 any judgment of any court or arbitration award against JPC remains unsatisfied for a period of 30 (thirty) Business Days after JPC has become aware, or should reasonably have become aware, that it has been granted and such judgment or arbitration award is not the subject of an application for rescission or review or is not appealed against and, in the event of such application, review or appeal being unsuccessful, JPC fails to immediately make payment thereof; or
- 29.1.12 a judicial manager, receiver or similar officer is appointed in respect of JPC or in respect of all or any material part of its assets; or





29.1.13 any regulatory authority which has jurisdiction over JPC and the Services provided by it, withdraws or cancels any license or authorisation in terms of which JPC is entitled to render the Services, save to the extent that the withdrawal or cancellation is not caused by the negligence or failure of JPC to comply with any conditions set out therein; or

29.1.14 following an annual performance review, the performance of JPC has, measured against the performance objectives and measurement standards contemplated in clauses 11 and 12.3 of this Agreement, been unsatisfactory whether or not the City elects to liquidate and disestablish JPC pursuant to Section 93B(c)(i) of the Systems Act; and



29.1.15 the Board of JPC has failed to act effectively in relation to serious or persistent financial problems experienced by JPC, whether or not the City elects to impose a financial recovery plan, liquidate and disestablish JPC as contemplated in Section 93B(c)(ii) of the Systems Act and section 109 of the MFMA.

29.2 Upon the occurrence of an event of default by JPC as contemplated above, or at any time thereafter whilst it is continuing, the City may, without prejudice to any other rights it may have in terms of this Agreement or at law, by written notice to JPC:

29.2.1 claim specific performance (without cancelling this Agreement and without prejudice to its right to claim damages); or

29.2.2 cancel this Agreement (without prejudice to its right to claim damages); or

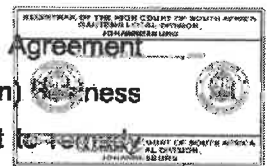
29.2.3 without cancelling this Agreement, exercise the management substitution rights referred to in clause 30, without prejudice to the



right of the City to elect to cancel this Agreement if the exercise of the said management substitution right does not have the effect (in the sole discretion of the City), of remedying the event of default originally giving rise to the City exercising its rights pursuant to this clause 29.2.3.

**29.3** An event of default by the City shall occur if:

**29.3.1** the City breaches any of its obligations in terms of this Agreement and persists with such breach for a period of 14 (fourteen) Business Days after delivery by JPC of written notice requiring it to remedy such breach; and/or



**29.3.2** the City fails to pay any amount due by it in terms of this Agreement on the due date for payment thereof and the City persists in such failure to pay for a period of 14 (fourteen) Business Days after delivery by JPC to the City of written notice requiring it to pay such amounts.

**29.4** Upon the occurrence of an event of default by the City or at any time thereafter whilst it is continuing and provided that if the breach is capable of being remedied JPC has been given 21 (twenty one) Business Days written notice to cure such breach, JPC may, without prejudice to any other rights it may have in terms of this Agreement or at law, by written notice to the City, claim specific performance or claim damages. In no event shall JPC have the right to cancel this Agreement as a result of events of default set out in clause 29.3 above.

### **30. SUBSTITUTION OF MANAGEMENT**

**30.1** It is recorded that:

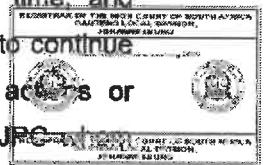


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30.1.1 the provision of the Services by JPC represents the long-term policy of the City and a reversal of this policy may interrupt the provision of the Services;

30.1.2 under the extreme circumstances that would justify termination of this Agreement, the City may consider requiring the substitution of all or a portion of the management of JPC as an appropriate alternative to termination of this Agreement if at any time, and objectively considered, it is apparent that JPC is unable to continue performing its functions under this SDA due to the actions or omissions of the management (or portion/s thereof) of JPC, and the City wishes to substitute, and failure to take precipitate action is likely to lead to a service delivery crisis or cause an emergency situation to arise. Except in circumstances where the City is able to show that a crisis or emergency situation exists or is imminent, the City shall give JPC at least 60 (sixty) days notice in writing before invoking the provisions of this clause.



30.1.3 The Parties have accordingly agreed that the City shall have the right to require the Board of JPC to substitute the management of JPC in order to preserve this Agreement in accordance with the provisions of this clause.

30.2 Should any event of default contemplated in clause 29.1 occur, the City may, instead of exercising its right to cancel this Agreement, call upon the Board of JPC to make one or more substitutions of management in terms of this clause 30 without having to give any notice.

30.3 The City shall exercise its right in terms of clause 30.2 by delivering a substitution notice in writing to the chairperson of the Board of JPC, which substitution notice will specify the terms and conditions of the substitution/s required, including an implementation date, and may require



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the substitution of senior management in its entirety or specify individuals for substitution, and may be of limited duration, or permanent.

- 30.4 Should the Board of JPC intimate directly or indirectly that it is not prepared to or is unable to implement the management changes required by the City, the City may forthwith exercise any right that has accrued to it to cancel this Agreement pursuant to clause 29.1.
- 30.5 The right to require substitution of management in terms of this clause 36.5 is a right that may be exercised by the City as a contracting Party with JPC and JPC shall be responsible for (and indemnifies the City against) any employment law consequences that may ensue within the management structure of JPC if it transpires that, objectively considered, the intervention of the City in terms of this clause was justified in the circumstances. If it subsequently transpires that such intervention by the City was objectively not justified in terms of the provisions of this clause or in bad faith, the City shall not be entitled to the aforesaid indemnification and JPC shall be entitled to recover from the City any damages suffered by it arising out of such employment law consequences.
- 30.6 JPC shall ensure that all things required to implement the substitution notice are done and shall ensure that any member of management of JPC substituted in terms of the foregoing shall comply with the terms of the substitution notice referred to in clause 30.2, and will, if required to, assist in the process of substitution on the basis set out in the substitution notice.
- 30.7 Any person appointed in substitution for JPC Accounting Officer in terms of this clause 30 must be appointed by the Board of JPC but the City may by agreement with the Board of JPC, and subject to clause 30.8, second any of its employees to undertake management roles within JPC pursuant to the substitution provisions of this clause 30, on a temporary basis until such time as the board of JPC is in a position to make a permanent substitute appointment.





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30.8 In the absence of agreement to the contrary, any management substitution effected in terms of clause 30.2 on a permanent basis must have been confirmed by the Board of JPC within 12 (twelve) months of delivery of the relevant substitution notice referred to in clause 30.3, and JPC must within such period have entered into a formal contract of employment with the relevant substituted employee/s, failing which the City may elect to proceed with cancellation of this Agreement.

### 31. EFFECT OF NOTICE OF CANCELLATION – TERMINATION PROCESS

The Parties acknowledge that it is the duty of the City to ensure as far as is reasonably possible uninterrupted delivery of the Services in the best interests of the Local Community. The Parties have accordingly agreed as follows:



31.1 Once notice of cancellation has been given in terms of this Agreement:

31.1.1 this Agreement shall not terminate until the date of termination and the Parties have negotiated a transitional process which shall be designed to achieve termination whilst maintaining uninterrupted delivery of the Services to the Local Community;

31.1.2 JPC shall continue to provide the Services in terms of this Agreement pending the date referred to in clause 31.1.4;

31.1.3 the City shall during such transition period have the option of purchasing from JPC the Assets only or the entire business conducted by JPC as a going concern ("JPC Going Concern") for delivery either to the City or to an alternative JPC nominated by the City, in the City's discretion; and

31.1.4 this Agreement shall terminate on a date or on the occurrence of an event agreed between the Parties, or if no such date or event is agreed between the Parties, upon the earliest of:





31.1.4.1 the City having received delivery of the Assets, alternatively, JPC Going Concern pursuant to the City having elected to exercise the option referred to in clause 31.1.3; or

31.1.4.2 an alternative JPC appointed by the City having received delivery of the Assets, alternatively, JPC Going Concern as the nominee of the City pursuant to clause 31.1.3; and

31.1.4.3 compliance with the requirements of clause 31.2; and



in, any such event, the City or its nominee JPC has confirmed in writing that it is in a position to commence provision of the Services itself.

31.2 In the event of the City electing to purchase the Assets:

31.2.1 JPC shall on receipt of the written notice exercising the City's option, be deemed to have offered to sell the Assets to the City or a JPC designated by the City (in either instance "the Buyer"), and the Buyer shall be deemed to have accepted such offer;

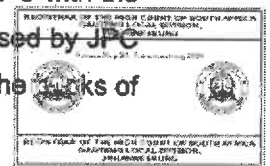
31.2.2 the purchase price of the Assets (and any accretions thereto) shall be determined by the Auditors. If either Party does not accept the determination of the Auditors, it may refer the matter for determination by an independent firm of auditors having international representation, who shall be appointed by the chairman for the time being of the SA Institute of Chartered Accounts ("SAICA"), and who shall make its determination acting as an expert and not as an arbitrator, and the costs of such determination shall be borne by the party whose challenge is substantially unsuccessful;

31.2.3 if the Assets are purchased by the City, the purchase price of the Assets (and any accretions thereto), together with VAT thereon,



shall be discharged by set-off against any loan account in favour of the City in the books of account of JPC, if such loan account is sufficient to discharge the purchase price, or if insufficient, by set off and by way of a cash or other agreed settlement;

- 31.2.4 If the Assets are purchased by a third party JPC nominated by the City, the purchase price shall be discharged by whatever mechanism is agreed between JPC and the third Party JPC with the approval of the City, and the purchase price shall be utilised by JPC towards settling the loan account in favour of the City in the books of account of JPC;



- 31.2.5 against payment of the purchase price of the Assets determined in terms of clause 31.2.2, JPC shall deliver the Assets (and any accretions thereto) to the Buyer by placing the Buyer in possession thereof and ownership of the Assets (and accretions thereto), and all risk in and benefit to the Assets (and accretions thereto), shall thereupon pass to the Buyer;
- 31.2.6 JPC shall sign all such documents and do all such things as may be necessary or desirable to enable the Assets (and accretions thereto) which are capable of registration to be registered in the name of the Buyer; and
- 31.2.7 JPC shall be required to make arrangements for the transfer of contracts of employment to the Buyer in relation to those employees who, in the reasonable opinion of JPC, are required to ensure the continuity of the supply of the Services, provided that such employees consent to the transfer of their contracts of employment to the Buyer. The Buyer shall be obliged to employ the above-mentioned employees.



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31.3 In the event of the City (or the City's nominee) electing to purchase JPC Going Concern:

31.3.1 JPC shall on receipt of the written notice exercising the City's option, be deemed to have offered to sell JPC Going Concern to the City or a JPC designated by the City (in either instance "the Buyer") as a going concern, and the Buyer shall be deemed to have accepted such offer on the terms and conditions specified hereunder:



31.3.2 the purchase price of JPC Going Concern shall be the net asset value of the business, as determined by the Auditors of JPC, together with VAT at the applicable rate (it being recorded that such transactions are currently zero-rated);

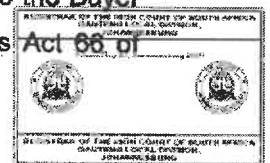
31.3.3 if either of the Parties does not accept the determination of the Auditors it may refer the matter for expert determination mutatis mutandis on the basis contemplated in clause 31.2.2;

31.3.4 if JPC Going Concern is purchased by the City, the purchase price of JPC Going Concern shall be discharged by set-off against any loan account in favour of the City in the books of account of JPC, if such loan account is sufficient to discharge the purchase price, or if insufficient, by set off and by way of a cash or other agreed settlement;

31.3.5 if JPC Going Concern is purchased by a third party JPC nominated by the City, the purchase price shall be discharged by whatever mechanism is agreed between JPC and the third Party JPC with the approval of the City, and the purchase price shall be utilised by JPC towards settling the loan account in favour of the City in the books of account of JPC;



- 31.3.6 against discharge of the purchase price of JPC Going Concern, JPC shall deliver JPC Going Concern to the Buyer;
- 31.3.7 JPC shall sign all documents and do all things as may be necessary or desirable to enable the Assets which are capable of registration to be registered in the name of the Buyer; and
- 31.3.8 contracts of employment shall be transferred from JPC to the Buyer in accordance with section 197 of the Labour Relations Act 66 of 1995.
- 31.4 On the sale either of the Assets or JPC Going Concern, JPC shall, subject to compliance with any Regulatory Provisions and the consent of any licensing authority having jurisdiction, assign any permits or authorities held by it on the date of termination of this Agreement to the Buyer, and generally facilitate the implementation of this Agreement and the achievement of its intent and purpose.
- 31.5 In respect of employees whose contracts of employment are to be transferred to the Buyer:
- 31.5.1 JPC shall be responsible for and shall discharge all obligations in respect of all payments and amounts accrued to such employees arising out of their employment with JPC prior to the date of transfer and shall indemnify and hold the City and the Buyer harmless in respect of all such obligations;
- 31.5.2 JPC shall be liable for and indemnify and hold the City and the Buyer harmless in respect of all claims in respect of such employees which claims accrued on or after the Effective Date but prior to the date of transfer or which arose by reason of the transfer;



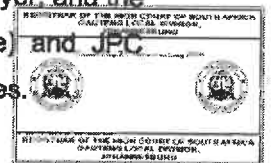
*[Handwritten signatures and initials]*



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- 31.5.3 any debt or liability arising from or connected to the employment by the Buyer of such employees after the date of transfer will be the exclusive responsibility of the Buyer;
- 31.5.4 any obligation on JPC to make contributions to any pension, provident, retirement or medical aid or health care funds of which such employees are members at the date of transfer will with effect from the date of transfer become the obligation of the Buyer, and the Buyer shall indemnify and hold the City (if applicable) and JPC harmless in respect of all such claims, costs and expenses.



## 32. MUTUAL CO-OPERATION

The Parties may consult from time to time with regard to any assistance or advice which either Party may require in connection with any of its obligations in terms of this Agreement. The City shall further timeously provide JPC with such information as it may reasonably require to enable it to comply with any of JPC's obligations in terms of this Agreement.

## 33. CONFIDENTIALITY

33.1 Each Party shall treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement which relates to:

- 33.1.1 the provisions of this Agreement;
- 33.1.2 the negotiations relating to this Agreement;
- 33.1.3 the subject matter of this Agreement; and/or
- 33.1.4 the other Party.

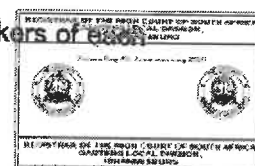


33.2 A Party may disclose information which would otherwise be confidential if and to the extent:

33.2.1 required by law;

33.2.2 required to vest the full benefit of this Agreement in either Party;

33.2.3 disclosed to the professional advisers, auditors and bankers of each Party;



33.2.4 the information has come into the public domain through no fault of that Party;

33.2.5 the other Party has given prior written approval to the disclosure, such approval not to be unreasonably withheld or delayed;

provided that any information so disclosed shall be disclosed only after notification to the other Party.

#### 34. DOMICILIA AND NOTICES

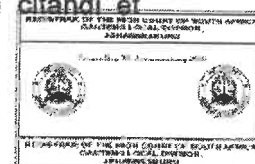
34.1 All notices to be given in connection with this Agreement shall be in writing and shall be delivered by hand, transmitted by facsimile or sent by prepaid registered post:

The City Manager:  
Metropolitan Centre  
158 Loveday Street  
Braamfontein  
Johannesburg  
telefax no: 011 403 1012  
marked for the attention of: The City Manager



JPC at:  
 Chief Executive Officer  
 JPC  
 33 Hoofd Street  
 Braampark, 1<sup>st</sup> Floor, Forum II  
 Braamfontein  
 Johannesburg  
 telefax no: [010 219 9000]  
 marked for the attention of: The Managing  
 Director/CEO

which physical addresses the Parties select as their domicilium citandi et  
 executandi.



34.2 A notice shall be deemed to have been received.

34.2.1 14 (fourteen) days after posting, if posted by registered post to the  
 Party's address in terms of clause 34.1;

34.2.2 on delivery, if delivered to a responsible person during normal  
 business hours at the Party's physical address in terms of clause  
 34.1;

34.2.3 on despatch, if sent to the Party's then telefax number and such  
 transmission is independently confirmed.

34.3 Notwithstanding the foregoing a written communication actually received  
 by a Party shall be deemed to have been received by such Party  
 notwithstanding that it was not sent to or delivered at such Party's chosen  
 domicilium.

### 35. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties with  
 regard to the matters dealt with herein. There are no terms, conditions or  
 warranties, express or implied, other than those contained in this Agreement  
 and there have been no prior representations made by the Parties or any



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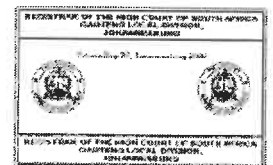
agent or other person purporting to act for the Parties shall be of any force or effect if not set out herein.

### 36. VARIATION, CANCELLATION OR WAIVER

No variation of the terms of this Agreement, or consensual cancellation of this Agreement, shall be effective unless reduced to writing and signed by or on behalf of the Parties.

### 37. SEVERABILITY

If any of the provisions of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the validity of the remainder of the provisions of this Agreement which shall remain effective and be interpreted as if any such unenforceable provision/s were not a part of this Agreement, unless the effect of such severance renders the rest of the agreement unworkable.



### 38. APPLICABLE LAW

This Agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa, provided that in the event of a conflict between or inconsistency in the laws applicable in the various provinces of the Republic of South Africa, the law as interpreted and applied in the Gauteng Province shall prevail.

THUS DONE AND SIGNED AT JOHANNESBURG ON THIS THE ~~28~~ JANUARY 2015

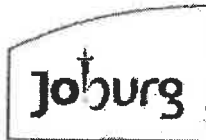
As Witnesses:

- 1.
- 2.

JPC SDA

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*G. Dumas*  
*G. Dumas*  
**JOBURG  
PROPERTY COMPANY**  
*ACTING CITY MANAGER*

**CITY MANAGER**

who warrants that he is duly authorised

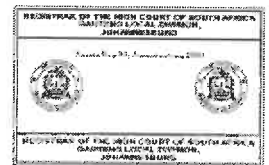
For and on behalf of

**CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY**  
(Herein referred to as "the City")

THUS DONE AND SIGNED AT JOHANNESBURG ON THIS *FEBRUARY 2015* ~~JANUARY 2015~~

As Witnesses:

1. *[Signature]*  
2. *[Signature]*



*[Signature]*  
**CHIEF EXECUTIVE OFFICER**

who warrants that he or she is duly  
authorised

For and on behalf of

**CITY OF JOBURG PROPERTY  
COMPANY SOC Ltd (RF)**

(Herein referred to as "JPC")



## ANNEXURE A: SERVICES

Housing-related properties have been the service area of the Facilities Management function of the CoJ, now being carried on by the service provider;

Approximately 25% of CoJ properties (and 85% of the book value) are the operating assets of CoJ service delivery departments and municipal entities;

About 9% of CoJ properties, listed as at around 9% of book value, are either vacant or leased out. Approximately 4,000 of these properties constitute a potential commercial CoJ property portfolio, unless leased in furtherance of a CoJ social mandate;



The CoJ assigned to the Service Provider a new broader mandate to be a full-spectrum property services company serving CoJ's departments and municipal owned entities (MoE's). The major services of the Service Provider are property administration, facilities Management (including managing informal trading facilities and taxi rank facilities), Asset Management, Property (Portfolio) Management and Property development, with concomitant responsibilities for other property related matters such as outdoor advertising and cell mast rentals.

Throughout, the JPC strategy is suffused with the central themes of Transformation and self-sustainability. Transformation encapsulates or encompasses transformation of the organisational and governance arrangements between CoJ and the Service provider; transformation of the service provider to be a self-financing and social and economic value-adding entity of the CoJ; and alignment of the service provider activities directly behind the CoJ's spatial and economic transformation policies.

In this regard, service provider becomes a catalyst for programming residential densification and intensification of land-uses using the CoJ properties, as the lever for mobilisation of investment in the primary nodes and corridors of the CoJ. This includes transformation and development of the property industry through enterprise promotion and business development of small Black investors and developers in small-scale densification projects. The service provider is to be geared to take up a recognised and credible position in the market place as a public sector property services company of choice.

As a result, the service provider will be capacitated to:

- respond to changing demands of the CoJ, related socio-political factors as well as changes in mandate;



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- foster simplicity, consistency and standardisation of operations (staffing levels based on full utilisation; enable flexibility in the deployment of people and resources; enable pooling and sharing of specialist skills across function; deliver effective information sharing both horizontally and vertically, design short lines of communication);
- focus on the business elements of the HR strategy requiring more focus on improvement of service to internal clients;
- deepen ownership of end-to-end accountability of processes, which need to be allocated and must include redesign of policies and processes;

The broad principle in the provision of services by JPC is that all services are linked to the Priority Implementation Plan of the City and the results shall have a contribution to the outcomes as set out in the IDP. The City has identified 10 priorities, which are the developmental focal areas that the service delivery of JPC must respond to. The 10 priorities are:



1. Financial Sustainability and Resilience
2. Agriculture and Food Security
3. Sustainable Human Settlements
4. SMME and Entrepreneurial support
5. Engaged Active Citizenry
6. Resource sustainability
7. Smart City
8. Investment attraction, retention and expansion
9. Green economy and
10. Safer cities.

## DESCRIPTION OF THE SERVICES

### CITY OF JOBURG PROPERTY COMPANY SOC LIMITED – SDA

### SERVICES PROVIDED PURSUANT TO THE SERVICE DELIVERY AGREEMENT

#### 1. DEFINITIONS AND INTERPRETATION

1.1 All defined words and expressions contained in the SDA bear the same meaning in the Annexures.



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1.2 Words and expressions referred to are subject to the same rules of interpretation set out in clause 1 of the SDA.

## 2. THE CORE CAPABILITIES AND COMPETENCIES/SERVICES

The Services to be provided by the Service Provider in terms of the SDA shall, include the following Core Capabilities and Requisite Competencies

- ✓ Property Administration
- ✓ Project Management
- ✓ Asset Register and Asset Register Maintenance
- ✓ Portfolio Planning & Analysis
- ✓ Administration: Buying & Selling, Leasing
- ✓ Servitudes and zoning (Town Planning)
- ✓ Outdoor Advertising (and Cellphone Masts)
- ✓ Facilities Management
- ✓ Facilities Contract Management
- ✓ Mobile Maintenance Rapid Response
- ✓ Building Management
- ✓ Cleaning (Taxi ranks, toilets and public conveniences),
- ✓ Preventative and reactive maintenance (Taxi ranks, toilets and public conveniences),

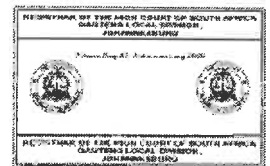




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- ✓ Repairs (Taxi ranks, toilets and public conveniences, markets)
- ✓ Office and Space Planning
- ✓ Property Development
- ✓ Analysis, Assessment & Design
- ✓ Financing & Funding
- ✓ Development Facilitation & Management
- ✓ Project Management
- ✓ Construction of ablution blocks
- ✓ Coordination of Operations
- ✓ Stakeholder Relations (account managers)
- ✓ Marketing and contracting
- ✓ Client Services
- ✓ Communication
- ✓ Governance, compliance and reporting
- ✓ Integrated Regional Management
- ✓ Research & Information Management
- ✓ Project Monitoring and Evaluation





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✓ Support Capabilities

✓ Human Resources

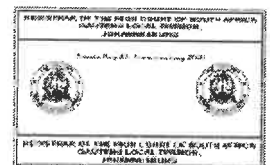
- Recruitment and selection
- Learning and Development
- Organisational Development
- Payroll
- Labour and/or Industrial Relations
- Employee Wellness
- Benefits and Administration

Finance

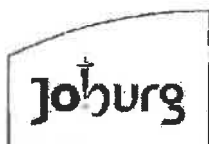
- Management Accounting
- Budgeting
- Forecasting and Analysis
- Cost Management
- Supply Chain Management

IT

- System administration



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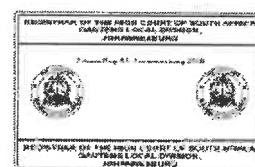
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- Application Support and monitoring
- Database administration
- Systems Integration
- End-user support (Help-desk)

#### Legal

- Governance, compliance and reporting
- Policy management and coordination
- Contract drafting and Management



## 2.1 PROPERTY SERVICES

The Service Provider shall be responsible for providing the following services in respect to the Property Portfolio of the CoJ as the sole agent of the CoJ:

### 2.1.1 Letting

- 2.1.1.1 The letting and hiring of the properties forming part of the CoJ Property Portfolio;
- 2.1.1.2 The preparation and signing of leases and other documentation relating thereto;
- 2.1.1.3 The administration and enforcement of all existing leases concluded between the CoJ and the tenants of the properties in the CoJ Property Portfolio, including

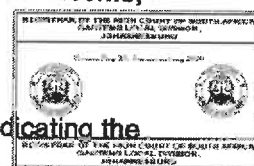


maintenance and inspection of CoJ properties, registration of applicable leases and matters relating thereto;

2.1.1.4 The negotiation of new leases, which may involve the marketing of vacant CoJ property including sites available for outdoor advertising;

2.1.1.5 The recovery and collection of rentals and other income; and

2.1.1.6 Sending each tenant a statement each month indicating the rent and other service charges due by the tenant.



2.1.2 Development Participation and Management of Properties

2.1.2.1 The designation of CoJ properties within the CoJ Property Portfolio for development and where capital expenditure is required, ensuring that the expenditure falls within the approved budget;

2.1.2.2 Co-ordinating the marketing of properties within the CoJ Property Portfolio in accordance with the CoJ approved policies and procedures which includes advertising, calling for proposals and liaising with the property industry;

2.1.2.3 Drafting development management agreements and other related documentation such as financial structuring arrangements as required for the purpose of developing or selling properties within the CoJ Property Portfolio;

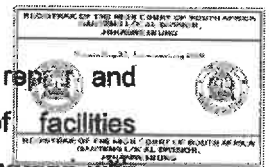
2.1.2.4 Liaising with the CoJ on matters pertaining to the management and development management of the properties in the CoJ Property Portfolio; and

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- 2.1.2.5 Securing tenants including screening for credit-worthiness;
- 2.1.2.6 Lease contracting and billing and collection of rent and other, utility charges; including managing the accounts and finances of the specific properties, which entail contracting with or performing a contract management function with tenants, contractors and service providers, facilities managers, and insurance companies, where applicable.
- 2.1.2.7 Oversight of quality and cost of operation, report and maintenance of building services, and of facilities management. This generally within a budget agreed with the CoJ.
- 2.1.2.8 Preparing documents and performing all administrative and other actions to develop the designated CoJ properties, including but not limited attending to the all relevant aspects of town planning requirements and processes.



### 2.1.3 Disposal and Acquisition of Properties

- 2.1.3.1 Designating CoJ properties within the CoJ Property Portfolio for sale and where capital expenditure is required ensuring that the expenditure falls within the approved budget;
- 2.1.3.2 Co-ordination of marketing of CoJ properties designated for sale including advertising proposal calls and other tendering processes and liaising with agents;
- 2.1.3.3 Acquiring properties in the name of the CoJ and making all required town planning related applications in this regard;



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2.1.3.4 Selling or acquiring any other real property right in the name of the CoJ; and /or acquiring any real property from a third party owner for the CoJ, and concluding lease back arrangements whenever it is necessary and in the best interest of the CoJ and service provider;

2.1.3.5 Managing all matters relating to the transfer and registration of property rights, such as ensuring that contractual obligations have been complied with (including all financial matters) and the appointment of professionals (such as valuers, land surveyors and attorneys) at the cost of the CoJ, unless the Council of the CoJ resolves otherwise to the extent permitted by legislation and regulations to execute the services required for the transfer and registration of such rights.



#### 2.1.4 CoJ Property Portfolio information

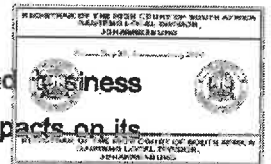
2.1.4.1 Retaining all original lease agreements other lease and property documents including suretyship and tenant files in respect of properties in the CoJ Property Portfolio which lease agreements documents and tenant files shall at all times remain the property of the CoJ.

2.1.4.2 Design and maintain the Asset Register a Geographic Information System (GIS) of all relevant immovable property information, which is to be linked to the corporate GIS data of the CoJ, ensuring that the GIS is compatible with the base data of the GIS of the CoJ.

#### 2.1.5 Facilities and Property Maintenance



- 2.1.5.1 Service provider is the integrated entity and contracting party, with specific reference to the work previously performed by the FMMU and MTC respectively.
- 2.1.5.2 Service provider now carries on management of taxi ranks and informal trading markets in its general facilities repair and maintenance function, with a large complement of general workers, artisans and artisan support staff.
- 2.1.5.3 The function has a particular operational and business model implication for service provider, which impacts on its revenue model and budget and on the human capacity and systems required to be in place.
- 2.1.5.4 The cost efficiency and quality of service must be against an agreed benchmark of costs, pricing and service based on what the service provider client can obtain from private sector competitors providing the same quality of materials and workmanship, or better. The cost-efficiency and service benefit must accrue to the line department, for service provider and for the CoJ overall.
- 2.1.5.5 Maintaining (preventative and corrective) cleaning and repairing those properties in the CoJ Property Portfolio not exempted from this service by CoJ, on cost recovery basis so that they are in a good, secure, clean and tidy condition ;
- 2.1.5.6 Ensuring the continuous supply of all services to the properties in the CoJ Property Portfolio managed by the Service Provider in terms of the SDA, including but not limited to water and sanitation, electricity and security; and





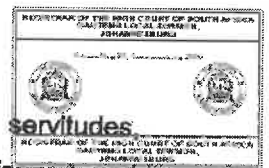
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- 2.1.5.7 The carrying out of periodic regular inspections of the properties in the CoJ Property Portfolio and the completion of a detailed inspection report at the request of the CoJ.

## 2.1.6 PROTECTION AND ENHANCEMENT OF PROPERTY RIGHTS

### 2.1.6.1 Servitudes, Encroachments and Access Rights



- 2.1.6.1.1 Attend to all aspects of applications for servitudes, encroachments, or access rights over property forming part of the CoJ Property Portfolio which will include but not be limited to dealing with related correspondence and administrative actions and ensuring that market-related or otherwise appropriate compensation is paid for approved servitudes, encroachments, and access rights in terms of which the land value is enhanced through leveraging on social and economic assets in the social and economic interests of the CoJ.

### 2.1.7 Promotional Services

Provide a comprehensive range of promotional communication services to position the properties that form part of the CoJ Property Portfolio, to the benefit of the CoJ, including corporate and project communication, the production of promotional strategies, media liaison, and the production of promotional materials.

### 2.1.8 Strategic Property Planning and Property Advice

- 2.1.8.1 Formulate and submit annually for approval by the CoJ a Strategic Business and Budgetary Plan for the management and/or development of the property by such

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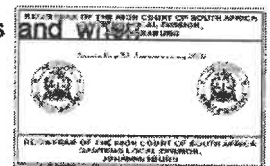


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date agreed-upon between the CoJ and the Service Provider which plan may be altered from time to time during the year by agreement between the CoJ and the Service Provider, it being agreed that the Strategic Business and Budgetary Plan shall form part of the Property Portfolio Business Plan to be developed by the Service Provider in terms of the SDA; and

- 2.1.8.2 Provide property-related advice to the CoJ, as ~~and written~~ required by the CoJ.



## 2.2 ASSET MANAGEMENT

- The service provider is responsible for asset management of the CoJ to the extent permitted by the CoJ in the creation of value from the CoJ's commercial property assets. It does this through:
  - Expansion of the balance sheet through strategic acquisitions, developments and capital expenditure projects;
  - Redevelopment and optimising returns on existing assets; and
  - Hands-on management of the property and facilities managers
- The Service Provider shall for the duration of this Agreement, regularly maintain and service the Assets allocated to and acquired by it for each of the Services managed under this Agreement, subject to budget allocations granted to the service provider by the CoJ. The Assets shall be kept in good order,



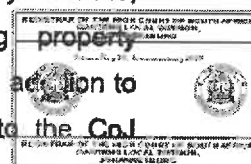
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condition and repair and in proper and efficient working order, fair wear and tear excepted.

## 2.2.1 ASSET REGISTER

2.2.1.1 The Service Provider shall subject to clause 2.2.1.2 below establish, maintain and continually update the Property register for all the properties in the CoJ Property Portfolio, capturing all relevant information including property description, size, zoning and municipal value. In addition to the electronic data base, all data pertaining to the CoJ Property Portfolio shall also be archived in a filing system in hard copy.



2.2.1.2 The CoJ hereby records that the Service Provider is reliant on information within the possession and control of the CoJ in order to efficiently carry out its mandate as envisaged in clause 2.2.1.1 above. The CoJ undertakes to provide the Service Provider with such information as may be required from time to time by the Service Provider, and undertakes to ensure that the information provided is relevant and accurate.

2.2.1.3 Preparation of Asset Management property plans per each property, building including all trader's markets and taxi ranks under the auspices of the service provider;

2.2.1.4 Those properties in the CoJ Property Portfolio, which are Municipal Entities properties shall be categorised as such and relevant information pertaining to Municipal Entities properties shall be captured in a separate register.

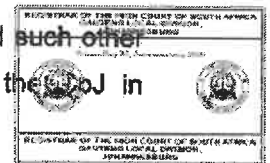


## 2.3 FINANCIAL, ACCOUNTING AND SECRETARIAL SERVICES

The services to be provided by the Service Provider in terms of this clause 2.3 shall entail:

2.3.1 attending to the general administration of the affairs of the CoJ insofar as it relates to the properties in the CoJ Property Portfolio;

2.3.2 rendering of detailed monthly income statements and such other management accounts/reports as are required by the CoJ in respect of the CoJ Property Portfolio;

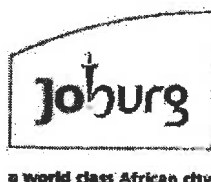


2.3.3 preparation of a detailed estimate of anticipated annual income and expenditure and the monthly comparison and analysis of the actual figures compared with the estimate;

2.3.4 maintenance of full and comprehensive records in accordance with Standards of Generally Recognised Accounting Practice ("GRAP");

2.3.5 depositing of all rentals and other moneys received by the Service Provider in respect to the Property Portfolio, which amounts shall be deposited into an interest-bearing account specified by the CoJ. All interest shall accrue for the benefit of the CoJ save unless specifically agreed otherwise to the contrary in respect of any particular tenant;

2.3.6 making payments and the rendering of statements to the CoJ of all rentals and other moneys received on dates to be agreed between the parties by the final date of the initial period with a final reconciliation to be rendered monthly on a date to be agreed between the parties;

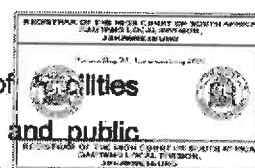


2.3.7 providing the CoJ with a comprehensive quarterly report on the properties in the CoJ Property Portfolio; and

2.3.8 attending to such further financial management, secretarial and reporting functions for the CoJ as may further be agreed between the CoJ and the Service Provider.

## 2.4 TRANSPORTATION

2.4.1 The Services to be provided are the provision of Facilities Management Services for Informal Trading Markets and public transportation facilities including taxi ranks but excluding the Rea Vaya Bus Rapid Transit System.



## 3. CONDITIONS SUBJECT TO WHICH SERVICES PROVIDED

3.1 In rendering its Services on behalf of the CoJ, the Service Provider shall, at all times comply strictly with its duties and obligations as set out in this Agreement.

3.2 The Services shall be provided:

3.2.1 in accordance with the Business Plan and the Service Provider's Memorandum of Association;

3.2.2 within the Service Area;

3.2.3 in accordance with the terms and conditions as set out in the SDA; and

3.2.4 in compliance with each and every obligation which the Service Provider may now or in future have with regard to the Services.





#### 4. BUSINESS OTHER THAN THE SERVICES

4.1.1 It is recorded that the provision of the Services pursuant to the SDA and clause Error! Reference source not found. above constitutes the core business of the Service Provider.

4.1.2 Section 86D(2)(b) of the MSA restricts the Service Provider from performing any activity which falls outside the powers and functions of the CoJ as contemplated in Section 8 of the MSA i.e. those powers and functions conferred under the Constitution and those which are reasonably necessary for or incidental to, the effective performance of the Parent Municipality's functions and exercise of its powers. Subject to this clause 4.1.2, the Service Provider shall not undertake any business which falls outside the powers and functions of the CoJ.



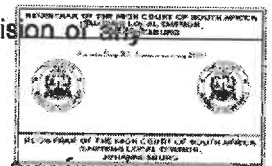
4.1.3 The Services are required under Municipal Legislation to be provided in a manner that is, inter alia, financially sustainable.

4.1.4 The Service Provider may accordingly, in addition to the Services, perform services ("Incidental Activities") which do not constitute the core business of the Service Provider provided that they are incidental to the provision of the Services and reasonably necessary for the effective performance of the Services by the Service Provider – including maintenance of effective economies of scale in the operations of the Service Provider which assist it to drive down the cost of the Service Provider's inputs, enhance the Service Provider's ability to deliver the Services at the most competitive price and generally enable the Service Provider to utilise its resources in a financially sustainable manner.



4.1.5 In providing any Incidental Activities, the Service Provider shall:

- 4.1.5.1 ensure that the provision of such activities does not prejudice the Service Provider's ability to comply with each and every obligation which it may now or in the future have under the SDA;
- 4.1.5.2 ensure that it does not utilise any funding received by it from the CoJ pursuant to the SDA for the provision of any Incidental Activities;
- 4.1.5.3 ensure that the use of its assets in the carrying on of such business shall not prejudice the Service Provider's ability to comply with each and every obligation which it may now or in the future have under the SDA;
- 4.1.5.4 ensure that use of any its employees shall not prejudice the Service Provider's ability to comply with each and every obligation which it may now or in the future have under the SDA;
- 4.1.5.5 ensure compliance with all applicable legislation in the provision of the Services and Incidental services; and
- 4.1.5.6 include all projected income and expenditure from the Incidental Activities in its Annual Business Plan and account for all revenues generated and expenditure incurred in the same way as for revenues generated through provision of the Services by the Service Provider.



## 5. AMENDING THE SCOPE OF THE SERVICES

Amendments by the CoJ to the scope of the Services shall be made in accordance with the following procedure:



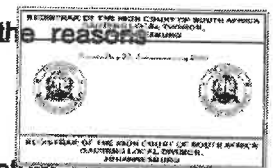
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5.1 either Party may propose to the other Party in writing that the scope of the Services should be amended and shall describe the nature of the proposed amendment;

5.2 the proposal shall be accompanied by reasons explaining the need for the amendment in the Business Plan and Budget to be developed in terms of Clause 12 of the SDA;

5.3 the other Party may request an amplification of the reasons provided in accordance with clause 5.2;



5.4 the Parties shall consult in good faith regarding the nature, scope and implementation of the amendment; and

5.5 after consulting with the Service Provider, the CoJ shall:

5.5.1 elect whether or not to amend the scope of the Services,

5.5.2 determine the extent of the amendment;

5.5.3 determine the implementation date for the provision of the amended Services; and

5.5.4 effect the necessary changes to clause 2.1 hereof.

5.6 If the CoJ elects to amend the scope of the Services, the business plan and budget will be amended to provide for the amendment in the scope of services in accordance with clause 12 of the SDA.

## 5.7 EXCLUDED SERVICES

The following services are specifically excluded from the mandate of the Service Provider, namely:

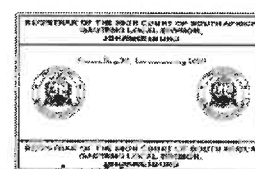


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- 5.7.1 facilities management services to be carried on by other MEs as determined by the CoJ in consultation with other relevant MEs; and
- 5.7.2 any services related to the Property Portfolio which the CoJ determines from time to time should not be managed (or cease to be managed) by the Service Provider on the CoJ's behalf.

## 6. THE SERVICE PROVIDER'S AUTHORITY

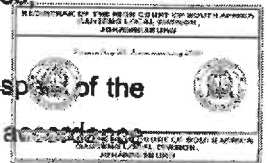


- 6.1 The authority of the Service Provider (which shall be exercised in accordance with general policy and strategy determined from time to time by the CoJ and communicated to the Service Provider) shall be generally to represent the CoJ as the CoJ's Agent in respect of the Property Portfolio and to render fully functional Facilities, Property and Asset and Development Participation and/or Management services as well as to do everything in the name of and for the account of the CoJ which the Service Provider considers necessary in the performance by the Service Provider of the Services and generally in the administration of the Property Portfolio, subject to the Constitution of the Republic of South Africa, 1996 and all other applicable legislation (including, without limitation, Municipal Legislation) and to the Memorandum of Incorporation (MOI) Memorandum and Articles of Association of the Service Provider. The authority shall include where applicable and where appropriate the power to:

- 6.1.1 let the properties in the Property Portfolio for such rentals and on such terms and conditions as the Service Provider deems fit;



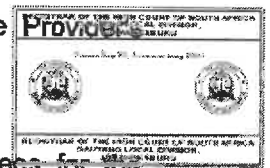
- 6.1.2 enter into or terminate any other contract which it considers necessary for or incidental to the performance of the Property Services;
- 6.1.3 exercise in such manner as it deems fit all the rights of the CoJ under any contracts to which the CoJ is party from time to time and which are administered by the Service Provider pursuant to the SDA, including but without being limited to all leases;
- 6.1.4 establish bank accounts in the name of the CoJ in respect of the Property Portfolio and administer such accounts in accordance with the instructions issued by the CoJ;
- 6.1.5 purchase, expropriate, donate and accept donation, lease or otherwise acquire any movable or immovable assets in the name of the CoJ which arise in the ordinary course of business in connection with the Property Portfolio;
- 6.1.6 institute or defend any legal proceedings in the name of the CoJ which arise in the ordinary course of business in connection with the CoJ in accordance with any CoJ directive. In this regard instruct attorneys and counsel and take legal advice on any matter arising in connection with the Property Portfolio;
- 6.1.7 sign any contract or other documents on behalf of the CoJ in any form which it deems fit and which may be required to give effect to any matter which falls within the scope of its authority;
- 6.1.8 pay on behalf of the CoJ all costs and expenses incurred in respect of the Property Portfolio which are necessarily incidental to the performance of the Services. The Service Provider shall be entitled to withdraw from the bank accounts, the amounts necessary to enable the Service Provider to pay the aforesaid





expenses (determined in accordance with the approved Budget allocation by the CoJ of the Service Provider).

6.1.9 To the extent that there are no sufficient funds in the bank accounts to cover such expenditure, the Service Provider shall be entitled to raise overdrafts subject to any borrowing restrictions imposed by its Memorandum of Incorporation articles of association to finance any such operating expenditure which is contemplated in the CoJ budget allocation Service Provider Budget at the relevant time;



6.1.9.1 To charge the CoJ and its entities the following fees for the services the service provider is to render in terms of this SDA and SLAs:-

6.1.9.1.1 Asset Under Management Fee;

6.1.9.1.2 A Facilities Management Fee;

6.1.9.1.3 Restructured Development Management Fee;

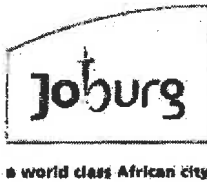
6.1.9.1.4 Development Participation Fee and/or Development Management Fee;

6.1.9.1.5 Annuity Fee and Profit contribution

6.1.10 an annual budget allocation to Service Provider for all Property Administration work.

6.1.11 earn income for Value Add Property Development Services

6.1.11.1 in the following way:



6.1.11.1.1 The difference between the zoned land, with approvals, and raw land or land that has been proclaimed but does not have the required development rights and approvals;

6.1.11.1.2 The raw land value is reserved for the owner, the CoJ.

6.1.12 If service provider alienates the land, where applicable before zoning to a private developer service provider is permitted to charge it a fee for the service of facilitating the zoning, approvals and service provision.



6.1.13 The pricing of this service must be negotiated based on property value before and after development rights have been issued;

6.1.14 Service provider shall zone and transfer the land to the land owner in agreed parcels over time, at property values determined at the time of sale, to earn the appreciated value of the development rights over time.

6.1.15 To retain FM revenue collected and 20% of the Portfolio revenue collected on behalf of the CoJ to fund service provider capex and for Repair and Maintenance of the immovable property portfolio;

6.1.16 To own property, corporeal and incorporeal and to develop the Service provider property portfolio and earn rental revenue therefrom;

6.1.17 To lease and mortgage its own property to raise finance, in its own discretion, where necessary;



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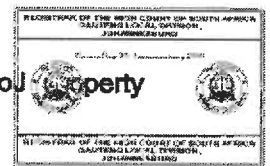
- 6.1.18 To exclusively manage Cell masts and/or Outdoor Advertising for the CoJ;
- 6.1.19 To exclusively source office space for the CoJ, CoJ Departments and CoJ entities
- 6.1.20 To retain cell masts and outdoor advertising revenues within the portfolio of the service provider;
- 6.1.21 subject to the provisions of the SDA enter into development contracts from time to time; and
- 6.1.22 Develop Property Portfolio Business Plan subject to CoJ's Integrated Development Plan, taking into account CoJ's planning objectives, and be in consultation with CoJ's Corporate Planning Unit.
- 6.1.23 Operational planning and management to provide the services.
- 6.1.24 Social and economic development directly related to the provision of services.
- 6.1.25 Client management.
- 6.1.26 Manage JPC's financial management, investment and borrowing.
- 6.1.27 Capital expenditure regarding the portfolio account (subordinate to CoJ policies), to:
- 6.1.28 recommend to CoJ the required capital for development of properties in the CoJ portfolio;







- 6.1.29 draft and approve tender and contracting policies for development of CoJ properties;
- 6.1.30 tender contract and project manage the expenditure of capital funds for CoJ property portfolio;
- 6.1.31 draft and approve policies regarding appointment of professionals;
- 6.1.32 appoint professionals for development of CoJ property portfolio;
- 6.1.33 authorise payment for quality and value of work performed.



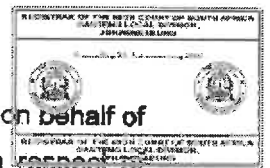
**PROPERTY TRANSACTIONS, to:**

- (1) recommend to CoJ to approve sale of properties valued at less than R10 000 000;
- (2) recommend to CoJ properties for sale above R10 000 000, reserve price and process for disposal?;
- (3) negotiate and finalise sale of properties approved for sale including signing of all documents (in terms of the general and /or Special Power of Attorney);
- (4) grant servitudes in accordance with planning approval;
- (5) make applications for rezoning of CoJ property and for any other town planning purposes;
- (6) represent CoJ in the deeds registry office (in terms of the general or special Power of Attorney).



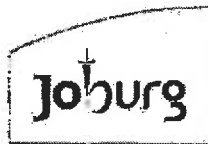
**PORTFOLIO OPERATIONS, to:**

- (1) draft portfolio strategy for submission to CoJ in the form of annual business plan;
- (2) draft and approve lease policies and procedures;
- (3) recommend to CoJ bad debts write-off in consultation with CFO or his/her nominee;
- (4) take necessary legal action or defend legal action on behalf of CoJ regarding disposals, leases and acquisitions in respect of agreements service provider concluded on behalf of the CoJ;
- (7) approve appointment of and manage service providers servicing CoJ properties in the service provider portfolio;



- 6.1.34 Surface right permits to protect CoJ's interests.
- 6.1.35 Extension of time to erect a building by not more than 1 year.
- 6.1.36 Cancellation of servitude.
- 6.1.37 Cancellation of sale of property.
- 6.1.38 Cancellation of Notarial Tie Agreement subject to consent by CoJ Planning
- 6.1.39 Cancellation of encroachment agreement.
- 6.1.40 Apply for issue of Certificates of Registered or Consolidated Title of CoJ property.

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- 6.1.41 Grant consent to transfer ownership and to remove restrictive conditions of title in consultation with CoJ's relevant Departments and entities;
- 6.1.42 Institute or defend any proceedings in the South African Courts and appropriate fora arising out of breach of sale agreement or lease agreement or recovery of damages to property or any other matter relating to the mandate of the service provider;
- 6.1.43 Give notice of termination of tenancy or other right of occupation of any land or premises hired by or from CoJ;
- 6.1.44 Grant permission to cede leases or sub-let, to the extent legislation and regulation may or may not permit;
- 6.1.45 Give prior written consent for lessees to make additions or alterations of property leased from CoJ and for installation of telephones;
- 6.1.46 Cancel Use agreements;
- 6.1.47 Attend to all aspects relating to mineral rights where CoJ is an interested party;
- 6.1.48 Acquire properties on behalf of CoJ and its entities and transfer properties into the name of CoJ and/or its entities;
- 6.1.49 Temporarily close a Public Place and let or grant the use temporarily of such closed Public Place.
- 6.1.50 enter into agreements with any of the Municipal Entities of the CoJ to provide services in respect of their properties pursuant to the CoJ resolutions where required;

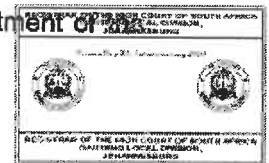




6.2 The authority set out in this Annexure A shall be subject at all times to the Service Provider exercising such powers in accordance with applicable legislation and the policy guidelines of the CoJ and subject to the Service Provider not exceeding its approved Budget.

## 7. EXCLUSIVITY

Save to the extent specifically provided herein the appointment of the Service Provider is not an exclusive one.



## 8. LOGO

Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby record that the Service Provider shall be obliged to include the "Joburg" logo of the CoJ, or any logo as approved from time to time by the CoJ, on any and all its marketing material and statutory reports and corporate communications.

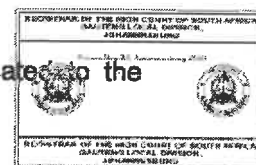
## 9. GRANTING OF APPROVALS IN RESPECT OF PROPERTY TRANSACTIONS

9.1 It is recorded that the Service Provider is dependent on certain decisions being taken by the CoJ before the Service Provider can efficiently undertake its mandate in terms of the SDA. The CoJ hereby undertakes to render all reasonable support to the Service Provider in its mandate and shall ensure that all matters referred to it for approval are handled in an expeditious manner, including the following matters:

- access to information required by the Service Provider in its performance of all the services provided in terms of the SDA;
- delegated levels of authority;



- ensuring that there is no duplication within the CoJ of the mandate granted to the Service Provider and without derogating from the generality of the above, shall ensure that no department of the CoJ possesses a mandate to negotiate and conclude agreements in respect of Property Transactions, including Outdoor Advertising as well as Cell Masts and carry out facilities, Asset and Development and/or management functions, which fall under the mandate of the Service Provider; and
- relevant transactions and functions that cannot be delegated to the Service Provider remain within the CoJ.



## 9.2 THE CoJ AS COLLECTION AGENT

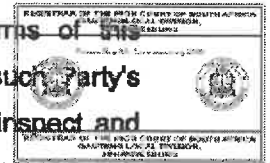
- It is recorded that with respect to some properties falling within the Property Portfolio that the Service Provider is responsible for managing, the CoJ continues to receive rentals from the respective tenants.
- The CoJ hereby undertakes that for as long as it received rentals, the CoJ shall within 30 (thirty) days of such receipt:
  - deposit all funds received into the Property Portfolio Account; and
  - provide the Service Provider with a detailed statement setting out the details of the tenants and the amounts received in respect of each tenant.
- The Parties shall within a reasonable time from the Effective Date develop a mechanism in terms of which the Service Provider shall directly receive payment from the respective tenants and in the event that it not be practical for the Service Provider to directly receive payment, then develop a mechanism in terms of which the CoJ shall



timeously inform the Service Provider of any rentals collected from the respective tenants.

### 9.3 RIGHT OF ACCESS TO INFORMATION

- Each Party shall have right of access to information belonging to the other Party, including the right of reasonable access to all books of account, records, offices and immovable property allocated to a Party, and to enable either Party to exercise its rights in terms of this Agreement. Either Party shall permit the other Party and such Party's duly authorised representatives, on reasonable notice, to inspect and make copies of its books, reports, records, contracts, data, procedures, event logs, transaction logs, correspondence, documents and the like relating to the provision of the Services and to enable the CoJ to satisfy itself of compliance by the Service Provider with the terms of the SDA. For the purposes aforesaid the Service Provider shall, in addition, provide the CoJ with such additional information as the CoJ may require.
- The CoJ shall be entitled to all such information as may reasonably be required in the performance of its functions from any employee, contractor, sub-contractor, director or employee of the Service Provider, and the Service Provider shall procure that all such persons shall co-operate fully with the CoJ.



### 9.4 REMUNERATION

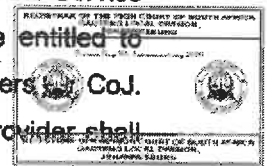
The principle on which all businesses operate is that there must be a reasonably direct relationship between effort and reward. To achieve this, service provider shall charge the rates that are in line with benchmark rates or market averages, which have a definite relationship to the effort exerted.



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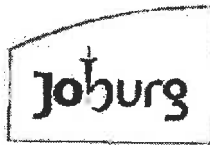


The Parties hereby record that with effect from the Effective Date the percentages of income and/or service fee that the Service Provider shall be entitled to claim from the CoJ/entities and Developers as remuneration for the Services to be provided by the Service Provider, including any disbursements or any other amounts of whatsoever nature (not limited eiusdem generis) incurred by it, shall be agreed between the parties on an annual basis during the course of completion of the annual budgeting process and approval by the CoJ of the Service Provider's Business Plan. The Service Provider shall be entitled to earn income in the form of fees for transactions it administers for CoJ. The remuneration for Services rendered by the Service Provider shall be structured as follows:



The remuneration shall be structured as follows:

- ❖ Commission of 10% for sale of properties;
- ❖ Commission of 10% for acquisition of properties;
- ❖ Commission of 10% for managing the capital budget;
- ❖ Commission of 25% for collection of revenue from leasees, being lease rentals, utility payments, rates, etc. including rentals for Cell masts and for Outdoor Advertising spaces;
- ❖ Development and/or Management Fee: between 1.5% and 3% of the total investment into or the market value of the CoJ Land or JPC land transactions carried on by the service provider.
- ❖ Development; an annuity Rental income and /or a profit contribution to service provider with regards to developments in terms of which the CoJ holds the Land.
- ❖ 30% of the (thirty per centum) of rental amounts collected by the Service Provider on behalf of CoJ: Outdoor Advertising and Cell Masts:



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## 9.5 COLLECTION COMMISSION

A collection commission calculated as 25% (twenty five per centum) of the income collected from the CoJ portfolio will be payable by the CoJ to the Service Provider. For the purposes of this clause, gross income shall exclude the following:

- Value Added Tax;
- development-related income which goes towards calculating the agency commission and/or project and capital management fees;
- the proceeds from sales of the CoJ properties; but shall include monies received or recovered by the CoJ in respect of items disbursed by It as expenses excluding VAT.



## 9.6 AGENCY COMMISSION

- In respect of the negotiation of leases or the disposal or development of any property comprising part of the CoJ Portfolio, the following services and commission leviable thereon shall be payable by CoJ to the Service Provider.
  - Sale of land or property deemed not to be required for basic municipal and public sector service provision, now or in future;
  - Purchase of land or buildings required by CoJ for public service or own use of Service Provider;
  - Managing the capital budget for the capital investment programme;
  - Administration of leases and general contract management;





- The Service Provider shall be entitled to deduct all costs related to the disposal of the relevant property from the sale proceeds and the balance shall be paid over to the CoJ;
- In the event of any other agent being involved within the conclusion of the aforementioned transactions, the commission payable by the CoJ in the aggregate shall not exceed the commission payable to the Service Provider.
- In the case of any dispute between the parties as to the amount payable the dispute shall be resolved as an Operational Dispute in terms of clause 30 of the SDA.



#### 9.7 SERVICE FEE

- A sum in an amount to be agreed pursuant to approval by the CoJ of the annual Business Plan of the Service Provider which is neither payable on an agency or commission basis but is related to the Services rendered by the service provider including operating and capital expenditure associated therewith, to be determined in accordance with arms-length, market related principles.

#### 9.8 TOWARDS FINANCIAL SUSTAINABILITY

- The revenue model of the Service Provider must be such that:
  - revenue sources correspond to service responsibilities;
  - fees correspond, competitively to services provided;
  - Service Provider shall become financially sustainable irrespective of the allocated capital budget; The CoJ shall make an annual budget allocation to



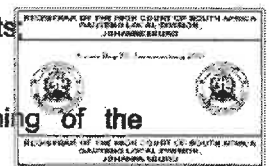
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the Service Provider for administration of regulatory or municipal planning functions;

✓ These functions are:

- All legal administration of town planning procedures and land transaction;
- Oversight and inspection of the portfolio of assets
- Organising protection, maintenance or cleaning of the assets
- Administration, upgrading and maintenance of the City's property register.



Value Add Property Development Services

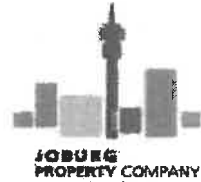
## 9.9 PROJECT PARTICIPATION AND CAPITAL MANAGEMENT FEES

- A fee calculated at 10% (ten per centum), exclusive of VAT of that portion of the CoJ's capital investment programme in respect of which responsibility for co-ordination and implementation of particular projects has been allocated to the Service Provider.
- In the event that the Service Provider enters into agreements with the Municipal Entities in terms of which Services are rendered by the Service Provider in respect of Municipal Entities' properties, the Service Provider shall be entitled to charge fees to be paid by the Municipal Entities' to the Service Provider as remuneration for the provision of those services, the amount of which is to be agreed between the Service Provider and the Municipal Entities in question and is to be disclosed by the Service Provider to the CoJ.

*[Handwritten signatures and initials]*

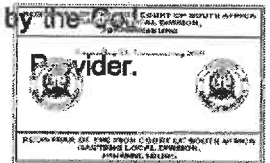


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## 9.10 ACQUISITION OF PROPERTY

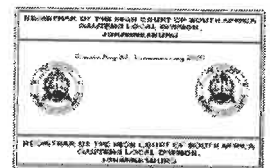
In respect of properties acquired by the Service Provider on behalf of the CoJ, a fee of 10% (ten per centum) exclusive of VAT, calculated on the gross purchase price (exclusive of VAT or Transfer Duty) of the property acquired will be payable by the CoJ to the Service Provider.



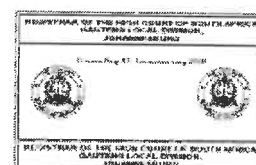
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Revenue Stream	Current	Now up to 2021/22	Thereafter
Fee for management of property portfolio	10% of capital allocation	10% of capital allocation 0,2% of total AUM	0,2% of total AUM plus 2,5% of sub-set of AUM
Fees for rental of advertising space	25%	30%	30%
Fees for rental of cell mast space	25%	25%	100%
Fees for acquisition of properties	10%	10%	10%
Fees for sale of properties	10%	10%	10%
Fees for property administration	25%	25%	10%
Fees for rental administration	25% - old JPC 100% - FMMU	25% of rental 100% for FMMU	10% of rental for all rental revenue
FM – transport, taxi ranks, markets, municipal buildings	Subsidised	Management fee (cost-recovery)	Management fee (cost-recovery)
Development facilitation fee	1.5%	1.5% - 3% negotiable subject to project	1.5% - 3% negotiable subject to project
Property completion fee	25%	25%	0%
Property development fee (participation)	0%	0%	5 - 13% subject to role, effort and project value



Portfolio table 2:

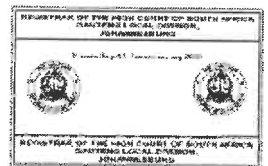
Revenue Stream	Current	Now up to 2021/22	Thereafter
Capex allocation	90%	90%	100%
Rental	75%	75%	90%
Land sales	5%	90%	90%
Rental of advertising space	0%	70%	70%
Subsidy reinstated (ex MTC)	R nil	R 25 m to R 50 m	R nil
Expenses	Current	Now up to 2021/22	Thereafter
AUM fees paid to JPC	0%	0,2% of total AUM	0,2% of total AUM plus 2,5% of sub-set of AUM
Normal commissions to JPC	10% for capex, sales, acquisitions 25% rental collection	10% for capex, sales, acquisitions 25% rental collection	0% for capex, 10% for sales, acquisitions & rental collection

JPC SDA

Page 2



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## ANNEXURE B: SERVICE LEVELS

In relation to the PIPs

Priority	2015/16 Key Performance Measures and Deliverables	2014/15 Key Performance Measures and Deliverables	2013/14 Key Performance Measures and Deliverables
Financial Sustainability and Resilience	% Increase in monetary value of revenue realized from alternative sources (Year on Year) % capex spend (Infrastructure expenditure) % reduction in staff costs Clean Audit	% Increase in monetary value of revenue realized from alternative sources (Year on Year) % capex spend (Infrastructure expenditure) % reduction in staff costs Clean Audit	% Increase in monetary value of revenue realized from alternative sources (Year on Year) % capex spend (Infrastructure expenditure) % reduction in staff costs Clean Audit
Agriculture and Food Security			
Sustainable Human Settlements			
SMME and Entrepreneurial Support			
Engaged Active Citizenry			
Resource Sustainability	Waste management: 25% reduction to landfill	Waste management: 20% reduction to landfill	Waste management: 15% reduction to landfill
Smart City			
Investment attraction, retention and			

JPC SDA

Page 3

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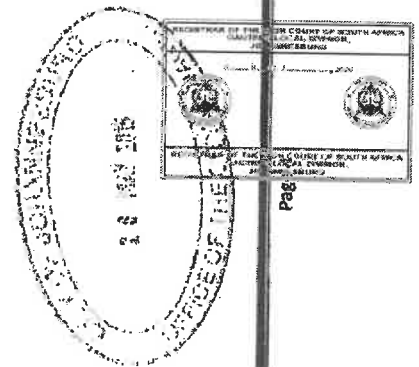
expansion			
Green economy			
Safer cities			

**In relation to the day to day operations of JPC**

[illegible]

✓

JPC/SDA



## COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA  
Gauteng Local Division, Johannesburg

CASE NO: 2025-125365

In the matter between:

**ORGANISATION UNDOING TAX ABUSE NPC** Plaintiff / Applicant / Appellant

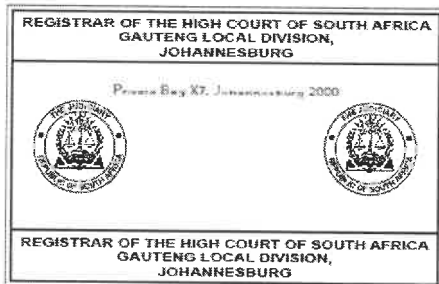
and

**HELEN MARGARET BOTES ,CITY OF JOHANNESBURG PROPERTY COMPANY SOC LTD,CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY** Defendant / Respondent

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### Annexure 04

**NOTE:** This document was filed electronically by the Registrar on 29/7/2025 at 12:28:40 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng  
Local Division,Johannesburg



"POC4"

**TITLE: ANALYSIS REPORT ERF 1210, (USINDISO MINISTRIES), MARSHALLTOWN, 80 ALBERT STREET, WARD 124**

### **1. STRATEGIC THRUSTS**

- Safer city
- Active Citizenry

### **2. OBJECTIVES**

The purpose of this report is to provide an analytical report on the assessment of residents illegally occupying the Usindiso Ministries building, situated at ERF 1210, 80 Albert Street, Marshalltown, Johannesburg, Ward 124. The assessments were conducted at the Social Benefits Unit offices (3<sup>rd</sup> floor), CJ Cronje Building, on Thursday, 6<sup>th</sup> and Tuesday, 12<sup>th</sup> December 2018.




### **3. BACKGROUND**

The COJ owned building at number 80, corner Albert & Delfers Streets (ERF 1210) was occupied and managed by an NGO called Usindiso Ministries from 2003 to 2014.

Pastor Bradley founder of the NGO entered into a lease agreement with JPC and the building was run as a shelter for women and children in July 2003. The NGO was funded and monitored by the Provincial Social Development until 2015. Provincial Department of Social Development completed a report of the facility during 2015 when the contract expired with the NGO (Usindiso Ministries). Due to ongoing health issues and challenges with non-compliance at the facility the contract between the NGO and Provincial Social Development Department was not renewed. DSD have since relocated the clients (abused women and their children) to another facility.

The Organization offered shelter, care, education and counselling services to abused women, their children and teenage girls. It offered daily care and education to the children who attended the nursery and pre-school. The building has deteriorated and is inhabitable despite the fact that the Environmental Department issued notices for corrective measures to be implemented but to no avail. (See attached report). The women & children currently occupying the building are becoming vulnerable by the day. The building is without legitimate management and administration and attracted all sorts of people including residents from the neighboring informal settlement called Emaxhoseni. The Emaxhoseni Informal Settlement residents indicated their intention to move to Usindiso through a public demonstration that was captured in the national news TV and threatened to stay at the premises until they are moved to a conducive living environment as promised by the former Ward Councilor Aziz Pahad, the

late Ward Councilor Hadebe, the current president of South Africa, Mr. Cyril Ramaphosa as well as the current Ward Councilor Mnyameni. Residents occupying the building have power connections and running water however none of the residents have taken the responsibility to pay for the services being received nor for accommodation. There are allegations that the facility is being used as a brothel and JMPD was called in to attend to the allegation.

Joburg Property Company (JPC) as the lessor, tried to profile audit on the residents at two occasions however they were unsuccessful. They then approach the Regional Director for assistance and the department was invited to assist. A meeting was held on the 29<sup>th</sup> October 2018 at CJ Cronje Building to discuss the status of the building. The meeting was attended by representatives from Social Benefits Unit, Social Development Department, COJ and of Gauteng Province, Joburg Property Company (JPC), Region F CRUM, SAPS,  Ward Councilor Mnyameni Mongameli as well as the illegal occupants of the building. JOSCHO and JMPD did not attend the meeting. At the meeting it was agreed by all parties that JPC, as the property owner, prepare a formal request to the Executive Head's office, Social Development Department, COJ requesting further assistance and guidance with an audit to profile the occupants currently residing at the facility. (See attached letter). The unit's role in the process would be to conduct household assessments and compile a report that will assist JPC to devise a plan to relocate the women & children and take over the building. JPC was also relying on COJ Housing & JOSCHO (Johannesburg Housing Company) for support; nothing concrete has been finalized at that stage. It was mentioned at the meeting that JOSCHO has money available to work on the building for the purposes of transitional housing.

Since the building posed a health and safety disaster, the assessments were conducted from the Social benefits' offices on the 6<sup>th</sup> and 11<sup>th</sup> December 2018 at CJ Cronje building.

#### **4. ANALYSIS AND STATISTICS**

A total of 19 individuals were interviewed and assessed at the Social Benefits Unit, 3<sup>rd</sup> Floor, CJ Cronje Building on Thursday, 6<sup>th</sup> and Tuesday, 11<sup>th</sup> December 2018. The approximate number of people occupying the Usindiso building is alleged to be around 80. There was no apology tendered for the remaining 61 residents who failed to avail themselves for the assessments.

The building is occupied by people from various parts of the country and the continent. The residents are of diverse culture, ethnic group, class and language. ESP and SSR was created for the assessed individuals. Out of the 19 individuals assessed 17 are South Africans and 2

are non-South Africans. The foreign nationals were found to have 1 passport expired and 1 asylum expired. Most of the South Africans originate from Eastern Cape. The rooms that are occupied in the building has approximately 6 people living in one room. There is also a number of single mothers who reside in the building with their children despite the uninhabitable conditions inside the building.

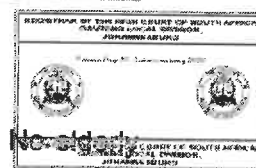
#### 4.1 Documentation:

19 Eviction assessment forms were completed.

Documented	17	Females
Undocumented	2 (foreign nationals)	Females Males

#### 4.2 Individual Categories:

Majority of the residents are males, with females following with children/infants. ~~No elderly~~ found in the building. The youth were also assessed (no relations to adults males nor females)



Total female adults	21
Total male adults	0
Total female children	15
Total male children	12
Total female youth	5
Total male youth	1

(See attached list of assessed individuals with their families)

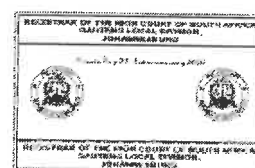
#### 4.3 Education Levels:

Out of 19 individuals assessed; 6 have grade 12, 3 have grade 11 and 1 grade 8. Post matriculate qualification include certificates in Public Relations, Computer Course, Book Keeping, Beauty Therapy, Call Centre, First Aid, Upholstery, Entrepreneurial (Small Business), Artisan, Cleaning Course and BA Social Work degree.

#### Levels of Skills:

Skills obtained
Community Health Worker
Social Worker
Community Developer

Public Relations
Sales
Security
Domestic work
Computer Skills
Entrepreneurial Skills (Small Business)
Book Keeping
Beauty Therapy
Upholstery
Call Centre Agent
Receptionist
First Aid



## 5. EMPLOYMENT STATUS AND INCOME LEVELS:

Although the residents classified themselves as destitute as a result of being unemployed (11), most of them had a source of income ranging from Child Support Grant (10), part time employment (7) and self-employment (1). Most of them reported that they are hawkers which enable them to earn some income for survival. Due to the sensitive nature of personal income, it was a challenge for interviewees to disclose their accurate income. However, from the closer analysis of data provided, most residents has an income average of between R400-R2000 a month. The highest income recorded was R12 500 per month. Interestingly, some residents reported to have an income although none were employed. However, they were not willing to disclose their source of income prompting suspicions of illegal activities for generating income. Therefore, the residents could be classified as low to mid income earners which is still a challenge for them to enjoy quality of life as cost of living seem to increase daily.

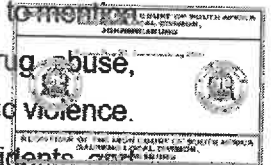
All 19 residents assessed reported that they do not pay any rent. None of the residents were concerned or even bothered by the fact that they were consuming municipal services such as water and electricity for free. The employed find this building conducive for their needs regardless of the uninhabitable state as it helps them to save money by not paying for rent and services.

## 6. EVALUATION

Most of the people assessed fall between band 2 and 3 on ESP. This would make it difficult to find affordable accommodation especially within the inner-city with acceptable and affordable accommodation for a family starting at R2500; a bachelor at R1800 and 1 room at

R900 to a R1000. Out of the 19 families that were assessed 17 did not apply for RDP houses nor did they apply for any sort of government housing subsidy as they mentioned that they come from homelands and came to Johannesburg for work opportunities only. Despite the fact that proof of income is always requested, the assessed households didn't bring it along on the day of assessment. It was difficult to confirm income of people who were interviewed and some seemed to lower whatever income they get. This will also affect the decision to recommend for the TEA especially if some of the assessed families don't qualify for TEA.

Due to the levels of unemployment, lack of access to economic activities and cultural diversity among others, residents and surrounding community has been experiencing crimes (theft, robberies, drug trafficking, attempted rape activities, illegal trading, illegal fire arms) to mention but a few. These are coupled with social problems such as alcoholism, drug abuse, displacement, overcrowding, poor personal and environmental health and domestic violence. All these are and have been impacting negatively on the daily lives of the residents and community.



The building has been neglected and no maintenance put in place which left physical state of the building in a degraded and inhabitable state. The building also did not have management since the lessee; Pastor Jean Bradley vacated the premises in 2015 without informing JPC leaving the children and women who were not officially placed through DSD. DSD managed to relocate all women and children who were placed through a court order to some facilities. Lack of management resulted in attracting all sorts of people seeking accommodation to squat in the premises.

## **7. POLICY IMPLICATIONS**

The interventions are in line with the City of Johannesburg Strategic policy on skills development and social assistance act no.13 of 2004 section 9 (1) (b) with its conditions.

The GDS 2040 vision towards the realization of outcome 4: building caring, safe & secure communities.

## **10. FINANCIAL IMPLICATIONS**

No financial costs incurred by the department.

## **11. LEGAL AND CONSTITUTIONAL IMPLICATIONS**

This indicator is in line with Section 152(1) (b) of the Constitution, 1996 which provides that Local Government must ensure the provision of services to communities.

## **12. COMMUNICATION IMPLICATIONS**

The report will be communicated through the unit management.

## **13. OTHER BODIES/ DEPARTMENTS CONSULTED**

1. Housing
2. Health
3. JPC
4. Johannesburg Metro Police Department (JMPD)
5. South African Police Service (SAPS)
6. Department of Social Development, Gauteng
7. Regional F Director and CRUM
8. Social Benefits Unit, Social Development Department, COJ
9. JOSCHO
10. Residents of Usindiso Ministries and Emaxhoseni Informal Settlement
11. Ward 124 Councilor



## **14. RECOMMENDATIONS**

In view of the information reported, it is recommended that:

- JPC to subject all individuals assessed to a credit check process to ascertain who qualifies for the TEA
- Provincial Social Development Department to provide JPC with a list of the women and children who were relocated to other facilities in 2015 and to be used as a verifying tool.
- JPC to shut down the facility and qualifying individuals to be assisted with TEA.

Report compiled by:  
Vasagie Govender  
Operations Manager

## COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA  
Gauteng Local Division, Johannesburg

CASE NO: 2025-125365

In the matter between:

**ORGANISATION UNDOING TAX ABUSE NPC**      Plaintiff / Applicant / Appellant

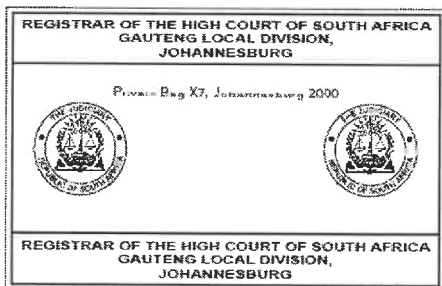
and

**HELEN MARGARET BOTES ,CITY OF JOHANNESBURG PROPERTY COMPANY SOC LTD,CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**      Defendant / Respondent

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### Annexure 05

**NOTE:**      This document was filed electronically by the Registrar on 29/7/2025 at 12:29:16 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



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GAUTENG**

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PROVINCIAL GOVERNMENT**

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GAUTENG LOCAL DIVISION  
Johannesburg

**Vol: 27**

**PRETORIA**  
13 SEPTEMBER 2023  
13 SEPTEMBER 2023

**No: 324**

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AIDS affects us all

A new struggle

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DEPARTMENT OF HEALTH

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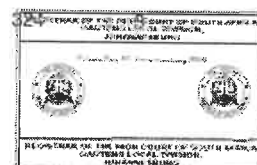
**No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.**

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**PREMIER'S NOTICES • PREMIERS KENNISGEWINGS****PREMIER'S NOTICE 1 OF 2023****THE PREMIER****CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996****PROVINCIAL COMMISSIONS ACT, 1997 (ACT NO. 1 OF 1997)****PROCLAMATION**

**COMMISSION OF INQUIRY INTO CIRCUMSTANCES SURROUNDING THE DEATH OF AT LEAST 77 PEOPLE AND DOZENS MORE OTHERS INJURED AND HOMELESS AT THE USINDISO BUILDING, SITUATED AT THE CORNER OF ALBERT AND DELVERS STREETS, MARSHALLTOWN, JOHANNESBURG CENTRAL BUSINESS DISTRICT (REGION F)**

**WHEREAS** section 2(1) of the Provincial Commissions Act, 1997 (Act No. 1 of 1997) (the 'Act'), read with section 127(2)(e) of the Constitution of the Republic of South Africa, 1996 (the 'Constitution'), gives me the power, by proclamation in the Provincial Gazette, to—

- (a) appoint a commission of inquiry;
- (b) define the matter or matters to be inquired into by the commission and its other terms of reference;
- (c) make regulations providing—
  - (i) for the procedure to be followed at the inquiry and for the preservation of confidentiality; and
  - (ii) providing generally for all matters which I consider necessary or expedient to prescribe for the purposes of the inquiry;
- (d) appoint a secretary to the commission, and such other officials, as I may deem necessary to assist the commission; and
- (e) designate any member of the commission as the chairperson of the commission;

**AND WHEREAS** a building or immovable property situated at the corner of Albert and Delvers Streets, Marshalltown, Johannesburg Central Business District (Region F) (the 'Usindiso Building'), was on 31 August 2023 engulfed by fire that caused the death of at least 77 people, including women and children, and dozens more others seriously injured and homeless;

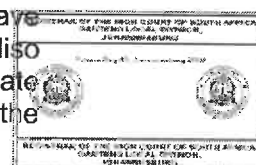
**AND WHEREAS** the Gauteng Provincial Government considers the deaths as a great tragedy and necessary to inquire into the circumstances surrounding the prevalence of buildings or immovable properties in the Johannesburg Central Business District (Region F) being abandoned by their legitimate landlords or owners and taken over by criminal syndicates or other groups and leased out to and populated with tenants, who do not have the means to afford other forms of housing, without providing basic services such as water,



electricity, refuse removal and sanitation and paying rates and taxes (the so-called 'hijacked buildings');

**AND ACKNOWLEDGING** that the South African Police Service (the 'SAPS') and other relevant competent authorities are currently seized with the conduct of investigations into the possible cause or causes of the fire and other matters related to the fire at the Usindiso Building;

**AND RECOGNISING** that the Gauteng Provincial Government seeks a comprehensive overhaul of all the underlying issues that place the dignity, health and wellbeing and lives of the residents of the Province of Gauteng in danger and considers the appointment of a commission of inquiry to inquire into the circumstances surrounding the prevalence of said buildings or immovable properties insofar as (1) they might have been influenced by the actions of others preceding and leading up to the fire or (2) they might have had an effect on the deaths, injuries and homelessness, at the Usindiso Building, and who must shoulder the liability or responsibility for the said state of affairs, deaths and injuries, to ensure that tragedies, like the one at the Usindiso Building, never happens again;



**AND THEREFORE**, I, Andrek (Panyaza) Lesufi, Premier of the Province of Gauteng, hereby, in terms of section 2(1) of the Act read with section 127(2)(e) of the Constitution, establish a commission of inquiry (the 'Commission') to—

- (a) inquire, with expedition, into the circumstances surrounding—
  - (i) specifically, the fire at the Usindiso Building, situated at the corner of Albert and Delves Street, Marshalltown, Johannesburg Central Business District (Region F), that caused the death of at least 77 people, including women and children, and dozens more others seriously injured and homeless; and
  - (ii) generally, the prevalence of buildings or immovable properties in the Johannesburg Central Business District (Region F) being abandoned by their legitimate landlords or owners and taken over by criminal syndicates or other groups and leased out to and populated with tenants, who do not have the means to afford other forms of housing, without providing basic services such as water, electricity, refuse removal and sanitation and paying rates and taxes (the so-called 'hijacked buildings'); and
- (b) in the light of the above circumstances, make findings as to who must shoulder the liability or responsibility for the said state of affairs, deaths and injuries; and
- (c) draw lessons from these circumstances and, taking account of the said investigations by the SAPS and other relevant competent authorities, make recommendations insofar as—
  - (i) the appropriate steps that must be taken and by whom; and
  - (ii) appropriate to address any relevant matter arising in relation to this scope of the inquiry; and

- (d) appoint and designate Justice Sisi Virginia Khampepe, as the member and Chairperson of the Commission;
- (e) appoint and designate Adv. Thulani Makhubela and Ms Vuyelwa Mathilda Mabena, as additional members of the Commission, to assist the Chairperson of the Commission in conducting the inquiry and in her work as Chairperson and in preparing the report of the Commission;
- (f) determine the matters to be inquired into by the Commission and define its terms of reference, as set out in Part A of the Schedule;
- (g) make regulations applicable to the Commission as set out in Part B of the Schedule; and
- (h) appoint and designate Seanego Attorneys Incorporated, a firm of attorneys, to assign one of its directors or partners, as the Secretary to the Commission, who is responsible for—
  - (i) with the concurrence of the Chairperson, arranging accommodation for the Commission;
  - (ii) servicing of the Commission;
  - (iii) managing its documentation; and
  - (iv) ensuring that the Commission is run with efficiency and has a good working relationship with all those who come into contact with it.



**AND DETERMINING**, in relation to the immediately preceding statement, that the inquiry must be conducted in two parts, dealing respectively with paragraph (a)(i) and paragraph (a)(ii), along with, in each case, paragraphs (b) and (c).

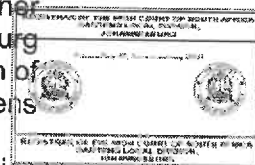
Given under my hand at Johannesburg on this 4<sup>th</sup> day of September, Two Thousand and Twenty Three.

A handwritten signature in black ink, appearing to read 'Andrek Panyaza Lesufi'.

**ANDREK (PANYAZA) LESUFI**  
**PREMIER**

**SCHEDULE****PART A****COMMISSION OF INQUIRY INTO CIRCUMSTANCES SURROUNDING THE DEATH OF AT LEAST 77 PEOPLE AND DOZENS MORE OTHERS INJURED AND HOMELESS AT THE USINDISO BUILDING, SITUATED AT THE CORNER OF ALBERT AND DELVERS STREETS, MARSHALLTOWN, JOHANNESBURG CENTRAL BUSINESS DISTRICT (REGION F)****TERMS OF REFERENCE**

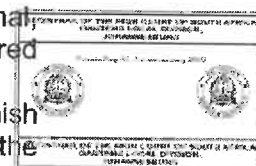
1. The Commission is appointed to inquire, with expedition, into the circumstances surrounding—
  - (a) (i) specifically, the fire at Usindiso Building, situated at the corner of Albert and Delvers Streets, Marshalltown, Johannesburg Central Business District (Region F), that caused the death of at least 77 people, including women and children, and dozens more others seriously injured and homeless; and
  - (ii) generally, the prevalence of buildings or immovable properties in the Johannesburg Central Business District (Region F) being abandoned by their legitimate landlords or owners and taken over by criminal syndicates or other groups and leased out to and populated with tenants, who do not have the means to afford other forms of housing, without providing basic services such as water, electricity, refuse removal and sanitation and paying rates and taxes (the so-called 'hijacked buildings'); and
  - (b) in the light of the above circumstances, make findings as to who must shoulder the liability or responsibility for the said state of affairs, deaths and injuries; and
  - (c) draw lessons from these circumstances and, taking account of the said investigations by the SAPS and other relevant competent authorities, make recommendations insofar as—
    - (i) the appropriate steps that must be taken and by whom; and
    - (ii) any other matter that the Commission considers necessary or appropriate to address any relevant matter arising in relation to this clause.
2. The provisions of the Act are applicable to the Commission, subject to such amendments or exemptions as may be specified by the Premier by Proclamation published in the *Provincial Gazette*;
3. The Commission may choose and appoint one advocate who is a registered member of the Legal Practice Council of South Africa to act as Counsel to the Commission to assist in the inquiry, advise on matters of law and evidence, and present evidence to the Commission at its inquiry.



4. Furthermore, the Commission may choose and appoint one attorney who is, or legal firm of attorneys, which must assign one of its directors or partners who is, a registered member of the Legal Practice Council of South Africa to act as an Attorney to the Commission.
5. Despite section 4(5) of the Act, the Commission may, on written application, consider and make any recommendation to the Premier as to the payment of legal costs of persons who are party to the Commission.
6. The Gauteng Office of the Premier is, in accordance with section 11 of the Act, responsible for—
  - (a) the funding of the Commission. This includes—
    - (i) the remuneration, allowances and transport expenses of the members of the Commission and other personnel involved in the Commission; and
    - (ii) related expenses, disbursements and costs, including the costs associated with the conduct of hearings such as the hiring of venues, recording and transcription;
  - (b) the placement of administrative and other personnel to the disposal of the Chairperson, Commission and Commission's Secretariat.
7. The venue and dates on which the sittings of the Commission will be determined by the Chairperson.
8. The Commission may, where appropriate, refer any other matter not detailed in clause 1 of these Terms of Reference regarding the conduct or omission of any person for further investigation or prosecution, to any appropriate agency, department or body.
9. The Commission must conduct the inquiry in two parts, dealing respectively with paragraph (a)(i) and paragraph (a)(ii), along with, in each case, paragraphs (b) and (c), of clause 1 of these Terms of Reference.
10. The Commission must commence its work on 1 October 2023 and finish on or before 30 November 2023. It must then adjourn, consider the evidence led, make observations and findings and afterwards prepare and submit its report, including its recommendations, dealing with the first part of the inquiry (i.e., paragraph (a)(i) read with paragraphs (b) and (c) of clause 1 of these Terms of Reference) to the Premier on or before 31 December 2023.
11. Thereafter, the Commission must resume immediately after 1 January 2024 and finish its work on or before 31 March 2024. It must adjourn, consider the evidence led, make observations and findings and prepare and submit its (final) report, including its recommendations, dealing with the second part of the inquiry (i.e., paragraph (a)(ii) read with paragraphs (b) and (c) of clause 1 of these Terms of Reference) to the Premier on or before 30 April 2024.



12. Any person, organisation or legal entity who is in possession of information or documents which may be relevant to the matters to be enquired into by the Commission and who wishes to give evidence before the Commission, is invited to contact the Secretary to arrange the date and time when they may testify before the Commission. The appointment, particulars and contact details of the Secretary will be announced in due course.
13. Any person, organisation or legal entity who wishes to make submissions to the Commission relating to the aspects listed in paragraph (a)(i) and paragraph (a)(ii) of clause 1 of these Terms of Reference for its consideration, may direct their written submissions to the Secretary by 31 October 2023.
14. All organs of state, including officials and departments in the national, provincial and local sphere of government and their entities, are required to—
  - (a) either of their own accord or as directed by the Commission, furnish the Commission with any information and documents relevant to the matters listed in clause 1 of these Terms of Reference; and
  - (b) assist and co-operate fully with the Commission when called upon to do so.
15. These Terms of Reference may be added to, varied or amended from time to time by the Premier by Proclamation in the *Provincial Gazette*.
16. The Commission may, in accordance with section 10 of the Act, make such rules for its own guidance on the conduct and management of its proceedings by the publication thereof in the *Provincial Gazette*.



## PART B

**COMMISSION OF INQUIRY INTO CIRCUMSTANCES SURROUNDING THE DEATH OF AT LEAST 77 PEOPLE AND DOZENS MORE OTHERS INJURED AND HOMELESS AT THE USINDISO BUILDING, SITUATED AT THE CORNER OF ALBERT AND DELVERS STREETS, MARSHALLTOWN, JOHANNESBURG CENTRAL BUSINESS DISTRICT (REGION F)**

**REGULATIONS**

1. In these Regulations, unless the context otherwise indicates—

**"Chairperson"** means the Chairperson of the Commission;

**"Commission"** means the Commission of Inquiry into the circumstances surrounding the fire that caused the death of at least 77 people and dozens more others injured and homeless at the Usindiso Building, situated at the corner of Albert and Delvers Streets, Marshalltown, Johannesburg Central Business District (Region F);

**"document"** means any book, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture, in any format that is capable of being read;

**"enquiry"** means the enquiry conducted by the Commission;

**"member"** means a member of the Commission;

**"officer"** means a person in the full-time service of the Gauteng Provincial Government or State who has been seconded or designated to assist the Commission in the performance of its functions;

**"premises"** includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft;

**"the Act"** means the Gauteng Provincial Commissions Act, 1997 (Act No. 1 of 1997); and

**"warrant"** means a warrant to search any person or premises, or seize any article or document, that is issued by a magistrate or a judge of the High Court on the written application of an official of the Commission, if it appears to the magistrate or a judge that there are reasonable grounds for believing that the person, premises article or document is within their jurisdiction and is required by the Commission in the execution of its functions in accordance with its Terms of Reference.

2. The proceedings of the Commission must be recorded and transcribed in the manner determined by the Chairperson.
3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical means or to transcribe such proceedings which have been so taken down or recorded must, at the outset, take an oath or make an affirmation in the following form—

*'I, AB, declare under oath / affirm and declare—*



- (a) *that I shall faithfully and to the best of my ability take down / record the proceedings of the Commission of Inquiry into the circumstances surrounding the death of at least 77 people and dozens more others injured and homeless at the Usindiso Building, situated at the corner of Albert and Delters Streets, Marshalltown, Johannesburg Central Business District (Region F) in shorthand / by mechanical means as ordered by the Chairperson of the Commission; and*
- (b) *that I shall transcribe fully and to the best of my ability any shorthand notes / mechanical record of the proceedings of the said Commission made by me or by any other person.'*

(2) No shorthand notes or mechanical record of the proceedings of the Commission may be transcribed except by order of the Chairperson.

4. Any person employed in the execution of the functions of the Commission, including any person referred to in regulation 3(1), must assist to preserve secrecy with regard to any matter, document or information that may come to his or her knowledge in the performance of his or her duties in connection with the said functions except, insofar as the publication of such matter, document or information is necessary for the purposes of the report of the Commission, and every such person, except the Chairperson, any member or any officer, must, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath of fidelity and secrecy in the following form—



*'I, AB, declare under oath / affirm and declare that except insofar as it is necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into the circumstances surrounding the death of at least 77 people and dozens more others injured and homeless at the Usindiso Building, situated at the corner of Albert and Delters Streets, Marshalltown, Johannesburg Central Business District (Region F) or by order of a competent court, I shall not communicate to any person any matter of information which may come to my knowledge in connection with the enquiry of the said Commission, or allow or permit any person to have access to any records of the Commission, including any note, record or transcription of the proceedings of the said Commission in my possession or custody or in the possession or custody of the said Commission or any officer.'*

5. No person may communicate to any other person any matter, document or information which may have come to his or her knowledge in connection with the enquiry of the Commission, or allow or permit any other person to have access to any records of the Commission, except insofar as it is necessary in the performance of his or her duties in connection with the functions of the Commission or by order of a competent court.