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## PROCLAMATION

*by the*

*President of the Republic of South Africa*

No. R. 3, 2011

### SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the Stellenbosch Local Municipality situated within the Western Cape Province (hereinafter referred to as the "Municipality");

AND WHEREAS the Municipality suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and justiciable civil disputes emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the Municipality, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any -

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by councillors, officials and/or employees of the Municipality;
- (c) unlawful appropriation or expenditure of public money or property;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, and which offences were committed in connection with the affairs of the Municipality; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which have taken place between 1 September 2005 and the date of publication of this Proclamation or which took place prior to 1 September 2005, but are connected with or incidental to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of this proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including recovery of any losses suffered by the Municipality, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Eleventh day of December Two thousand and ten.

**J G ZUMA**  
President

By Order of the President-in-Cabinet:

**J T RADEBE**  
Minister of the Cabinet

**SCHEDULE**

1. The procurement of, and contracting for goods, works or services by or on behalf of the Municipality and payments made in relation thereto, in a manner that was -
  - (a) not fair, equitable, transparent, competitive or cost-effective;
  - (b) contrary to applicable -
    - (i) legislation;
    - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the relevant provincial treasury; or
    - (iii) manuals, codes, policies, procedures, prescripts, guidelines, instructions or practices of or applicable to the Municipality;
  - (c) conducted or facilitated by or through the intervention of councillors, officials or employees of the Municipality -
    - (i) without authority to represent or to bind the Municipality; or
    - (ii) with undeclared or unauthorised conflicts of interest; or
  - (d) conducted or facilitated by the manipulation of the Municipality's supply chain management or procurement processes -
    - (i) by contractors, suppliers or service providers of the Municipality (hereinafter collectively referred to as the "Municipality's suppliers and service providers"); or
    - (ii) by, in collusion with or through the intervention of councillors, officials or employees of the Municipality, to corruptly or unduly benefit themselves or others.
2. Losses or prejudice suffered by the Municipality as a result of the mismanagement of its assets, finances or other resources, amongst others by -
  - (a) the incurrence of unauthorised, irregular or fruitless and wasteful expenditure; or
  - (b) the payment of the Municipality's suppliers and service providers -
    - (i) prematurely or without proof of performance; or
    - (ii) at rates disproportionate to the value, nature or scope of the goods, works or services supplied or rendered.

## PROKLAMASIE

*van die*

*President van die Republiek van Suid-Afrika*

No. R. 3, 2011

### **WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenheid en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die Stellenbosch Plaaslike Munisipaliteit geleë in die Wes-Kaap Provincie (hierna na verwys as die "Munisipaliteit");

EN AANGESIEN die Munisipaliteit verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en beregbare siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld, ten opsigte van die Munisipaliteit, vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige -

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur raadslede, beampies en/of werkneemers, van die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmätige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004, in verband met die sake van die Munisipaliteit; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belang van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2005 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2005, maar wat verband hou met, of insidenteel is tot, die aangeleenthede vermeld in die Bylae of dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Munisipaliteit gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Elfde dag van Desember Tweeduiseend-en-tien.

**J G ZUMA**  
**President**

Op las van die President-in-Kabinet:

**J T RADEBE**  
**Minister van die Kabinet**

### **BYLAE**

1. Die aanskaffing van, en kontraktering vir goedere, werke of dienste deur of namens die Munisipaliteit en betalings wat in verband daarmee gemaak is op 'n wyse wat -
  - (a) nie billik, regverdig, deursigtig, mededingend, of koste-effektief was nie;
  - (b) strydig was met toepaslike -
    - (i) wetgewing;
    - (ii) handleidings, riglyne, praktyknotas of instruksies deur die Nasionale Tesourie of die toepaslike provinsiale tesourie uitgevaardig; of
    - (iii) handleidings, kodes, beleid, procedures, voorskrifte, riglyne, instruksies of praktyke van of wat op die Munisipaliteit van toepassing is;
  - (c) gedoen of gefasiliteer was deur of met die tussenkoms van raadslede, beampes of werknelmers van die Munisipaliteit -
    - (i) sonder volmag om die Munisipaliteit te verteenwoordig of te verbind; of
    - (ii) met ongeopenbaarde of ongemagtigde botsings van belang; of
  - (d) gedoen of gefasiliteer was deur die manipulering van die Munisipaliteit se voorsieningskanaal-bestuur of aanskaffingsprosesse -
    - (i) deur kontrakteurs, verskaffers of diensverskaffers van die Munisipaliteit (hierna gesamentelik na verwys as die "Munisipaliteit se verskaffers en diensverskaffers"); of
    - (ii) deur, in samespanning met of deur die tussenkoms van die Munisipaliteit se raadslede, beampes of werknelmers, om hulself of ander korrum of onbehoorlik te bevoordeel.
2. Verliese of nadeel deur die Munisipaliteit gely as gevolg van die wanbestuur van dié se bates, finansies en ander hulpbronne, deur onder andere -
  - (a) die aangaan van ongemagtigde, onreëlmätige of vrugtelose en verkwiste uitgawes; of
  - (b) die betaling van die Munisipaliteit se verskaffers en diensverskaffers -
    - (i) voortydig of sonder bewys van prestasie; of
    - (ii) teen tariewe buite verhouding tot die waarde, aard of omvang van die goedere, werke of dienste verskaf of gelewer.



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