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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 33, 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 Midvaal Local Municipality that falls within the Gauteng 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 alleged—

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by councillors, officials, employees and/or agents 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 Parts 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 (Act No. 12 of 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 has taken place between 1 January 2002 and the date of publication of this Proclamation, or which took place prior to 1 January 2002 or after the date of publication of this Proclamation, and which is relevant, incidental or ancillary to, or connected with, the matters mentioned in the Schedule or which 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 the 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 Seventeenth day of May Two thousand and eleven.

J G ZUMA
President

By Order of the President-in-Cabinet:

J T RADEBE
Minister of the Cabinet

SCHEDULE

1. Maladministration of the affairs of the Municipality by its councillors, officials, employees and/or agents in respect of the following:
 - (a) The improper, negligent or erroneous disposal of the Municipality's operating assets as being redundant assets;
 - (b) the failure to properly implement the Municipality's Indigent Policy;
 - (c) the erroneous issuing of town planning certificates;
 - (d) the failure to obtain money belonging to the Municipality from the trust account of the Municipality's attorneys and the failure to utilise such money for Municipal purposes;
 - (e) the failure to properly control the debt owned by the Municipality's debtors;
 - (f) the failure to record the Municipality's assets in its asset registers; and
 - (g) the appointment of staff of the Municipality at incorrect post levels.
2. The procurement of legal services by or on behalf of the Municipality and payments made in respect thereof in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective; and
 - (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the applicable Provincial Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Municipality,and related irregular or fruitless and wasteful expenditure by the Municipality.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. R. 33, 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 Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die Midvaal Plaaslike Munisipaliteit geleë in die Gauteng Provinsie (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 Ondersoekeenhede 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 Ondersoekeenhede is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur raadslede, beamptes, werknemers en/of agente van die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige 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 (Wet No. 12 van 2004), in verband met die sake van die Munisipaliteit; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2002 en die datum van publikasie van hierdie Proklamasie, of wat plaasgevind het voor 1 Januarie 2002 of na die datum van publikasie van hierdie Proklamasie, en wat relevant, insidenteel, bykomstig is tot, of verband hou met, die aangeleenthede vermeld in die Bylae of wat 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 Ondersoekeenhede 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 Sewentiende dag van Mei Tweeduisend-en-elf.

J G ZUMA
President

Op las van die President-in-Kabinet:

J T RADEBE
Minister van die Kabinet

BYLAE

1. Wanadministrasie van die aangeleenthede van die Munisipaliteit deur sy raadslede, beamptes, werknemers en/of agente ten opsigte van die volgende:
 - (a) Die onbehoorlike, nalatige of foutiewelike van die handsit van die Munisipaliteit se operasionele bates as synde oortollige bates;
 - (b) die versuim om die Munisipaliteit se Behoeftigheidsbeleid behoorlik te implementeer;
 - (c) die foutiewe uitreiking van stadsbeplanningssertifikate;
 - (d) die versuim om geld wat aan die Munisipaliteit behoort te bekom van die trustrekening van die Munisipaliteit se prokureurs en die versuim om sodanige gelde vir Munisipale doeleindes aan te wend;
 - (e) die versuim om die verskuldigde skuld van die Munisipaliteit se skuldenaars behoorlik te beheer;
 - (f) die versuim om die Munisipaliteit se bates in sy bateregister op te teken; en
 - (g) die aanstelling van personeel van die Munisipaliteit op verkeerde posvlakke.
 2. Die aanskaffing van regsdiensde deur of namens die Munisipaliteit en betalings wat in verband daarmee gemaak is op 'n wyse wat—
 - (a) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie; en
 - (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, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Munisipaliteit van toepassing is,en verwante onreëlmatige of vrugtelose en verkwiste uitgawes deur die Munisipaliteit.
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