PROCLAMATION NOTICE 227 OF 2024

by the

PRESIDENT of the REPUBLIC of SOUTH AFRICA

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

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 Ngqushwa Local Municipality, situated in the Eastern Cape Province (hereinafter referred to as "the Municipality");

AND WHEREAS the Municipality may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings 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 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 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 took place between 1 January 2019 and the date of publication of this Proclamation or which took place prior to 1 January 2019 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary 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 the recovery of any losses suffered by the Municipality or the State, 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 **25th** day of **October** Two thousand and twenty four.

MC Ramaphosa
President
By Order of the President-in-Cabinet:
T Simelane
Minister of the Cabinet

SCHEDULE

1. The procurement of, or contracting for goods, works or services by or on behalf of the Municipality in relation to Bid Number 8/2/014/2022-2023: Upgrade of New Creation Sports Field Phase 1 and associated Bid Number 8/2/046/2023-2024: Completion of Phase 1 Upgrade of the New Creation Sports Field as well as Bid Number 8/2/089/2022-2023: Supply and Delivery of Mayoral SUV Luxury Vehicle 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;

   (b) contrary to applicable:

      (i) legislation;

      (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury;

      (iii) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the Municipality;

   and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality or losses suffered by the Municipality or the State.

2. Any irregular, improper or unlawful conduct by—

(a) the applicable service providers of the Municipality; or

(b) any other person or entity,

relating to the allegations referred to in paragraph 1 of this Schedule.

PROKLAMASIE KENNISGEWING 227 VAN 2024

deur die

PRESIDENT van die REPUBLIEK VAN SUID-AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL: NGQUSHWA PLAASLIKE MUNISIPALITEIT

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna "die Wet" genoem), gemaak is ten opsigte van die sake van die Ngqushwa Plaaslike Munisipaliteit (hierna "die Munisipaliteit" genoem), geleë in die Oos-Kaap;

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

EN AANGESIEN ek dit nodig ag dat die vermelde bewerings ondersoek moet word en siviele verrigtinge wat uit sodanige ondersoek voortspruit, bereg moet word;

verwys ek nou, DERHALWE, 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 die aangeleenthede, dit die opdrag van die Spesiale Ondersoekeenheid is om ondersoek in te stel, soos in die Wet beoog, na enige beweerde—

(a) ernstige wanadministrasie in verband met die sake van die Munisipaliteit;

(b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Munisipaliteit;

(c) onregmatige bewilliging of besteding van publieke geld of eiendom;

(d) onwettige, onreëlmatige of niegoedgekeurde verkrygende handeling,

transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;

(e) opsetlike of nalatige verlies van 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), en welke misdrywe in verband met die sake van die Munisipaliteit gepleeg is; of

(g) onregmatige 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 tussen 1 Januarie 2019 en die datum van publikasie van hierdie Proklamasie plaasgevind het of wat voor 1 Januare 2019 of na die datum van publikasie van hierdie Proklamasie plaasgevind het, maar betrekking het op, verband hou met, insidenteel of aanvullend is tot die aangeleenthede in die Bylae vermeld of dieselfde persone, entiteite of kontrakte betrek wat onder die gesag van hierdie Proklamasie ondersoek word, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die vermelde Spesiale Ondersoekeenheid verleen word, uit te voer of te verrig, met inbegrip van om enige verliese wat die Munisipaliteit of die Staat met betrekking tot die in die Bylae vermelde sake, gely het, te verhaal.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te **Pretoria** op hede die **25** dag van **Oktober** Tweeduisend vier-en-twintig.

MC Ramaphosa
President
Op las van die President in die Kabinet:
T Simelane
Minister van die Kabinet

This gazette is also available free online at **www.gpwonline.co.za**

BYLAE

1. Die verkryging van, of kontraktering vir goedere, werke of dienste deur of namens die Munisipaliteit ingevolge Bodnommer 8/2/014/2022-2023: Opgradering van New Creation Sportveld Fase 1 en gepaardgaande Bodnommer 8/2/046/2023-2024: Voltooiing van Fase 1 Opgradering van die New Creation Sportveld asook Bodnommer 8/2/089/2022-2023: Verskaffing en Lewering van Burgemeester se Luukse Sportnutsvoertuig deur of namens die Munisipaliteit en betalings wat ten opsigte daarvan gemaak is op 'n wyse—

   (a) wat nie billik, mededingend, deursigtig, gelyk of koste-effektief was nie;

   (b) wat strydig was met toepaslike—

      (i) wetgewing;

      (ii) handleidings, riglyne, praktyknotas, omsendbriewe, of opdragte deur die Nasionale Tesourie of Tersaaklike Provinsiale Tesourie uitgereik,

      (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van of van toepassing op die Munisipaliteit;

   en verwante ongemagtigde, onreëlmatige of vrugtelose en verkwistende uitgawes deur die Munisipaliteit of die Staat aangegaan.

2. Enige onreëlmatige, onbehoorlike of onwettige gedrag deur—

(a) die toepaslike diensverskaffers van die Munisipaliteit; of

(b) enige ander persoon of entiteit,

met betrekking tot die bewerings in paragraaf 1 van hierdie Bylae uiteengesit.".