

**PROCLAMATION NO. R. 10 OF 2017**

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**

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 Harry Gwala District Municipality (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 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 the councillors, officials 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 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 2010 and the date of publication of this Proclamation or which took place prior to 1 January 2010 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, 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 Ninth day of December Two thousand and sixteen.

**J G Zuma**  
**President**

By Order of the President-in-Cabinet:

**T M Masutha**  
**Minister of the Cabinet**

### **SCHEDULE**

1. The procurement of, and contracting for goods, works or services by or on behalf of the Municipality from K and M Security Service CC, Emangomeni Trading Enterprise CC, Tricircle Hardware, Kaltravel CC, Garden Court Hotel, Protea Hotel, Busiya Consulting CC, Mini Construction and Msomi Test Pump and Installation and Borehole Repairs and payments which were made in respect thereof in a manner that was—

- (a) not fair, equitable, transparent, competitive or cost-effective; or
- (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) fraudulent; or
- (d) conducted or facilitated by the manipulation of the supply chain management or procurement processes of the Municipality—
  - (i) by any of the afore-mentioned service providers; or
  - (ii) in collusion with or through the intervention of councillors, officials or employees of the Municipality in order to unduly benefit themselves or others,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality.

2. Irregularities, malpractices or maladministration in the affairs of the Municipality in relation to an advance payment made by the Municipality to Cyclone Construction.

3. Any unlawful or irregular conduct by the Municipality, councillors, officials or employees of the Municipality relating to any of the allegations set out in paragraphs 1 and 2 of this Schedule.