ALBERT HIBBERT INC ATTORNEYS

231 LANGE STREET I NIEUW MUCKLENEUK I PRETORIA

TEL NO: 012 346 4633 / 012 346 2691

FAX NO: 086 239 1553 / 086 599 7301

P.O. BOX 31969, WAVERLEY, PRETORIA, 0134

albert@hibbertlaw.co.za

jaco@hibbertlaw.co.za

Our Ref: Mr. Hibbert / JDP / J90 **Date:** 10 July 2025
Your Ref:

LAWTONS AFRICA

140 WEST STREET

SANDTON

JOHANNESBURG

E-MAIL: sj.thema@lawtonsafrica.com / sipho.nkosi@lawtonsafrica.com

Dear Sirs,

JL EXCAVATORS (PTY) LTD VS THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY AND OTHERS – CASE NO. 2025-077699

1. We refer to the abovementioned matter and more in particular the order that was granted on 10 July 2025 by agreement between the parties.

2. We will, for the sake of convenience, refer to your client as "***the Municipality***".

3. In terms of paragraph 2 of the order the Municipality undertook to allocate work in accordance with what is set out in clause 20 of the tender document. As you undoubtedly know, clause 20 of the tender document does not identify the specific criteria. In paragraph 4 "*the objectives*" of the allocation criteria are listed and in paragraph 6 guidelines regarding how the criteria should be applied, are stated.

4. Paragraph 3, in relevant part, reads as follows:

"*... it is critical that a fair and transparent allocation criteria to drive the allocation of work is determined and communicated.*"

(own emphasis)

5. In terms of the aforesaid paragraph the Municipality was obliged to first determine the allocation criteria and then to communicate it. To the best of our knowledge no such allocation criteria exists i.e. it has not been "*determined*". In our view the allocations should be done with reference to what is provided for in section 217 of the Constitution and in section 2(1)(f) of the Preferential Procurement Policy Framework Act, 5 of 2000.

6. How the Municipality should implement a tender such as the present tender was dealt with in particular in a previous judgment of (then acting) Justice Maier-Frawley. This judgment is binding on the Municipality.

7. The purpose of this letter is to establish whether or not the Municipality has determined any allocation criteria and whether it has been communicated to anyone. If this has not yet happened, the Municipality is required to indicate when it envisages to do so.

8. Our client believes that it is of pivotal importance to publish the allocation criteria to be used by the Municipality. It is only when this is made public that the Municipality will truly act transparently.

9. We also mention that there can be no doubt that the Municipality simply does not have a "*discretion*" how it allocates work. Preference should always be given to the highest-scoring tenderers. A further particularly worrisome aspect for our client is the fact that the Municipality has mentioned that it intends to allocate work on a rotational basis. This also would be in clear conflict of section 2(1)(f).

10. In our view, the following principles should, as a bare minimum, apply:

10.1 If the Municipality requires any specific machine, it should commence to first request services from the highest-scoring tenderer. The full quota of what was tendered by the highest-scoring tenderer should be utilised before a lower scoring tenderer is approached;

10.2 Services should be requested first from the highest point scorer and thereafter from the lower scoring tenderers in sequence from highest to lowest;

10.3 Only those tenderers on the list of 30 in each category may be used to source the relevant machines;

10.4 The Municipality may only utilise the amount of machines as tendered by any particular tenderer.

11. If the Municipality differs with the aforesaid, you are requested to indicate that expressly in a responding letter.

12. You are requested to indicate, within seven (7) days from the date of this letter, the following:

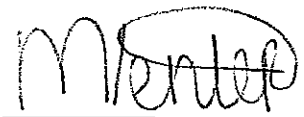
12.1 If a document exists that sets out the allocation criteria as determined in terms of paragraph 20 of the tender document;

12.2 If such document exists, our client requests a copy of the document;

12.3 If no such document exists that sets out the allocation criteria as contemplated in paragraph 20 of the tender document, then the Municipality is in particular requested to indicate when such a document will be compiled and communicated.

13. We look forward to receiving your response.

Kind regards,



ALBERT HIBBERT ATTORNEYS

M VENTER

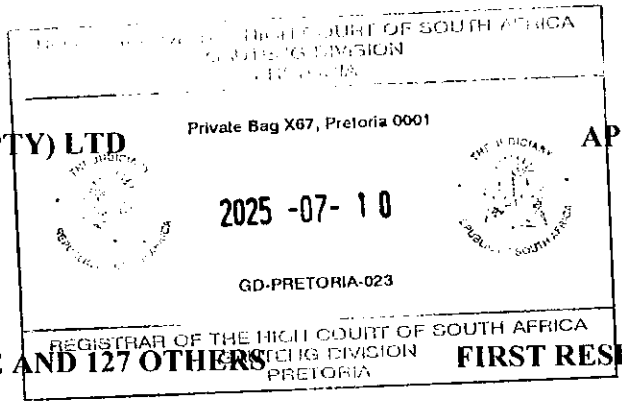
11 July 2025 000-1

IN THE GAUTENG DIVISION OF THE HIGH COURT OF SOUTH AFRICA,

PRETORIA

On 10 July 2025 Before Her Ladyship De Vos AJ

In the matter between: Case No.: 2025/077699



JL EXCAVATORS (PTY) LTD **APPLICANT**

And

CITY OF TSHWANE AND 127 OTHERS **FIRST RESPONDENT**

DRAFT ORDER

By agreement between the parties, the following order is made:

1 The applicant is one of the successful bidders in the first respondent's Tender SS02-2023/2024 for the items listed in the first respondent's letter of appointment dated 11 March 2025 for a period of three years.

2 The allocation of the work to successful bidders under Tender SS02-2023/2024 will continue to be done in the manner set out in clause 20 of the tender document.

3 It is noted that:

3.1 The applicant holds the view that the first respondent has not fully complied with the provisions of clause 20 of the tender document; and

3.2 The first respondent holds the view that it has fully complied with the provisions of clause 20.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
Private Bag X67, Pretoria 0001
2025 -07- 10
GD-PRETORIA-023
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
PRETORIA

4 The successful bidders shall not be confined to a specific region of the first respondent's seven regions and will continue to be entitled to be allocated work to any of the first respondent's seven regions and landfill sites.

5 The first respondent shall, within 14 days from the date of this order, publish on its website a complete list of all the names of the successful bidders under Tender SS02/2023/2024 which list shall include the following:

5.1 The names of the successful bidders and the items for which such successful bidders were appointed.

5.2 The tendered rates for each of the items for which such successful bidders were appointed.

5.3 The number of the items for which each such successful bidders were appointed.

6 The dispute whether the first respondent always complied with clause 20 of the tender document insofar as the applicant is concerned will be determined together with the question of costs.

7 The costs are reserved.

BY ORDER OF THE COURT

REGISTRAR

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
PRETORIA

Private Bag X67, Pretoria 0001

2025 -07- 10

GD-PRETORIA-023

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
PRETORIA

TENDERS AWARDED IN MARCH 2025				
TENDER REFERENCE	**DEPARTMENT**	**TENDER DESCRIPTION**	**DATE OF AWARD**	**SERVICE PROVIDER**
SS 02-2023/24 (Batch 1)	Corporate Fleet Management Division	Tender for the corporate hire of general construction machines and construction equipment: as and when required: three (3) year period: with effect from effect from 01 Aprill 2025 or nearest date	11 March 2025	1. Grab Asset Solution (Pty) Ltd 2. D & Bouers (Pty) Ltd 3. Clean To Roots CC 4. Chippa Training Academy (Pty) Ltd 5. Aptitude Training Academy (Pty) Ltd 6. Amandla Ethu Construction and Civil 492 (Pty) Ltd 7. Ubuntu Transport Logistics 8. Zambeleni Transport and Projects CC 9. World Focus 2346 CC 10. Tsutsumani Business Enterprise CC 11. Tshepo Mpumi Business Enterprise CC 12. TNG 95 Trading and Projects (Pty) Ltd 13. Tlopo Construction and General Services (Pty) Ltd 14. Thaong Trading and Projects (Pty) Ltd 15. TBM Infrastructures and Nozinga Waste (joint venture) 16. Swamdla Trading & Projects CC 17. Saai Mogalela (Pty) Ltd 18. Renoka Supply and Trading (Pty) Ltd 19. P Khoza Refuse and Cleaning Services CC 20. Onkarabile Business Enterprise (Pty) Ltd 21. Medilac Group (Pty) Ltd 22. Mdndibi Business Enterprise (Pty) Ltd 23. Kolomaka Solution (Pty) Ltd 24. Khuliwe Holdings (Pty) Ltd 25. JI Excavations (Pty) Ltd

TENDERS AWARDED IN MARCH 2025				
TENDER REFERENCE	**DEPARTMENT**	**TENDER DESCRIPTION**	**DATE OF AWARD**	**SERVICE PROVIDER**
SS 02-2023/24 (Batch 2)	Corporate Fleet Management Division	Tender for corporate hire of general construction machines and construction equipment: as and when required: three (3) year period: with effect from 01 April 2025 or nearest date.	12 March 2025	1. LMD Group (Pty) Ltd 2. Mafokwana (Pty) Ltd 3. Matima Investment and Project (Pty) Ltd 4. Modama Group CC 5. Mosepelo Trading CC 6. Mrams Enterprise (Pty) Ltd 7. Naledi Ya Kanana Projects (Pty) Ltd 8. Ngoato Le Maredi Construction 9. Nkopetsi Fleet (Pty) Ltd 10. Namakhuwa Trading and Projects (Pty) Ltd 11. Opinionated Business System Grey Security Services (Pty) Ltd 12. Procost and Associates (Pty) Ltd 13. Rua Construction and Projects (Pty) Ltd 14. Tailmac Trading (Pty) Ltd 15. Thaka Holdings (Pty) Ltd 16. Grace 4 Trading and Projects (Pty) Ltd 17. Gracious Kgothatso Trading Enterprise CC 18. Ivoline Trading Enterprise CC 19. J Semethe Projects (Pty) Ltd 20. Khumuvusi Trading and Projects CC 21. Mosa Lesareng Trading and Projects CC

TENDERS AWARDED IN MARCH 2025				
TENDER REFERENCE	**DEPARTMENT**	**TENDER DESCRIPTION**	**DATE OF AWARD**	**SERVICE PROVIDER**
SS 02-2023/24 (Batch 3)	Corporate Fleet Management Division	Tender for corporate hire of general construction machines and construction equipment: as and when required: three (3) year period: with effect from 01 April 2025 or nearest date.	12 March 2025	1. Just Breeze General Trading CC 2. Kay Opportunities (Pty) Ltd 3. Lalefa (Pty) Ltd 4. Lilithalethu Trading 41 CC 5. Livhu Musa Enterprise (Pty) Ltd 6. Mina Equities (Pty) Ltd 7. Luhlavana Projects (Pty) Ltd 8. Mogatladi Trading Enterprise (Pty) Ltd and Expectra 388 CC 9. Mosekati Trading and Projects CC 10. National Construction and Plant (Pty) Ltd 11. Online Dynamics (Pty) Ltd 12. Polson Vervoer (Pty) Ltd 13. PTR Supply and Projects CC 14. RDP'S Business Enterprise CC 15. Sebondane Civils (Pty) Lty 16. Sithembe Transportation and Projects (Pty) Ltd 17. Steptop Enterprise (Pty) Ltd 18. Titanium Transport and Earth Moving Supplies T/A Titanium Project CC 19. Bangiswani Construction CC 20. BEST Enough Trading and Projects 699 CC 21. Central High Trading 277 CC 22. Chamosoga Construction (Pty) Ltd 23. Chumba Rock CC 24. High Power Spare (Pty) Ltd

TENDERS AWARDED IN MARCH 2025				
TENDER REFERENCE	**DEPARTMENT**	**TENDER DESCRIPTION**	**DATE OF AWARD**	**SERVICE PROVIDER**
SS 02-2023/24 (Batch 4)	Corporate Fleet Management Division	Tender for corporate hire of general construction machines and construction equipment: as and when required: three (3) year period: with effect from 01 April 2025 or nearest date.	12 March 2025	1. Leloba Bright Trading (Pty) Ltd 2. Makams Group (Pty) Ltd 3. Manola Works (Pty) Ltd 4. Matigu Works (Pty) Ltd 5. Moepagauta Trading Enterprise 125 CC and The Curve Behind Trading 558 CC (joint venture) 6. Ms Sithole Waste Removals CC 7. NMP Trading Project (Pty) Ltd 8. Phomok Africa (Pty) Ltd 9. Rohile Trading Enterprise CC and Gosinolo Diligent (Pty) Ltd and Ephiven Trading and Projects (Pty) Ltd (joint venture) 10. TCT Civil and Construction CC 11. Stain-Neo's Construction and Projects CC and Tsheno Finlay Trading and Projects (Pty) Ltd (joint venture) 12. Tshwane Truss And Timber Sales (Pty) Ltd 13. Twin Corner Construction and Projects 161 CC and Jayline (Pty) Ltd 14. Xmoor Transport (Pty) Ltd 15. Zelmin 006 CC 16. Zolisat (Pty) Ltd 17. Aqua Transport and Plant Hire (Pty) Ltd 18. Babereki Gardening and Projects CC 19. Legore Security and Plant Hire (Pty) Ltd 20. Lamola Civil Construction CC and Vhowane Security and Projects (Pty) Ltd 21. High Definition Consulting (Pty) Ltd 22. Hetani Trading Enterprise (Pty) Ltd 23. Esinenhlanhla Logistics and Projects (Pty) Ltd 24. Duneva Trading Enterprise CC 25. Burgundy Phoenix (Pty) Ltd

TENDERS AWARDED IN MARCH 2025				
TENDER REFERENCE	**DEPARTMENT**	**TENDER DESCRIPTION**	**DATE OF AWARD**	**SERVICE PROVIDER**
SS 02.2023.24 (Batch 5)	Corporate Fleet Management Division	Tender for corporate hire of general construction machines and construction equipment: as and when required: three (3) year period: with effect from 01 April 2025 or nearest date	12 March 2025	1. Kolomaka Solution (Pty) Ltd 2. Khukhula Plant Hire (Pty) Ltd 3. Lucazi (Pty) Ltd 4. Making IT Work Consultant and Projects CC 5. Madibande Transport and Projects (Pty) Ltd 6. MDZ Fleet Solution (Pty) Ltd 7. Molaudi Trading Enterprise CC 8. New Realease Trading CC 9. Nkulunkosi Holding (Pty) Ltd 10. Talis Fleet (Pty) Lty 11. The Reeds - Mhlanga Trading and Projects (Pty) Ltd 12. Vacjet Rentals (Pty) Ltd 13. Khutsmo Group Solution (Pty) Ltd 14. Kea Thaba Projects and Khuwati Group JV 15. Katshesa Engineering Services 16. JC Power Trading CC 17. Hire All (Pty) Ltd 18. Geralgino Projects and Consultant (Pty) Ltd 19. Bheki Nhlanhla Youth Building Civil Construction CC

				20. Yola Consulting Project Managers 21. Vacjet Rentals (Pty) Ltd
SS 02.2023.24 (Batch 6)	Corporate Fleet Management Division	Tender for corporate hire of general construction machines and construction equipment: as and when required: three (3) year period: with effect from 01 April 2025 or nearest date	12 March 2025	Legend at Work Construction and Projects

				20. Yola Consulting Project Managers 21. Vacjet Rentals (Pty) Ltd
SS 02.2023.24 (Batch 6)	Corporate Fleet Management Division	Tender for corporate hire of general construction machines and construction equipment: as and when required: three (3) year period: with effect from 01 April 2025 or nearest date	12 March 2025	Legend at Work Construction and Projects