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PUBLIC NOTICE

Appointment of External Legal Counsel

Massmart Holdings Limited vs. uThukela District Municipality

(Case No: 41/2024 / Ladysmith Magistrates' Court)

Legal Services

1. PROCUREMENT BACKGROUND & SPECIFICATION

The uThukela District Municipality issued a formal Request for Quotation (RFQ) on **06 July 2026** to its approved panel of attorneys to defend a delictual action instituted by **Massmart Holdings Limited**. Bidders were required to submit fee structures strictly based on a dual-component formula: a **statutory tariff scale plus a proposed percentage mark-up, if any, within a 48-hour deadline**.

2. COMPARATIVE BID EVALUATION

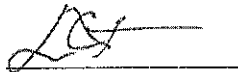
- **Bidder Alpha (Appointed): Substantively Responsive.** This was the **sole firm that complied with the SCM pricing directive, quoting Magistrates' Court Scale C plus a 20% mark-up**. Their procedural delay in submission was formally condoned in the public interest.
- **Bidder Beta (Unsuccessful): Non-Responsive.** Failed to apply the dual-component pricing formula, quoting a flat Scale D with a 0% mark-up.
- **Bidder Gamma (Disqualified): Non-Responsive & Defective.** Failed to apply the pricing formula and unlawfully conditioned their bid on a **R 5,000.00 upfront deposit**.

3. KEY LEGAL AND JURISPRUDENTIAL JUSTIFICATIONS

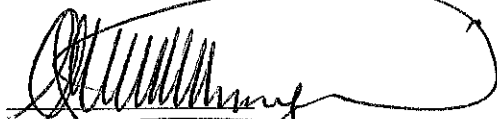
- **Peremptory SCM Specifications:** Under *Allpay Consolidated Investment Holdings (Pty) Ltd and Others v Chief Executive Officer, South African Social Security Agency and Others* 2014 (1) SA 604 (CC), bid specifications are peremptory. The Municipality is legally barred from condoning pricing deviations; thus, **Bidder Alpha** was the only eligible candidate.
- **Validity of Procedural Condonation:** Grounded in *Millennium Waste Management (Pty) Ltd v Chairperson, Tender Board: Limpopo Province and Others* 2008 (2) SA 481 (SCA), the Accounting Officer is legally empowered to condone a procedural submission delay where it preserves a competitive, compliant process and protects the fiscus.
- **The Advance Payment Prohibition:** Section 65(2) of the Municipal Finance Management Act (MFMA) strictly bars advance payments of public funds. Under *Mbambisa and Others v Nelson Mandela Bay Metropolitan Municipality* ZASCA 151 (8 November 2024), officials who authorize upfront deposits face **unconditional, personal civil liability (debt certificates)** from the Auditor-General.

4. FINAL AWARD RESOLUTION

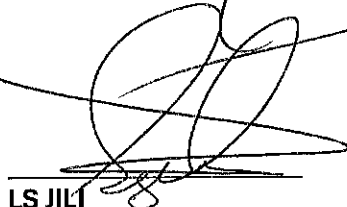
The Municipal MM has formally condoned the late submission of **Bidder Alpha** and awarded them the legal mandate to represent the Municipality on a tariff structure of Magistrates' Court Scale "C" plus a 20% mark-up, billed retrospectively on actual, completed deliverables.



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