

SECTION 116 REPORT

18 December 2025

Annexure A: Motivation

1. STRATEGIC THRUST

An honest, transparent, and responsive local government that prides itself on service delivery.

2. OBJECTIVES

The purpose of this report is to present to the Johannesburg Social Housing Company (JOSHCO) Board of Directors the process undertaken in terms of Section 116(3) of the Municipal Finance Management Act, 56 of 2003, including the public participation outcomes, relating to the proposed extension of contracts and associated costs for the following contractors and consultant: Tendiwanga Investments (Pty) Ltd, Ngwanashogole Trading Enterprise (Pty) Ltd, and Ditlou Consulting (Pty) Ltd. The report further outlines the needed appointment of a new contractor for the Madala Transitional Residential Area (TRA) to complete works onsite. These extensions and appointment are to ensure the construction to completion, and monitoring of Transitional Residential Areas (TRAs) in Region E, City of Johannesburg.

3. BACKGROUND

Section 116 (3) of the MFMA Act 56 of 2003 requires that a contract or agreement procured through the supply chain management policy of the municipality or municipal entity, be amended or extended by the parties under certain circumstances, thus only after: - (a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and (b) the local community – (i) having been given reasonable notice of intention to amend the contract or agreement, and (ii) having been invited to submit representations to the municipality or municipal entity.

MFMA Circular No. 62 Municipal Finance Management Act No. 56 of 2003 states that “it is recognized that, in exceptional cases, an accounting officer of a municipality or municipal entity may deem it necessary to expand or vary orders against the original contract. The expansion or variation of orders against the original contract has, however, led to wide scale abuse of the current SCM system. In order to mitigate such practices,

accounting officers of municipalities and municipal entities are advised that, from the date of this Circular, contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Municipal Councils and Board of Directors of municipal entities are required to amend their supply chain management policies accordingly. Furthermore, anything beyond the abovementioned thresholds must be reported to council or the board of directors.

4. NAME OF THE PROJECT

| Property Description | Property Name | Project Name | Number of Units |
|---|--------------------|---|-----------------|
| Erven 876-887 Marlboro Gardens | 12 Second Avenue | Transitional Residential Area (TRA) at 12 Second Avenue in Marlboro | 172 |
| Erf 710 Marlboro | 17 Viola Avenue | Transitional Residential Area (TRA) 17 Viola Street, Marlboro Gardens | 440 |
| 2077 Alexander Township Madala Hostel | Madala Hostel TRAs | Transitional Residential Area (TRA) at 2077 Alexander Township Madala Hostel, | 560 |

5. REQUIRED CONTRACT EXTENSIONS

| # | Name of Service Provider | Discipline | Date of Appointment | Contract Duration | Contract Expiration Date | Proposed Extension |
|---|--|-------------------------------|---------------------|-------------------|--------------------------|--------------------|
| 1 | Tendiwanga Investment (PTY) Ltd | Contractor | 31 July 2023 | 12 months | 30 June 2024 | 30 September 2026 |
| 2 | Ngwanashogole Trading Enterprise (PTY) Ltd | Contractor | 19 September 2023 | 9 months | 30 June 2024 | 30 September 2026 |
| 3 | Ditlou Consulting | Professional service Provider | 7 April 2020 | 50 months | 30 June 2024 | 30 November 2026 |
| 4 | Madala Phase 1c New contractor | New Contractor be appointed | TBC | 9 months | | 30 September 2026 |

Table 1: Appointment & Extension Details

6. REASONS FOR CONTRACT DURATION EXTENSION

6.1 Madala Hostel in Alexander Township Project:

The professional team was unable to obtain statutory approvals as submissions were done and awaiting approvals from City Planning and municipal entities. The project also experienced more delays caused by the appointed contractor's extremely slow progress on site due to lack of finances to implement the project. This then resulted in community unrests that subsequently triggered multiple site closure ranging from a week to 3 weeks. The contractor has been terminated due to non-performance in accordance to JBCC Minors Works Agreement (Edition 5.2, May 2018), and the professional team will be required for the final account, procurement of a new contractor and the supervision of the works to completion. It is therefore necessary that the current professional team remain in the project to get all the statutory approvals and get the project to the close-out stage.

6.2 Transitional Relocation Area (TRA) at 17 Viola Street and 12 Second Avenue in Alexandra project:

The professional team was unable to obtain land use rights and statutory approvals due to the outstanding power of attorneys for 12 Second Avenue and joint planning submissions for 17 Viola Avenue. 12 Second Avenue is located on land parcels that are owned by the Department of Education and Human Settlements has been requesting for the permission to build and occupy from the department which has delayed the Planning submissions and approvals. 17 Viola Avenue needed to be subdivided as the other portion of the erf is under planning as JOSHCO's internal project. The submissions done were withdrawn so they can be submitted separately, delaying the approval timeframes. More

delays were caused by site invasion that caused a lot of damages to the project resulting on evaluation of damages and restorative works. It is therefore necessary that the current professional team remain in the project to get the statutory planning approval and get the project to the close-out stage.

6.3 Risk Exposure

Failure to extend to grant the extension of time to the consultant, means projects will have to be further delayed due to tendering process and the handover process of the project to the new service providers. Works onsite will need to be halted, exposing the project to further invasions.

6.4 Extension of Scope of Works

| PROPERTY DESCRIPTION | PROPERTY NAME | NUMBER OF UNITS | SCOPE OF WORK |
|-----------------------------------|------------------|-----------------|--|
| Erven 876-887 Marlboro Gardens | 12 Second Avenue | 172 | TRUs were invaded in August 2024, removal of the Invaders was effected in September 2024. The project had reached 95% completion however reduced to 80% completion due to the vandalism that took place. The contractor is currently awaiting on instruction for them to finalise snagging onsite of their appointed scope of work. |
| Erf 710 Marlboro | 17 Viola Street | 440 | TRUs were invaded in August 2024, removal of the Invaders was effected in September 2024. The project had reached 65% progress at the time of invasion. The contractor is currently working on contractual documentation to return back to site and finalise their tendered scope of work. |

6.5 COST-BENEFIT ANALYSIS FOR RETAINING THE APPOINTED CONTRACTORS

Retaining the current contractors, is the most prudent and cost-effective option for the following reasons:

- **Established Site Knowledge and Work Progress:** The appointed contractors have developed a comprehensive understanding of the sites and the project's scope, having already commenced and partially completed key components of the required works. Re-tendering at this stage would necessitate a significant learning period for any new contractor, resulting in further delays and inefficiencies.

- **Financial Implications of Re-tendering:** The cost of restarting the procurement process, combined with the potential for price escalations in labour and materials, would far exceed the additional required costs for remedial works resulting from the invasions. This would result on pressure on the project budget and further compromise the financial viability of the project. Furthermore, it will extend the project completion date.
- **Mitigation of Further Delays:** Retaining the current contractor allows for immediate remediation as they are working onsite, ensuring that the project remains on track with minimal disruption. In contrast, engaging a new contractor would introduce delays associated with procurement, mobilisation, and site familiarisation—significantly impacting the overall project timeline.

7. BID ADJUDICATION PROCESS

The bid adjudication committee meeting was convened 19 December 2025 and resolved as follows:

- 7.1 Approval be granted to acquire comments from the public to extend the contract period and the associated cost for the contractors and consultant for the 3 TRAs.

8. PUBLIC COMMENT PROCESS

Section 116(3) of the MFMA requires that a contract or agreement procured through the supply chain management policy of the municipality entity, should only be amended or extended by the parties under certain circumstances, thus only after;

- a) The reasons for the proposed amendment have been tabled by council of the municipality or, in the case of municipal entity and the council of its parent municipality and
- b) The local community
 - i. Having been given reasonable notice of intention to amend the contract agreement and
 - ii. Having been invited to submit representations to the municipality or municipal entity

Therefor in terms of the above section, in order for the JOSHCO to extend the contract periods of the service

providers beyond three years, it is required by legislation to go on public advertisement to request comments from the public on the proposed extensions. It should be noted that during this process the possibility of objects from the public cannot be ignored.

It should be noted that no objections were received from the public.

9. BUDGET ALLOCATION

- The budget confirmation for the financial year for Madala TRAs is 25/26 is R 11 mil and R5mil for the 26/2 FY.
- Motivation to Appoint JOSHCO for the construction of temporary relocation units/area in Marlboro, Region E approved by City Manager for an amount of R 37 373 512.23 for 12 Second Avenue and R61 363 913,97 for 17 Viola Avenue.
- The cost that is being incurred on monthly basis for the safeguard of the buildings is around R1.9million.

10. FINANCIAL IMPLICATIONS

| | Appointed amount | Contract adjustment | New contract value | Percentage increase |
|---|------------------|---------------------|--------------------|---------------------|
| Tendiwanga Investment | R 28 212 052.93 | R 9 161 459.30 | R 37 373 512.23 | 25% |
| Ngwanashogole Trading enterprise | R 50 214 073.10 | R 15 214 073.10 | R 65 428 146.20 | 23% |
| TRA Professional fee (Madala Phase 1a, 17 Viola Avenue & 12 2nd Avenue) | R 22 034 347.14 | R 12 274 225.70 | R 34 308 572.84 | 36% |
| New Contractor to be appointed for Madala Phase 1c | N/A | R 50 948 702.72 | R 50 948 702.72 | 100% |
| | | R 87,598,460.82 | R 188,058,933.99 | 53% |

11. CONDITIONS OF APPROVAL

None

12. RISK TOLERANCE ASSESSMENT

| Risk Category | Potential Risk | Impact Assessment | Residual Rating |
|---------------|--|-------------------|-----------------|
| UIFW | <ul style="list-style-type: none"> Not completing the project | Critical | 20 |

| IMPACT | RATING |
|---------------|--------|
| Critical | 25 |
| Major | 20 |
| Moderate | 15 |
| Minor | 10 |
| Insignificant | 5 |

13. INTERNAL AUDIT ASSURANCE

Please see report of Chief Audit Executive

14. RECOMMENDATION

In respect of the above, it is recommended that:

- BAC consider and refer the report to the Accounting Officer for consideration taking into account the Section 116 of the Municipal Finance Management Act No. 56 of 2003 which stipulates the requirements of a contract or agreement procured through the Supply Chain Management system as well as the process to be followed for contract amendments.
- MFMA Section 116(3) states that "A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after
 - (a) The reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and
 - (b) The local community
 - (i) has been given reasonable notice of the intention to amend the contract or agreement; and
 - (ii) has been invited to submit representations to the municipality or municipal entity
- Board of Directors recommends contract extensions and associated cost for the contractors as per Section 116(3) of the MFMA Bid on the extensions of contract period for Council approval
- Board of Directors recommends the contract extension and associated cost of the contractors and consultant professional services inclusive of extended Stage 5 (Construction) and all legal and conveyancing cost implications
- Department of Human Settlement has allocated R11mil for the 25/26 FY and R5mil for 26/27FY which is not sufficient for the completion of the Madala TRAs and associated professional services. Request to be made for the shortfall.

RECOMMENDED/NOT RECOMMENDED

THABO MTHEMBI
SUPPLY CHAIN MANAGER

DATE:

RECOMMENDED/NOT RECOMMENDED

MELUSI NDIMA

DATE:



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CHIEF OPERATIONS OFFICER

RECOMMENDED/NOT RECOMMENDED

FLOYD RIKHOTSO
CHIEF FINANCIAL OFFICER & BAC CHAIRPERSON

DATE:

APPROVED/NOT APPROVED

THEMBA MATHIBE
ACTING CHIEF EXECUTIVE OFFICER

DATE: