IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 2026/053916

DATE: 13 APRIL 2026

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ***NO***

(2) OF INTEREST TO OTHER JUDGES: ***NO***

(3) REVISED: **NO**

Date: ____***13 April 2026***

Signature:__[redacted]

In the matter between:

INFINITE BLUE ENGINEERING (PTY) LTD	Applicant
And	
JOHANNESBURG ROADS AGENCY (SOC) LTD	First Respondent
KGOTSO MOKONE TRADERS CC	Second Respondent
MORANGIE CONSTRUCTION AND PROJECTS CC	Third Respondent
ZAMA TRAFFIC SIGNALS HIGH VOLTAGE SYSTEMS CC	Fourth Respondents

JUDGMENT

NYATHI, J:

Introduction

1. This is an urgent application in which the applicant seeks **interim interdictory relief** pending the determination of a review application to be instituted against a decision of the first respondent to advertise and proceed with a supplementary tender for the provision of traffic signal and related services.

2. The applicant contends that the supplementary tender duplicates an existing tender pursuant to which it has already been appointed; that there is no demonstrated operational necessity for such duplication; and that the decision is unlawful, irrational, procedurally unfair and inconsistent with section 217(1) of the Constitution.

3. The first respondent disputes urgency, denies the existence of any *prima facie* right, relies on the non-exclusive nature of the service level agreement, and asserts that the supplementary tender is justified by operational imperatives and public interest considerations.

4. The sole question before this Court is whether the requirements for an **interim interdict** have been satisfied.

Urgency

5. An applicant seeking relief under Rule 6(12) must demonstrate that it cannot obtain **substantial redress in due course**.

6. It is common cause that the supplementary tender was advertised in December 2025, closed on 28 January 2026, and remains open for adjudication and award. The tender may be awarded at any time during its validity period.

7. Once the tender is awarded and implemented, a parallel panel would come into existence. At that point, the applicant's contractual position would be materially diluted, budgets diverted, and third-party rights entrenched. A subsequent review would offer cold comfort.

8. The contention that urgency is self-created cannot succeed. Even if the applicant had acted earlier, the inevitability of imminent award renders the matter inherently urgent. The decisive inquiry remains whether substantial redress would be available later. It plainly would not.

9. The requirements of urgency are therefore satisfied.

The Applicable Legal Test

10. The well-known requirements for interim interdictory relief are:

    10.1 a prima facie right, even if open to some doubt;

    10.2 a reasonable apprehension of irreparable harm;

    10.3 that the balance of convenience favours the grant of relief; and

10.4 the absence of an adequate alternative remedy.

Prima Facie Right

11. The applicant's asserted right is not a claim to exclusive work. It is a right to **lawful, constitutionally compliant procurement** and to protection against the irrational duplication of an existing tender in circumstances where its capacity has not been exhausted and its contract remains extant.

12. Section 217(1) of the Constitution requires organs of state to procure goods and services in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

13. On the version before Court, which must at this stage be assessed on a *prima facie* basis, the following features are salient:

    13.1 The applicant was appointed under a main tender for the same scope of work.

    13.2 The first respondent has not demonstrated that the applicant's capacity has been exhausted or found inadequate.

    13.3 The supplementary tender establishes a parallel panel for materially identical services.

    13.4 Eligibility requirements were lowered, without lawful termination or variation of the existing framework.

13.5 No opportunity was afforded to the applicant to make representations prior to the publication of the supplementary tender.

14. While the service level agreement is non-exclusive, such a clause cannot operate as a licence to act irrationally or in breach of constitutional procurement obligations. Non-exclusivity does not equate to unfettered discretion.

15. The applicant has established, at least *prima facie*, that the decision to publish the supplementary tender may be unlawful, irrational and procedurally unfair, and therefore susceptible to review.

16. The requirement of a *prima facie* right is satisfied.

Irreparable Harm

17. If the supplementary tender is awarded and implemented, the harm to the applicant will be immediate and irreversible. The dilution of its contractual position, diversion of budget, and erosion of the economic value of its appointment cannot be satisfactorily remedied by a future setting-aside.

18. A claim for damages would be speculative, complex and inadequate in the circumstances, particularly where public procurement processes are implicated.

19. The apprehension of irreparable harm is well founded.

Balance of Convenience

20. The balance of convenience favours the grant of interim relief.

21. The interdict preserves the *status quo*. The first respondent remains able to allocate work under the existing panel and has not demonstrated a genuine emergency or incapacity that cannot be addressed within that framework.

22. Against this must be weighed the prejudice to the applicant if a parallel tender proceeds unlawfully, and the broader public interest in ensuring compliance with constitutional procurement norms and guarding against potentially wasteful expenditure.

23. The balance clearly favours interim restraint.

Alternative Remedy

24. The proposed review proceedings cannot prevent, in the interim, the award or implementation of the supplementary tender. Once that occurs, the review may be rendered largely academic.

25. No alternative remedy offers comparable protection to the relief sought. This requirement is therefore met.

Conclusion

26. This Court is mindful that interim interdicts restraining procurement processes should not be granted lightly. However, where serious

questions of constitutional compliance arise, and the harm apprehended is real and irreversible, judicial intervention is both justified and necessary.

27. The applicant has satisfied all the requirements for interim interdictory relief.

Order

28. The following order is made:

1. The application is heard as one of urgency and the normal forms and service are dispensed with.
2. Pending the final determination of the review application to be instituted, the first respondent is interdicted and restrained from awarding, implementing or taking any steps to give effect to Tender No. JRA 25/26.
3. The applicant is directed to institute the review application within 10 (ten) days of this order.
4. The costs of this application are reserved for determination in the review application / are costs in the cause.

[redacted]

JS NYATHI
Judge of the High Court
Gauteng Division, Pretoria

HEARD ON:	01 April 2026
JUDGMENT DATE:	13 April 2026
FOR THE APPLICANT:	Adv NG Louw
INSTRUCTED BY:	Albert Hibbert Attorneys, Pretora
FOR THE RESPONDENTS:	Adv N Loopoo
INSTRUCTED BY:	M Mogokare Attorneys

Delivery: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 13 April 2026.