

MSUNDUZI MUNICIPALITY



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The Msunduzi Municipality

BORROWING POLICY

TABLE OF CONTENTS

1. Definitions.....	3
2. Introduction and Background.....	5
3. Scope and Application.....	5
4. Objectives.....	6
5. Conditions under which Municipal Debt maybe incurred.....	6
6. Security.....	7
7. Approval.....	9
8. Internal Control over Borrowing.....	9
9. Reporting and Monitoring Procedures.....	10
10. Financial Viability.....	11
11. Annual Review of Policy.....	13
12. Effective Date.....	13

1. DEFINITIONS

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and / or other related legislation / regulations, has the same meaning as in that Act.

- **“Accounting Officer”** – means the Municipal Manager and *vice versa*;
- **“Act”** – means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- **“Chief Financial Officer”** – means an officer of the Municipality, designated by the Municipal Manager to be administratively in charge of the financial affairs of the municipality;
- **“Council” or “Municipality”** – means the Municipal Council of Msunduzi Municipality as referred to in Section 18 of the Municipal Structures Act;
- **“Creditor”** – in relation to a municipality, means any person or service provider to whom money is owing by the Municipality;
- **“Debt”** – means–
 - (a) a monetary liability of obligation created by a financing agreement, note, debenture, bond, overdraft or the issuance of municipal securities; or
 - (b) a contingent liability such as that created by guaranteeing a monetary liability or obligation of another.
- **“Delegatee”** – means an official / person delegated to perform tasks on behalf of another person;
- **“Disclosure statement”** – means a statement issued or to be issued by:
 - (a) a municipality which intends to incur debt by issuing municipal debt instruments; and
 - (b) a person who intends to incur debt by issuing securities backed by municipal debt.
- **“Financial Statement”** – means statements consisting of at least –
 - I. a balance sheet (statement of financial position);
 - II. an income statement (statement of financial performance);
 - III. a cash-flow statement;
 - IV. any other statements that may be prescribed; and
 - V. any notes to these statements.
- **“Financial year”** – means a year ending 30June;
- **“Financing Agreement”** means any long-term agreement, lease, instalment purchase contract or hire purchase agreement under which the Municipality undertakes to pay the capital cost of property, plant or

equipment over a period of time;

- **“Information statement”** – means a statement made public by the municipality setting out particulars of the proposed debt. including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided ;
- **“Lender”** – in relation to a municipality means a person or service provider who provides debt finance to a municipality;
- **“Long Term Debt”** – means debt which is repayable over a period exceeding 12 months;
- **“Municipal debt instrument”** – means any note, bond, debenture or other evidence of indebtedness issued by a municipality, including virtual or electronic evidence of indebtedness intended to be used in raising debt;
- **“Security”** – means a lien, pledge, mortgage, cession or other form of collateral intended to secure the interest of a creditor;
- **“Short Term Debt”** – means a debt which is repayable over a period not exceeding 12 months;

2. INTRODUCTION AND BACKGROUND

Considering the large demand for municipal infrastructure, borrowing is an important element to obtain additional funding sources to fund the municipal capital programme over the medium term.

The legislative framework governing borrowing is informed by the following legislation:

- a) Local Government Municipal Finance Management Act, (Act 56 of 2003); and
- b) Municipal Regulations on Debt Disclosure, Regulation R492, published under Government Gazette 29966, 15 June 2007

The Municipality may only incur debt in terms of the Municipal Finance Management Act, Act No. 56 of 2003. The Municipality may incur two types of debt, namely short-term and long-term debt.

2.1 Short Term Debt

The Municipality may incur short-term debt only when necessary to bridge:

- (a) Shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistically anticipated income to be received within that financial year; or
- (b) Capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

The Municipality:

- (a) Must pay off short-term debt within a financial year; and
- (b) May not renew or refinance its short-term debt.
- (c) The Municipality may not obtain credit cards or debit cards linked to a bank account of a municipality or a municipal entity to any councillors, entity board members, municipal or entity officials or any other person.

2.2 Long Term Debt

The Municipality may incur long-term debt for purposes of financing its long-term strategic objectives, as outlined in the Constitution of the Republic of South Africa, Act No. 108 of 1996, and Chapter 7 on Local Government, to:

- (a) Provide democratic and accountable government for local communities;
- (b) Ensure the provision of services to communities in a sustainable manner;
- (c) Promote social and economic development;
- (d) Promote a safe and healthy environment; and
- (e) Encourage the involvement of communities and community organizations in the matters of local government.

3. SCOPE AND APPLICATION

This policy governs the taking up of new loans, as well as the maintenance and redemption of existing loans. It specifically applies to:

- (a) Conditions under which municipal debt may be incurred;
- (b) Security;
- (c) Approvals;
- (d) Internal Controls,
- (e) Reporting & Monitoring Procedures; and Financial viability.

4. OBJECTIVES

This Policy, in line with sections 19, 46 and 47 of the Municipal Finance Management Act, 56 of 2003(MFMA), sets out the procedures to be followed in sourcing funding from external financial service providers

The objectives of this policy are to:

- (a) ensure compliance with the relevant legal and statutory requirements relating to municipal borrowing;
- (b) record the circumstances under which the Municipality may incur debt;
- (c) describe the conditions that must be adhered to by the Accounting Officer or his / her delegatee when a loan application is submitted to Council for approval;
- (d) set out the internal control measures applicable to the maintenance and redemption of loans;
- (e) ensure timeous reporting on the loans register as required by the Act and in accordance with Generally Recognised Accounting Practice; and
- (f) record the key performance indicators to ensure access to the money markets.
- (g)Manage interest and credit risk exposure.
- (h)To maintain financial sustainability.

5. CONDITIONS UNDER WHICH MUNICIPAL DEBT MAY BE INCURRED

The process for obtaining external loan funding for the Municipality falls exclusively within the functional area of the Chief Financial Officer.

All borrowings made by the City must be in accordance with this policy and with any regulations promulgated by National Treasury.

5.1 Statutory Conditions

The Municipality may incur debt, provided that:

- (a) The debt is denominated in Rand and is not indexed to, or affected by fluctuations in the value of the Rand to other currencies [Sect 47(a) of the Act];
- (b) The debt is approved by resolution of Council, signed by the Mayor, and the Accounting Officer has signed the agreement or other document which creates or acknowledges the debt [Sect 46(2) of the Act];
- (c) The Accounting Officer has, at least 21 days prior to the meeting of the Council at which the resolution is to be considered, published a notice in a newspaper of general circulation, an information statement:
 - (i) Stating particulars of the draft resolution, including the amount of the loan, the

purpose of the loan to be incurred and the particulars of any security to be provided [Sect 46(3)(a)(i) of the Act]; and
(ii) Inviting the public to submit written representations to the Council in respect of the draft resolution [Sect 46(3)(a)(ii) of the Act].

(d) The Accounting Officer has, prior to the adoption of the resolution, submitted an information statement to the Council setting out the purpose for which the debt is to be incurred, the anticipated total cost of credit over the repayment period, the essential repayment terms and particulars of any security to be provided [Sect 46(3)(b) of the Act];

The relevant resolution was adopted at a meeting of the Council which was open to the public; and

(e) Where security is to be provided, the provisions of section 6 below have been complied with [Sect 47)(b) of the Act].

(f) In terms of section 18 of the Act, borrowings can only be used to fund the budget for purposes of expending on capital projects.

5.2 Administrative Conditions

The CFO must, in consultation with the Budget and Treasury Directorates, assess the Municipality's financial requirements and determine the amount of funds that need to be raised from external service providers, particularly to fund the capital programme. The assessment must be made in conjunction with the Medium Term Revenue and Expenditure Framework (MTREF) and the capital budget which is approved by Council.

The possible methods of raising external debt identified are:

- I. Raising of project specific loans through financial institutions.
- II. Raising non project specific loan for a particular financial year
- III. Issuing bonds on the market
- IV. Appointment of a financial institution as debt provider for a period not exceeding three (3) financial years.

A combination of these methods of debt raising could be utilised over a period of time.

A funding requirement assessment is required to ascertain the need to borrow. The funding requirements for capital projects/assets together with the funding sources, must-

- i. be determined annually
- ii. take into account a multi-year period and
- iii. be done in order to determine the adequacy of available funding sources.

Consideration must be taken into account of how funding decisions affect the operating budget for the multi-year period, which will include the long term impact on tariffs.

A full analysis of all cash reserves is required prior to borrowing to ensure the most cost effective method of financing

(a) To obtain Council's approval for a bank overdraft, call bond or short-term loan the Accounting Officer or his / her delegatee must submit:

(i) A cash-flow statement indicating the anticipated shortfalls and anticipated further income streams that will repay the short-term debt;

(ii) Monthly cash-flow reports indicating progress towards the repayment of the

bank overdraft, call bond or short-term loan.

(b) To obtain Council's approval for a long-term loan the Accounting Officer or his /her delegatee must submit:

(i) The Bid Committee's recommendation after having obtained and evaluated quotations from at least three financial institutions stating the loan period (repayment period), comparable interest rates and administrative costs;

(ii) An operating budget reflecting the effect of the anticipated depreciation of the envisaged asset to be financed and / or capital costs on service charges;and

(iii) Statements from the financial institutions that the proposed instruments are in line with national legislation. When entering into discussions with a prospective lender with a view to incur municipal debt, the City must indicate in writing to the prospective lender whether it intends to incur short-term or long-term debt.

Interest rates are to be fixed at an optimal rate unless it can be shown that a variable rate can provide better cost efficiency

The CFO is responsible for securing and maintaining an appropriate credit rating from a recognised, reputable credit rating organisation should it be the requirement of debt providers.

Supply Chain Management procedures must be followed in evaluating and appointing an appropriate credit rating agency.

6. SECURITY

(a) The Municipality may, by a resolution of the Council, authorise security to be provided for any of its debt obligations;

(b) Without contravening the above point, the Municipality when incurring debt, may:

(i) Undertake to maintain revenues or specific charges, fees, tariffs or funds at a particular level or at a level sufficient to meet its obligations arising from that debt;

(ii) Undertake to effect payment directly from monies or sources that may become available and authorise direct access to such sources to ensure payment of those obligations;

(iii) Undertake to make provision in its budget for the payment of those obligations, including capital and interest;

(iv) Undertake to deposit funds with the lender or a third party as security for the debt;

(v) Agree to specific payment mechanisms or procedures to ensure exclusive or dedicated payment to lenders, including payments into special purpose funds / accounts or other payment mechanisms /

procedures;

- (vi) Cede as security any category of revenue or rights to future revenue specified in the financing agreement or information statement contemplated in 5.1(d)above;
 - (vii) Undertake to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;
 - (viii) Agree to restrictions on debt which the Municipality may want to incur in future; and
 - (ix) Agree to such other arrangements as the Municipality may consider necessary and prudent.
- (c) A Council resolution authorizing the giving of security as referred to in 6.(a):
- (i) Must determine whether the asset or right with respect to which the security is given, is necessary for providing a minimum essential municipal service; and
 - (ii) If so, must indicate the manner in which the availability of the asset or right for the provision of that service will be protected.
 - (d) If the resolution has determined that the asset or right is necessary for providing a minimum essential service, the lender to whom the municipal security is given, may not, in the event of a default by the Municipality, deal with the asset or right in the manner that would preclude or impede the continuation of the minimum essential municipal service.
 - (e) A determination in terms of 6(c) that an asset or right is not necessary for providing a minimum essential municipal service is binding on the Municipality until the secured debt has been paid in full.

7. APPROVAL

(a) Once Council approves the loan, the Accounting Officer has to enter into an agreement with the recommended financial institution on behalf of Council. The Chief Financial Officer must ensure that the terms and conditions are as originally agreed before the Council is committed;

(b) All municipal loan commitments must be recorded in a Loans Register

reflecting at a minimum the:

- (i) Loan number;
- (ii) Type of loan;
- (iii) Financial institution;
- (iv) Date issued;
- (v) Purpose of loan;

- (vi) Loan period;
 - (vii) Interest rate;
 - (viii) Instalments (capital and interest);
 - (ix) Due dates (quarterly / half-yearly /yearly);
 - (x) Security (if any);
 - (xi) Final redemption date;
 - (xii) Opening balance at the beginning of the financial year;
 - (xiii) Amounts received during the financial year;
 - (xiv) Capital amounts redeemed during the financial year;and
 - (xv) Closing balance at the end of the financial year.
- (c) Sufficient provision must be made in the budget to depreciate assets linked to the loan;

8. INTERNAL CONTROL OVER BORROWINGS

8.1 Draw-down claims on loans

Regular claims must be prepared, signed and submitted for processing to the financing institution providing the loan facility. The following supporting documents must be attached to each draw-down claim:

- (a) Signed copy of Certified Statement, signed by an authorised representative of the Municipality;
- (b) Signed copy of Application for Loan Draw-down, signed by an authorised representative of the Municipality; and
- (c) Expenditure summary listing the expenditure being claimed.

8.2 Repayments made on loans

Loans are paid at the end of each quarter, being March, June, September and December as norm but subject to conditions of loans by the lender. Payments are made in terms of the amortization schedules or notices from the financing institution for the respective loans due for repayments. The following supporting documents must be attached to each loan repayment:

- (a) Signed copy of cheque requisition; and
- (b) Copy of amortization schedule or notice from financing institution detailing the capital and interest amounts due and payable.

8.3 Reconciliations between General Ledger / Loans Register and Financing institutions

The following reconciliations are performed between the Loans Register, Statements / Amortization schedules of financing institutions and the General Ledger and are examined by a senior official under the direction of the Chief Financial Officer:

- (a) Loans Register to General Ledger on a monthly basis;
- (b) Capital redemptions per the General Ledger to the redemptions schedule on a monthly basis;

- (c) Interest paid per the General Ledger to the interest schedules on a monthly basis; and

8.4 Documentation kept on record

The following loan documentation and certificates, at a minimum, must be safeguarded at all times:

- (a) Loan agreements;
- (b) Any applicable security agreements;
- (c) Copy of annual loans register;
- (d) Signed copies of monthly reconciliations;
- (e) Copies of all repayments made;
- (f) Copies of amortization schedules;
- (g) Copies of quarterly National Treasury returns.

9. REPORTING AND MONITORING PROCEDURES

Regular reporting mechanisms shall be put in place in order to assess the overall standing of the Municipality's borrowings and to ensure that the current borrowings comply with policy objectives, guidelines, applicable legislation and regulations.

9.1 As a minimum, the following reports shall be prepared: For Internal Treasury management

- (a) A monthly schedule of loans detailing each loan; and
- (b) A monthly reconciliation of all interest / capital repaid and capital received.

9.2 For the Mayor and Council

A monthly report, within 15 working days of each month, on the borrowing portfolio to the Mayor and thereafter to the Finance Portfolio Committee for information, detailing:

- (a) Date issued;
- (b) Interest rate;
- (c) Loan number;
- (d) Reference number;
- (e) Redemption date;
- (f) Institution funding source;
- (g) Opening balance at the beginning of the financial year;
- (h) Amounts received during the financial year;
- (i) Capital amounts redeemed during the financial year; and
- (j) Closing balance at the end of the financial year.

9.3 For External parties

- (a) A schedule of the Municipality's borrowings must be published as part of the annual financial statements;

- (b) Any information to be submitted to the financing institutions and/or security providers / guarantors as and when required.

10. FINANCIAL VIABILITY

Where it has been decided that funding will be sourced externally, the financial service provider may, when considering an application for external debt from the municipality, take certain ratios into consideration.

The CFO/Delegate must determine the applicable ratios for long term funding and suggested performance levels. The ratios should be monitored to ensure that the City is able to meet its requirements to access external debt from financial services providers of its choice.

Supply Chain Management procedures must be followed in evaluating and appointing an appropriate credit rating agency for securing and maintaining an appropriate credit rating from a recognised, reputable credit rating organisation if dictated by the source of funding required.

a)The Accounting Officer or his / her delegatee must ensure that the Municipality is financially viable and will be able to access the capital market. A report in this regard must be submitted to Council after the completion of the financial statements at the end of every financial year;

b)To ensure a financially sustainable Municipality, the relevant ratios contained in the monthly financial ratios report are used as guidelines to determine the City's ability to borrow. The Chief Financial Officer/delegatee must compile a monthly financial ratios report of at least, ratios and the achievement of the MFMA circular 71 (Financial ratios and norms). Targets / norms must be included in that report.

11. ANNUAL REVIEW OF POLICY

This policy will be reviewed regularly or when so required by changes to legislation. Any changes to this policy must be adopted by Council and be consistent with the Act and any National Treasury regulations.

12. EFFECTIVE DATE

The effective date of this policy shall be **01 July 2023**.