

MALUTI-A-PHOFUNG LOCAL MUNICIPALITY

DRAFT BORROWINGS POLICY

1. OBJECTIVES

- To facilitate the Council's long-term and short-term borrowing of funds both externally and internally at the minimum rate of interest obtainable in the money market for the applicable term at the time of drawdown; and
- To ensure that all borrowings are in accordance with legislative requirements.

2. LEGISLATIVE CONTEXT

Chapter 6 of Municipal Finance Management Act 2003, Act 56 of 2003 provides a context and framework within which the municipality may raise debt.

3. BORROWING RINCIPLES

3.1 Short-Term Borrowings

The municipality shall incur short-term debt in strict compliance with the Municipal Finance Management Act and any Treasury Regulations and Guidelines regarding short-term borrowings.

Short-term borrowings shall be incurred only when necessary to for the following purposes:

- a) To bridge shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or
- b) For capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

A short-term debt shall be incurred only if:

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- a) A council has passed a resolution, signed by the Mayor, approving the debt agreement; and
- b) The Municipal Manager or his/her delegate has signed the agreement or other document which creates or acknowledges the debt.

In cases of short-term credit facility to be accessed as and when required, including bank overdraft and credit cards facilities, the council shall approve debt agreement provided that:

- a) the credit limit must be specified in the resolution of the council;
- b) the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and
- c) if the council approves a credit facility that is limited to emergency use, the Municipal Manager or his/her delegate must notify the council in writing as soon as practical of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as options for repaying such debt.

3.2 Long -Term Borrowings

The municipality shall incur long-term debt in strict compliance with the Municipal Finance Management Act and any Treasury Regulations and Guidelines regarding long-term borrowings, and must be consistent with the municipality's capital budget.

Long-term borrowings shall be incurred only when necessary for the purpose of:

- a) capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in section 152 of the Constitution, including costs financing costs as contemplated in section 46(4) of Municipal Finance Management Act 2006, Act 56 of 2003;
- b) re-financing existing long-term debt, provided that:
 - i. the existing long-term debt was lawfully incurred;

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- ii. the re-financing does not extend the term of the debt beyond the useful life of the property, plant or equipment for which the money was originally borrowed;
- iii. the net present value of projected future payments (including principal and interest payments) after re-financing is less than the net present value of projected future payments before re-financing; and
- iv. the discount rate used in projecting net present value and any assumptions in connection with the calculations, must be reasonable and in accordance with criteria set out in a framework that may be prescribed.

A long-term debt may be incurred only if:

- a) The Municipal Manager or his/her delegate has, at least 21 days prior to the meeting of the council at which approval for the debt is to be considered, made public an information statement setting out particulars of the proposed borrowing, 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; and
- b) The Municipal Manager or his/her delegate invited the public, the National Treasury and the Free State Provincial Treasury to submit written comments or representations to the council in respect of the proposed debt; and
- c) The Municipal Manager or his/her delegate has submitted a copy of the information statement to the municipal council at least 21 days prior to the meeting of the council, together with particulars of the essential repayment terms, including the anticipated debt repayment schedule; and the anticipated total cost in connection with such debt over the repayment period.

4. INTERNAL AND EXTERNAL BORROWINGS

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4.1 Internal Loans

In respect of internal loans, the following principles and actions are to be applied:

- a) Council shall use existing and future reserve funds on a limited basis to lend internally to internal departments or organisational units for once-off specific types of capital works that have generally broad benefits across the municipal area. Appropriate capital works would include roads, drainage and sewerage schemes and other major public facilities, or such other strategic requirements as approved by the Council.
- b) The total outstanding balance of internal loans will at no time exceed **25%** of total available (cash backed) non- statutory reserve funds.
- c) Surplus funds shall be advanced from the Council's reserve funds to the Council's organisational units on a "temporary" internal loan basis to fund capital works and asset acquisitions;
- d) Internal interest and principal repayments are to be set so as to ensure that internal loans are repaid by fixed annual instalments over a period of between **three (3) and five (5) years**, depending upon the purpose of the borrowing;
- e) Principal and interest repayments on internal loans are to be met from the normal operating budgets;
- f) The annual repayments of principal and interest for internal loans are to be made from the identified funding source to reimburse the Council's reserve funds; and
- g) The borrowing department or organisational units will be responsible for including in their annual budgets provision for the repayment of internal loans raised for their capital expenditure programs.

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4.2 External Loans

In respect of external loans, the following principles and actions are to be applied:

- a) forecast and monitor long term capital expenditure programs that are required to be funded by loan funds;
- b) limit external loan funds required for new capital works to:
 - i. new capital projects that create future income streams from which debt management will be financed; and
 - ii. new capital projects that create assets with a durable life of greater than two (2) years; and
 - iii. Other related infrastructure and capital programs which are necessary for provision of services.

5. CONDITIONS APPLYING TO BOTH SHORT-TERM AND LONG- TERM EXTERNAL BORROWING

The municipality will incur debt only subject to the following conditions:

- a) the debt is denominated in Rand and is not indexed to, or affected by, fluctuations in the value of the Rand against any foreign currency;
- b) Borrowings shall be applied for with institutions registered as banks in terms of the Banks Act, 1990 (Act No. 94 of 1990) or development finance institutions such as Development Bank of Southern Africa, Industrial Development Corporation, etc.
- c) The following are to be carefully evaluated prior to borrowing commitment:
 - i. the extent to which borrowing is an appropriate funding source for the expenditure in question;

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- ii. whether alternative sources of funding are available;
- iii. prevailing economic conditions;
- iv. that proposed borrowings are disclosed in the adopted Integrated Development Plan of the municipality;
- v. potential movements in interest rates and associated impacts on debt servicing costs;
- vi. inter-generational equity considerations; and
- vii. current and future funding needs for both capital and operational expenditure.

d) All new borrowings, their extent and their purpose must be approved by the Council.

6. DEBT SECURITY

Where appropriate the municipality may, by resolution of council subject to section 48(3) of Municipal Finance Act, provide security for:

- a) any of its debt obligations;
- b) any debt obligations of a municipal entity under its sole control; or
- c) contractual obligations of the municipality undertaken in connection with capital expenditure by other persons on property, plant or equipment to be used by the municipality or such other person for the purpose of achieving the objects of local government in terms of section 152 of the Constitution.

7. DISCLOSURE REQUIREMENTS

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Any person involved in the borrowing of money by the municipality must, when interacting with a prospective lender or when preparing documentation for consideration by a prospective investor, disclose:

- a) all information in that person's possession or within that person's knowledge that may be material to the decision of that prospective lender or investor; and
- b) take reasonable care to ensure the accuracy of any information disclosed.

8. FINANCIAL CONSTRAINTS ON BORROWING

Borrowing shall not be undertaken if the effect of such borrowing will result in annual interest and redemption payments exceeding **10 %** of Council's general rate revenue, unless specifically authorised otherwise by Council resolution.

9. REPAYMENT OF BORROWINGS

9.1 Short-Term Debt

All short-term debt must be paid within the financial year in which it was raised. Short-term debt may not be renewed or refinanced short-term debt where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.

9.2 Long-Term Debt

The repayment period of a long-term loan shall not exceed the useful life of the asset being created. ***For example:-** A loan for the construction of a new community centre with an expected life of 30 years shall not have a repayment period in excess of 30 years.*

Where surplus funds are available, any decision to repay borrowings ahead of schedule shall be made based on the facts available at that time. Any such decision must give due regard to the policy objective of minimizing the overall debt servicing cost to Council.

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10. EXISTING BORROWINGS

Council's existing borrowings shall be redeemed over the period originally negotiated, except if the Council may negotiate new repayment schedules which shorten the term of the debt.

Where the provisions of this borrowing policy allow, loans which fall due for conversion shall be fully redeemed at the time specified for conversion. Loans which fall due for conversion, and are to be renegotiated, shall be renegotiated as if they are new loans under this borrowing policy.

11. INTERNAL CONTROL OVER LOANS

The Municipal Manager or his/her delegate, with the assistance of the Chief Financial Officer is responsible for establishment of a registry of documentation and information pertaining to municipal borrowing.

The loan register shall be in the format that complies with the requirements of generally recognised accounting practice (GRAP) and any other accounting requirements which may be prescribed.

A loan / debt record shall remain in the loans register for as long as it remains outstanding.

12. REPORTING

The Municipal Manager or his/her delegate must, as part of reporting in terms of section 71 of Municipal Finance Management Act, submit to the mayor and the provincial treasury a report of actual borrowings of the municipality by no later than 10 working days after the end of each month.