

# **LEPHALALE**

## **LOCAL Municipality**

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# **BORROWING POLICY**

## **2023/2024**

## **PREAMBLE**

The purpose of this policy is to establish a borrowing framework for the Municipality and to set out the objectives, policies, statutory requirements, and guidelines for the borrowing of funds, in order to:

1.1 manage interest rate and credit risk exposure.

1.2 maintain debt within specified limits and ensure adequate provision for the repayment of debt; and

1.3 ensure compliance with all Legislation and Council policy governing borrowing of funds.

## **LEGISLATIVE FRAMEWORK**

All borrowings made by the Municipality shall be subject to the requirements of the Constitution, Local Government: Municipal Finance Act, 2003 (“the MFMA”) and the Municipal Regulations on Debt Disclosure (“the Disclosure Regulations”) made there under and published under GN R 492 in Government Gazette 29966 of 15 June 2007.

## TABLE OF CONTENTS

1. DEFINITIONS	4
2. TYPES OF DEBT	4
3. PRINCIPLES GUIDING BORROWING PRACTICES	5
4. FACTORS TO BE TAKEN INTO ACCOUNT WHEN BORROWING	4
5. SOURCES OF BORROWINGS	5
6. SHORT-TERM DEBT	5
7. OVERDRAFT FACILITY	7
8. LONG-TERM DEBT	7
9. COUNCIL APPROVAL	8
10. REFINANCING	8
11. EARLY REPAYMENT OF LOANS	8
12. DEBT REPAYMENT PERIOD	8
13. PROVISION FOR REDEMPTION OF LOANS	9
14. NON-REPAYMENT OR NON-SERVICING OF LOAN	9
15. BORROWING FOR INVESTMENT PROHIBITED	9
16. SECURITY	9
17. DISCLOSURE	10
18. GUARANTEES	10
19. INTERNAL CONTROL	10
20. REPORTING AND MONITORING REQUIREMENTS	10
21. OTHER REPORTING AND MONITORING REQUIREMENTS	10
22. RELATED POLICIES	10
23. MUNICIPAL MANAGER TO IMPLEMENT POLICY	10

## **1. DEFINITIONS**

Any word or expression used in this policy shall, unless the context clearly requires a different interpretation, bear the same meaning attached to it in the MFMA or the Disclosure Regulations, as the case may be; provided that if there is any conflict between a definition contained in the MFMA and a definition contained in the Disclosure Regulations, then the definition contained in the MFMA shall prevail.

## **2. TYPES OF DEBT**

2.1 This policy applies to the debt incurred by the Municipality through the issue of municipal debt instruments or in any other way.

2.2 Without derogating from the generality of the preceding subparagraph, this policy will apply:

- (a) to any debt, whether short -term or long term;
- (b) to any debt incurred pursuant to any financing agreement, which includes any of the following agreements under which the Municipality undertakes to repay a long term debt over a period of time:
  - (i) loan agreements;
  - (ii) leases.
  - (iii) instalment purchase contracts;
  - (iv) hire purchase arrangements.
- (c) To any contingent liability such as that created by guaranteeing a monetary liability or obligation of another.

## **3. PRINCIPLES GUIDING BORROWING PRACTICES**

The following principles shall guide the borrowing practices of the Municipality, namely:

- 3.1 Risk Management: The need to manage interest rate risk, credit risk exposure and to maintain debt within specified limits is the foremost objective of the borrowing policy. To attain this objective, diversification is required to ensure that the Chief Financial Officer prudently manages interest rate and credit risk exposure

- 3.2 Cost of Borrowings: The borrowings should be structured to obtain the lowest possible interest rate, on the most advantageous terms and conditions, taking cognisance of borrowing risk constraints, infrastructure needs and the borrowing limits determined by National Treasury, but in any case, not exceeding 25% of the previous year's own income (Total Income less Grants and Subsidies).
- 3.3 Prudence: Borrowings shall be made with care, skill, prudence and diligence. To this end, officials of the Municipality are required to:
- (a) adhere to this policy, and other procedures and guidelines.
  - (b) exercise due diligence;
  - (c) prepare all reports in a timely fashion; and
  - (d) ensure strict compliance with all Legislation and Council policy.

#### **4. FACTORS TO BE TAKEN INTO ACCOUNT WHEN BORROWING**

4.1 The Municipality shall take into account the following factors when deciding whether to incur debt:

- (a) the type and extent of benefits to be obtained from the borrowing;
- (b) the length of time the benefits will be received;
- (c) beneficiaries of the acquisition or development financed by the debt;
- (d) the impact of interest and redemption payments on both current and forecast income.
- (e) the current and future capacity of the Municipality's revenue base to pay for borrowings.
- (f) other current and projected sources of funds.
- (g) likely movements in interest rates for variable rate borrowings.
- (h) competing demands for funds; and
- (i) timing of money market interest rate movements and the long-term rates on the interest rate curve.

4.2 The Municipality will, in general, seek to minimize its dependence on borrowings in order to minimize future revenue committed to debt servicing and redemption charges.

## **5. SOURCES OF BORROWINGS**

5.1 Subject to any determination of the Council of the Municipality, the Municipality may enter into financing agreements with:

- (a) registered South African Banks;
- (b) the Development Bank of Southern Africa.
- (c) vendors of goods acquired under instalment purchase contracts or hire purchase arrangement.

5.2 Unless the Council of the Municipality specifically determines otherwise, the Municipality shall not incur any debt by the issuance of any municipal debt instruments.

## **5. SHORT-TERM DEBT**

6.1 The Municipality may incur short-term debt only in accordance with and in the circumstances contemplated in Section 45 of the MFMA.

6.2, the provisions of section 45 (1) of the MFMA must be noted, these requiring that 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 realistic 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.

6.3 Furthermore, as required by section 45 (4) of the MFMA, the Municipality must pay off short term debt within the financial year.

## **7. OVERDRAFT FACILITY**

7.1 Overdraft facilities are regulated by Section 45(3) of the MFMA.

7.2 The Municipality may have an overdraft facility limited to R5 million which is to be utilized only in emergency circumstances and be repaid as soon as the funds are obtained, but in any case, within the financial year.

## **8. LONG-TERM DEBT**

8.1 The Municipality may incur long-term debt only in accordance with and in the circumstances contemplated in Section 46 of the MFMA.

8.2 Long-term debt may be incurred only for the purposes contemplated in Section 46(1) of the MFMA, namely:

- (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; or
- (b) re-financing existing long-term debt, subject to section 46(5).
- (c) long-term debt will only be incurred for capital expenditure for the following revenue generating services:
  - (i) Water;
  - (ii) Sewerage;
  - (iii) Refuse removal;
  - (iv) Electricity; and
  - (v) Roads.
- (d) New long-term debt will only be incurred if the financial ratios, norms and credit rating of the municipality is positive, and the indicators are of such nature that it will not put undue pressure on the tariffs and affordability levels of the community.

## **9. COUNCIL APPROVAL**

9.1 Sections 45(2) and 46(2) require that short- and/or long-term debt respectively be incurred only if:

- (a) a resolution of the Council, signed by the Mayor, has approved the debt agreement; and
- (b) the municipal manager has signed the agreement or other document which creates or acknowledges the debt.

## **10. REFINANCING**

10.1 Short-term debt may not be renewed or refinanced due to the effect of extending the short-term debt into a new financial year.

10.2 The Municipality may borrow in order to refinance long-term debt subject to the conditions contained in Section 46(5) of the MFMA.

## **11. EARLY REPAYMENT OF LOANS**

11.1 No loans will be repaid before due date unless there is a financial benefit to the Municipality.

11.2 The Municipality shall therefore assess the nature and extent of any benefits of early repayment before it makes any such early repayment.

11.3 Cognisance must be taken of any early repayment penalty clauses in the initial loan agreement, as part of the assessment.

## **12. DEBT REPAYMENT PERIOD**

12.1 As far as is practical, cognisance must be taken of the useful lives of the underlying assets to be financed by the debt for purposes of determining the duration of the debt.

12.2 Should it be established that it is cost effective to borrow the funds for a duration shorter than that of the life of the asset, the Municipality should endeavour to raise a loan on a shorter duration.



### **13.PROVISION FOR REDEMPTION OF LOANS**

- 13.1 The Municipality may set up sinking funds to facilitate loan repayments, especially when the repayment is to be met by a bullet payment on the maturity date of the loan.
- 13.2 Such sinking funds may be invested directly with the Lender's Bank.
- 13.3 The maturity date and accumulated value of such investment must coincide with the maturity date and amount of the intended loan that is to be repaid.

### **14.NON-REPAYMENT OR NON-SERVICING OF LOAN**

- 14.1 The Municipality must honor all its loan obligations.
- 14.2 Failure to effect prompt payment may jeopardize the Municipality's credit rating and adversely affect the ability of the Municipality to raise loans in future at favorable interest rates.
- 14.3 In addition to ensuring the timely payment of the loans, the Municipality must adhere to the covenants stipulated in the loan agreements, including, in particular, the following where applicable:
- (a) furnishing audited annual financial statements.
  - (b) maintaining long-term credit rating.
  - (c) reporting of material changes in financial position of the Municipality.

### **15.BORROWING FOR INVESTMENT PROHIBITED**

The Municipality shall not under any circumstances borrow funds for the purposes of investing in them.

### **16.SECURITY**

- 16.1 Section 48 of the MFMA provides that the Municipality may provide security for any of its debt obligations in any of the forms referred to in Section 48(2).
- 16.2 Such security shall be given only pursuant to a resolution of the Council, which resolution must comply with the provisions of Section 48(3), (4) and (5) of the MFMA.

## **17.DISCLOSURE**

The stipulations of Section 49 of the MFMA must be adhered to.

## **18.GUARANTEES**

The Municipality may issue guarantees only in accordance with the provisions of Section 50 of the MFMA.

## **19.INTERNAL CONTROL**

The municipal manager shall ensure that mechanisms, procedures and systems are put in place to ensure that:

19.1 duties are separated in order to prevent fraud, collusion and other misconduct;

19.2 loan agreements and contracts are kept in proper safe custody;

19.3 there is a clear delegation of duties relating to the borrowing process;

19.4 senior officials check and verify all transactions.

19.5 transactions and repayments are properly documented;

19.6 a Code of Ethics and standards is established and adhered to;

19.7 procedures relating to the borrowing process are established.

## **20.REPORTING AND MONITORING REQUIREMENTS**

The Municipality shall promptly submit all returns and reports relating to borrowings as required by National Treasury, including reports on the Municipality's external interest paid each month, and the quarterly itemization of all of its external borrowings.

21.2 The Municipality shall on a quarterly basis submit the prescribed return to National Treasury;

## **22.RELATED POLICIES**

This policy must be read in conjunction with the Cash Management and Investment Policy of the Municipality.

## **23.MUNICIPAL MANAGER TO IMPLEMENT POLICY**

The Municipal Manager, as accounting officer of the Municipality, shall be responsible for implementing this policy, provided that he or she may delegate in writing any of his or her powers under this policy to any other official of the Municipality