COUNCIL RESOLUTION 2022-05-26 BESLUIT RAAD

Reference nr. 26786/1
Umar Banda (8100)
SPECIAL COUNCIL: 26 May 2022

2. GROUP FINANCIAL SERVICES DEPARTMENT
(BUDGET OFFICE)
2022/23 MEDIUM-TERM REVENUE AND EXPENDITURE FRAMEWORK (MTREF) FOR THE CITY OF TSHWANE
(From the Mayoral Committees: 23 March and 18 May 2022)

1. PURPOSE

The purpose of the report is to obtain approval for the 2022/23 Medium-term Revenue and Expenditure Framework (MTREF) in terms of Section 24 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

2. STRATEGIC PRIORITY ADDRESSED

SP2: Provide stringent financial management and oversight.

- Transparent budgeting processes inclusive of public participation;
- Structuring the budget towards core service delivery and infrastructure development to advance the growth of the city; and
- Affordable rates and taxes to avoid unsubstantiated and unfair increases.

3. BACKGROUND

Section 16(1) of the Municipal Finance Management Act (MFMA) stipulates that the Council of a municipality must for each financial year approve an annual budget for the municipality before the start of that financial year.

Section 22 of the MFMA also stipulates that immediately after an annual budget is tabled in a municipal council the accounting officer must make public the annual budget and documents in terms of Section 17; invite the local community to submit representations in connection with the budget; and submit the annual budget to the National Treasury and the relevant provincial treasury in printed and electronic formats. All budget related documents (electronic) were provided to National Treasury, and other national and provincial departments, in accordance with Section 22(b) of the MFMA.

The Local Government: Municipal Systems Act (MSA), Chapter 4 deals with Community participation Section 16(1) (a) and (iv) stipulate that a municipality must encourage, and create conditions for, the local community to participate in the affairs of the municipality, including in the preparation, implementation and review of its Integrated Development Plan and the preparation of its Budget.

Section 23(2) of the MFMA stipulates that "after considering all budget submissions, the Council must give the Executive Mayor an opportunity –

ANNEXURES:

A. Detail capital projects
B. Budget document
C. Property Rates tariff
D. Electricity tariff (Annexures D1 to D4)
E. Water tariff
F. Sanitation tariff
G. Refuse removal tariff
H. Determination notice for various tariffs
   H1 – H24 Proposed tariffs for the 2022/23 financial year
I. Tariff Policy
J. Budget Policy
K-1 Property Rates Policy
K-2 Property Rates By-laws
L. Cost Containment Policy
M. Credit Control and Debt Collection Policy
N. Investment Policy
O. Borrowing Policy
P. Supply Chain Management Policy
Q. Asset Management Policy
R. Submissions received during community consultation process (annexures to submissions as Annexures R-1 to R-28 as well as responses to submissions to Wonderboom Airport as Annexures R-A to R-E)

RESOLVED:

1. That in terms of section 24 of the Municipal Finance Management Act, 2003 (Act 56 of 2003), the annual budget of the municipality for the financial year 2022/23, and the multi-year and single-year capital appropriations are approved as set out in the following tables as contained in Annexure B be approved:

   1.1.1 Budgeted Financial Performance (revenue and expenditure by standard classification);
   1.1.2 Budgeted Financial Performance (revenue and expenditure by municipal vote);
   1.1.3 Budgeted Financial Performance (revenue by source and expenditure by type);
   1.1.4 Multi-year and single year capital appropriations by municipal vote, programme, standard classification and associated funding by source;
   1.1.5 Budgeted financial position;
   1.1.6 Budgeted cash flow budget; and
   1.1.7 Cash-backed reserve and accumulated surplus reconciliation

2. That the consolidated budget that includes the parent and municipal entities as set out in Annexure B, be approved;

3. That in terms of section 75A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the tariffs for property rates, electricity PARTS I and II (Diverse fees), the supply of water, sanitation services as well as refuse removal services as set out in Annexures C, D, E, F and G respectively, be approved with effect from 1 July 2022;

4. That it be noted that the implementation of the proposed increase in electricity tariffs is subject to the approval of the National Electricity Regulator of South Africa (NERSA);

5. That in terms of section 75A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the tariffs for other services, as set out in Annexures H1 to H24 respectively, be approved with effect from 1 July 2022;

6. That approval be granted for the City of Tshwane to enter the capital market for the funding of the capital programme for 2022/23 financial year limited to an amount not exceeding R1 billion (Long Term debt for the 2022/23 financial year) in terms Section 46 of the Municipal Finance Management Act (MFMA);

7. That a further report be submitted to Council on the breakdown of additional projects that will be funded from loans should the City succeed in raising the loan as per recommendation 6 above;

8. That approval be granted to the Group Chief Financial Officer to incur short term debt as and when required, during the course of the 2022/23 financial year, according to the cash flow position of the City of Tshwane for the total amount not exceeding R1 billion;

9. That the City Manager be authorized to sign all necessary agreements or documents to give effect to the decision as in recommendations no 6 and 7 above;

10. That the Tariff Policy attached as Annexure I, be approved;

11. That the Budget Policy attached as Annexure J, be approved;

12. That the Property Rates Policy and By-laws attached as Annexures K1 and K2, be approved;

13. That the Cost Containment Policy attached as Annexure L, be approved;

14. That the Credit Control and Debt Collection Policy attached as Annexure M, be approved;

15. That the Investment Policy attached as Annexure N, be approved;

16. That the Borrowing Policy attached as Annexure O, be approved;

17. That the Supply Chain Management Policy attached as Annexure P, be approved;

18. That the Asset Management Policy attached as annexure Q, be approved;

19. That the operating subsidies granted to the respective entities, approved; and

20. That the submissions received during community consultation process, attached as Annexure R, R-1 to R-28) and the responses to Wonderboom Airport (Annexures R-A to R-E), be noted.

COUNCIL
RESOLUTION
2022-05-2
BESLUIT
RAAD

CITY OF TSHWANE
IGNITING EXCELLENCE

ANNEXURE O

BORROWING POLICY

Date	Status	Version	Change reference
7 December 2016	Initial draft	V1.1.	Draft created
27 August 2019	Policy Development Committee	V1.2	Advisory brief
	Council approval	V1.3	
	Anticipated review date, usually five years after approval		None

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1. DEFINITIONS

In this policy, the following words have the following meaning, unless the context indicates otherwise:

"Act" means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

''Authorised official'' means an employee of the City of Tshwane Metropolitan Municipality who is responsible for carrying out any duty or function or for exercising any power in terms of this policy, and it includes employees who are delegated to carry out or exercise such duties, functions or powers.

"Chief Financial Officer" means the Chief Financial Officer of the City of Tshwane.

"City" or **"Municipality"** means the City of Tshwane Metropolitan Municipality established by Notice 6770 of 2000 in terms of section 12(i) read with section 14(2) and section 90(2) of the Local Government: Municipal Structures Act, 1998 (Act ?? of 1998).

"Council" means the Council of the City of Tshwane.

"Financing agreement" means any loan agreement, lease, instalment or purchase arrangement under which the City undertakes to repay a long-term debt over a period of time.

"Guarantee" means an undertaking to answer for the payment or performance of another person's debt or obligation in the event of a default by the person who is primarily responsible for it.

"Information statement" means a statement issued or to be issued by the Municipality which intends to incur debt.

"Juristic person" means a body of persons, a corporation, a partnership, or other legal entity that is recognised by law as the subject of rights and duties.

"Lender" means a juristic person who provides debt finance to the City.

"Loan covenant" means a condition in an agreement that relates to a loan or bond issue that requires the borrower to fulfil certain conditions, or which forbids the borrower from undertaking certain actions, or which possibly restricts certain activities to circumstances when other conditions are met. Violation of a covenant may result in a declared default on the loan, penalties being applied, or the loan being recalled.

"Long-term debt" means debt repayable by the City over a period that exceeds one year.

"Municipal debt" means –

(a) a monetary liability or obligation on a City by –

  (i) a financing agreement, note, debenture, bond loan or overdraft;

  (ii) the issuance of municipal debt instruments; and

(b) a contingent liability created by guaranteeing a monetary liability or obligation.

"Municipal entity" means –

(c) a private company referred to in section 86B(1)(a) of the Municipal Systems Act, 2000 (Act 32 of 2000) and Regulations;

(d) a service utility; or

(e) a multi-jurisdictional service utility.

"Security" means any mechanism intended to secure the interest of a lender or investor and includes any of the mechanisms mentioned in section 48(2) of the MFMA;

"Short-term debt" means debt that is repayable over a period that does not exceed one year;

"Sinking or redemption fund" means a fund that is established where provision is made to accumulate sufficient funds to repay coupons or interest and the capital debt at maturity.

2. PURPOSE

This policy intends to provide a framework for the City's management of borrowed funds and implementation of effective processes to sustain cash flow as prescribed in the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), National Treasury Regulations, and any other legislation that may be applicable.

3. STRATEGIC PRINCIPLES

The applicable strategic principles are as follows:

3.1 To govern the taking up of short-term and long-term debt according to the legislative framework

3.2 To ensure compliance with the relevant legal and statutory requirements related to municipal borrowing

3.3 To ensure sufficient cash resources for the City to implement its capital investment programmes in the most effective manner

3.4 To manage interest rate and credit risk exposures

3.5 To maintain financial sustainability

3.6 To maintain debt within specified limits and to ensure adequate provision for the repayment of debt

3.7 To ensure that the City complies with sections 19, 46 and 47 of the MFMA, which set out the procedures to be followed in sourcing funding from external financial service providers

4. STRATEGIC PILLARS

4.1 A City that facilitates economic growth and job creation

4.2 A City that cares for residents and promotes inclusivity

4.3 A City that delivers excellent services and protects the environment

4.4 A City that keeps residents safe

4.5 A City that is open, honest and responsive

5. BACKGROUND

In accordance with the vision of the City of Tshwane adopted on 25 May 2017, the City is a prosperous capital city through fairness, freedom and opportunity. The vision was institutionalised through the City's Integrated Development Plan (IDP) process adopted in 2017 and anchored in certain strategic pillars in an effort to be a prosperous capital city through fairness, freedom, and opportunity as well as to be a caring and inclusive city.

6. DISCUSSION

6.1 Long-term debt

6.1.1 Borrowing is an important funding facet of the sources of funds for the City, since the City's total requirement for infrastructure funds is always higher than the total of internally generated revenue and grants funding received from the national government.

6.1.2 Borrowing is also important to ensure that the City always delivers on its local government mandate of delivering basic services to all its residents without fail. Therefore, it is appropriate for the City to adopt a borrowing policy that will be consistent with all relevant acts, including the Municipal Finance Management Act (MFMA), and their regulations. This means that all borrowing that the City makes must be in line with sections 19, 46, and 47 of the MFMA that set out procedures to follow in sourcing funding from external financial service providers.

6.1.3 The following is a non-exhaustive list of factors to consider when entering into borrowing transactions:

(a) The revenue-generating ability of the asset or assets in which the funds will be invested

(b) The type and extent of benefits that various communities will receive on projects funded by the borrowed funds

(c) The impact of interest and capital redemption repayments

(d) Future interest rate movements, that is, one should pay special attention to the interest rate movements of the money market

(e) Comparison of the sources of funds in the funding market

(f) Analysis of the current and future capacities of revenue bases, where the borrowed funds will be invested, in order to generate sufficient revenue to repay the borrowed funds

6.1.4 The following are some of the reasons why the City must venture into the capital markets and borrow money:

(a) To cover the financial shortfall from the City's other revenue sources

(b) To enable the City to meet the ever-increasing expenditure of large infrastructure projects

(c) To manage interest rate and credit risk exposures

(d) To maintain financial sustainability

(e) To refinance existing long-term debt subject to subsection (5) of the MFMA

(f) To access and gain exposure to a diverse pool of financing institutions

6.1.5 Generally, the City sources its long-term funds from a diversified funding portfolio that includes the following, even though the list is not exhaustive:

(a) The four big banks that are registered as banks in terms of the Banks Act, 1990 (Act 94 of 1990), as amended

(b) The Development Bank of Southern Africa (DBSA)

(c) The bond market

(d) Development finance institutions other than the DBSA

(e) Life assurance companies that are registered in South Africa

It must be noted that a municipality can incur debt only if –

(aa) 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; and

(bb) section 48(3) of the MFMA has been complied with, if security is to be provided by the municipality.

6.2 Borrowing procedure

The borrowing procedure is as follows:

6.2.1 Confirm that the amount to borrow is the same as the one in the Medium-term Revenue Expenditure Framework (MTREF).

6.2.2 Issue a request for proposal to the financial industry or follow “the raising of funds through a bond process”, if the funds are to be raised through bonds.

6.2.3 Evaluate proposals in accordance with the evaluation process.

6.2.4 Publish an information statement in the appropriate media and forward the same document to the Provincial and National Treasury for comments at least 21 days before the meeting of Council at which approval for the debt is to be considered.

6.2.5 Write a report that includes responses, if any, from the public, Provincial Treasury, and National Treasury on the published information statement for approval by Council and write a report to inform Council of the financial institution or institutions that the money will come from, and include the main points of the outcome of the evaluation process.

6.3 Short-term debt

Although this document focuses on long-term borrowing, the City might require short-term borrowing in order to ensure that the City continues to be in a sound financial position and that prudent financial management is enforced.

6.3.1 Section 45 of the Municipal Finance Management Act states that the municipality may incur short-term debt only when necessary to bridge operational or capital financial shortfalls to be repaid at the end of the respective financial year in which the short-term debt is assured by specific and realistic income to be received within that financial year.

6.3.2 In terms of the Municipal Finance Management Act, the municipality may incur short-term debt only if the Chief Financial Officer has compiled written findings that the debt is within the short-term debt facility limits as approved by Council and necessary due to unforeseen emergency.

6.3.3 It is important to note that, in accordance with the Municipal Finance Management Act, any municipality must pay off its short-term debt within the same financial year in which the short-term debt was incurred and it may not renew or refinance its short-term debt.

6.4 Policy considerations

6.4.1 All borrowing for the City and its entities must be informed by this policy and any regulation promulgated by the National Treasury.

6.4.2 Group Financial Services must administer all external short and long-term borrowings of the City and its entities.

6.4.3 The City must follow its standard budgeting process follow to assess short- and long-term funding requirements.

6.4.4 Take into consideration operating and capital budgets' limitations in order to make a sensible judgement of securing funds for the budgeted items.

6.4.5 Do detailed analysis to estimate the expected financial impact that the external debt raised may have on the City's budget.

6.5 Disclosure of municipal debt

6.5.1 When debt discussions with a prospective lender ensue, a municipality must disclose in writing whether it intends to incur short- or long-term debt.

6.5.2 If short-term debt is pursued, a municipality must indicate that the debt to be incurred is to finance the following:

(a) Shortfalls within a financial year during which the debt is incurred and expects specific and realistic revenue to repay the debt within that financial year; or

(b) Repayment of capital needs in a specific financial year that arise from the allocation of grants or revenue generated from implemented long-term projects.

(i) Any official involved in securing external funds for a municipality must, when interacting with a prospective lender or preparing documentation for consideration by a prospective lender, disclose all relevant information that may be requested or that may be material to the decision of the prospective lender.

(ii) Take reasonable care to ensure the accuracy of the disclosed information. While this is a standard and acceptable business practice, it also complies with section 49 of the Municipal Finance Management Act.

(iii) The prospective lenders must be furnished with the following:

(aa) Audited annual financial statements for the immediately preceding three financial years

(bb) The approved annual budget

(cc) The integrated development plan

(dd) Repayment schedules pertaining to the prospective long-term debt that is applied for

6.6 Monitoring of debt portfolio

6.6.1 Regular reporting mechanisms must be in place to ensure that all borrowing made complies with this policy, the National Treasury's regulations, and all other borrowing regulations.

6.6.2 The MFMA requires a municipality or municipal entity to invite the public, the National Treasury and the relevant Provincial Treasury to submit written comments or representations to Council or the board of directors in respect of raising any proposed debt through borrowing or any other instrument (refer to sections 46 and 108 of the MFMA).

6.6.3 The public is informed through publishing the information statement in the relevant newspapers, posting it on the municipality's website, and by putting the information statement on the notice boards of all municipal offices, libraries and community halls.

6.6.4 The following table sets out the information provided to both the National and Provincial Treasury with respect to a long-term debt proposal:

	PARTICULARS	**MFMA REFERENCE**	**DOCUMENT REFERENCE**	
			ELECTRONIC	**HARD COPY**
1	Copy of information statement	46(3)(a)(i)	Attached	Attached
2	**INFORMATION REQUIRED**			
2.1	Amount of debt to be raised	46(3)(b)(i)	Information statement	Information statement
2.2	Purpose for which debt is to be incurred	46(3)(b)(i)	Information statement	Information statement
2.3	Options applicable to interest rate	46(3)(b)(i)	Information statement	Information statement
2.4	Term and repayment schedule	46(3)(b)(i)	Information statement	Information statement
2.5	Estimated cost of borrowing	46(3)(b)(i)	Schedules attached	Schedules attached
2.6	Type of instrument and security	46(3)(b)(i)	Information statement	Information statement
2.7	No security to be provided	46(3)(b)(i)	Information statement	Information statement
3	**CONSULTATION PROCESSES**			

	PARTICULARS	MFMA REFERENCE	DOCUMENT REFERENCE	
			ELECTRONIC	HARD COPY
3.1	Items 7, 8 and 9 of Council approval of the 2019/20 Medium-term Revenue and Expenditure Framework (MTREF) for the City of Tshwane have been included in the total consultation processes required and executed with the approval of the 2019/20 MTREF budget.	46(3)(a)(i)(ii)	Letter that confirms delivery of the MTREF attached	Letter that confirms delivery of the MTREF attached
3.2	Information statement is advertised in two local papers.	46(3)(a)(i)(ii)	Attached	Attached
4	**MTREF – 2019/20 budget**			
4.1	A copy of the approved budget of the 2019/20 MTREF, which includes relevant information and documentation required as well as an updated list of assets to be funded with the intended external debt.	46(6) 17(2) 19	Letter that confirms delivery of the MTREF attached	Letter that confirms delivery of the MTREF attached
5	**REFINANCING**			
5.1	Borrowing (debt) not for the purpose of refinancing existing long-term debt	46(5)	N/A	N/A
6	**SOURCE OF FUNDING**			
6.1	Source of funding is from operational revenue. The revenue streams are from property services as well as other revenue which are all existing revenue sources.	19(1)(d)	MTREF. Letter that confirms delivery of the MTREF attached	MTREF. Letter that confirms delivery of the MTREF attached

	PARTICULARS	MFMA REFERENCE	DOCUMENT REFERENCE	
			ELECTRONIC	HARD COPY
7	**EXISTING LONG-TERM DEBT**			
7.1	Schedule of all existing long-term borrowing (debt)		Attached	Attached

6.6.5 The Municipality must also ensure that it complies with the borrowing debt ratio of 45% as stipulated in Circular 71 of MFMA. The purpose of the ratio is to provide assurance that sufficient revenue is generated to repay liabilities. Alternatively, the ratio indicates the affordability of the total borrowings. If the ratio is less than 45%, this means that the municipality still has capacity to take up funding from borrowing, although this should be considered within the cash flow requirements of the municipality or municipal entity.

6.7 Unacceptable borrowing

6.7.1 No short- or long-term debt can be incurred for purposes of investing the debt proceeds in any way. All debt incurred by a municipality must be incurred in compliance with the provisions of sections 45 and 46 of the MFMA.

6.7.2 To incur debt, the City follows and complies with the provisions of the MFMA.

6.8 Guarantee

6.8.1 In accordance with section 50 of the MFMA, a municipality may not issue any guarantee for any commitment or debt of any organ of state or person, except on the following conditions:

(a) The guarantee must be within the limits specified in the municipality’s approved budget.

(b) A municipality may guarantee the debt of a municipal entity under its sole control only if the guarantee is authorised by the council in the same manner and subject to the same conditions applicable to a municipality in terms of Chapter 6 if it incurs debt.

(c) A municipality may guarantee the debt of a municipal entity under its shared control or of any other person, but only with the approval of the National Treasury, and then only if –

(i) the municipality creates, and maintains for the duration of the guarantee, a cash-backed reserve equal to its total potential financial exposure as a result of such guarantee; or

(ii) the municipality purchases and maintains, in effect for the duration of the guarantee, a policy of insurance issued by a registered insurer, which covers the full amount of the municipality's potential financial exposure as a result of such guarantee.

6.9 Monitoring of the policy

Group Financial Services will monitor, evaluate, and review this policy.

7. RECOMMENDATION

That the attached Borrowing Policy be submitted to Council for approval.

ANNEXURE A

LOCAL GOVERNMENT MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003

CHAPTER 6

DEBT

45. Short-term debt

(1) A municipality may incur short-term debt only in accordance with and subject to the provisions of this Act and 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.

(2) A municipality may incur short-term debt only if-

(a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and

(b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.

(3) For the purpose of subsection (2)(a), a municipal council may-

(a) approve a short-term debt transaction individually; or

(b) approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that-

(i) the credit limit must be specified in the resolution of the council;

(ii) the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and

(iii) if the council approves a credit facility that is limited to emergency use, the accounting officer 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.

(4) A municipality-

(a) must pay off short-term debt within the financial year; and

(Commencement date of para. (a): 1 July 2008)

(b) may not renew or refinance short-term debt, whether its own debt or that of any other entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.

(5) (a) No lender may wilfully extend credit to a municipality for the purpose of renewing or refinancing short-term debt that must be paid off in terms of subsection (4)(a).

(b) If a lender wilfully extends credit to a municipality in contravention of paragraph (a), the municipality is not bound to repay the loan or interest on the loan.

(6) Subsection (5)(b) does not apply if the lender-

(a) relied in good faith on written representations of the municipality as to the purpose of the borrowing; and

(b) did not know and had no reason to believe that the borrowing was for the purpose of renewing or refinancing short-term debt.

46. Long-term debt

(1) A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of this Act, including section 19, and only 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 referred to in subsection (4); or

(b) re-financing existing long-term debt subject to subsection (5).

(2) A municipality may incur long-term debt only if-

(a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and

(b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.

(3) A municipality may incur long-term debt only if the accounting officer of the municipality-

(a) has, in accordance with section 21A of the Municipal Systems Act-

(i) 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 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; and

(ii) invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the council in respect of the proposed debt; and

(b) 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-

(i) the essential repayment terms, including the anticipated debt repayment schedule; and

(ii) the anticipated total cost in connection with such debt over the repayment period.

(4) Capital expenditure contemplated in subsection (1)(a) may include-

(a) financing costs, including-

(i) capitalised interest for a reasonable initial period;

(ii) costs associated with security arrangements in accordance with section 48;

(iii) discounts and fees in connection with the financing;

(iv) fees for legal, financial, advisory, trustee, credit rating and other services directly connected to the financing; and

(v) costs connected to the sale or placement of debt, and costs for printing and publication directly connected to the financing;

(b) costs of professional services directly related to the capital expenditure; and

(c) such other costs as may be prescribed.

(5) A municipality may borrow money for the purpose of re-financing existing long-term debt, provided that-

(a) the existing long-term debt was lawfully incurred;

(b) 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;

(c) 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

(d) the discount rate used in projecting net present value referred to in paragraph (c), 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.

(6) A municipality's long-term debt must be consistent with its capital budget referred to in section 17(2).

47. Conditions applying to both short-term and long-term debt

A municipality may incur debt only if-

(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; and

(b) section 48(3) has been complied with, if security is to be provided by the municipality.

48. Security

(1) A municipality may, by resolution of its council, 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.

(2) A municipality may in terms of subsection (1) provide any appropriate security, including by-

(a) giving a lien on, or pledging, mortgaging, ceding or otherwise hypothecating, an asset or right, or giving any other form of collateral;

(b) undertaking to effect payment directly from money or sources that may become available and to authorise the lender or investor direct access to such sources to ensure payment of the secured debt or the performance of the secured obligations, but this form of security may not affect compliance with section (2);

(c) undertaking to deposit funds with the lender, investor or third party as security;

(d) agreeing to specific payment mechanisms or procedures to ensure exclusive or dedicated payment to lenders or investors, including revenue intercepts, payments into dedicated accounts or other payment mechanisms or procedures;

(e) ceding as security any category of revenue or rights to future revenue;

(f) undertaking to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;

(g) undertaking to retain revenues or specific municipal tariffs or other charges, fees or funds at a particular level or at a level sufficient to meet its financial obligations;

(h) undertaking to make provision in its budgets for the payment of its financial obligations, including capital and interest;

(i) agreeing to restrictions on debt that the municipality may incur in future until the secured debt is settled or the secured obligations are met; and

(j) agreeing to such other arrangements as the municipality may consider necessary and prudent.

(3) A council resolution authorising the provision of security in terms of subsection (2)(a)

(a) must determine whether the asset or right with respect to which the security is provided, is necessary for providing the minimum level of basic municipal services; and

(b) if so, must indicate the manner in which the availability of the asset or right for the provision of that minimum level of basic municipal services will be protected.

(4) If the resolution has determined that the asset or right is necessary for providing the minimum level of basic municipal services, neither the party to whom the municipal security is provided, nor any successor or assignee of such party, may, in the event of a default by the municipality, deal with the asset or right in a manner that would preclude or impede the continuation of that minimum level of basic municipal services.

(5) A determination in terms of subsection (3) that an asset or right is not necessary for providing the minimum level of basic municipal services is

binding on the municipality until the secured debt has been paid in full or the secured obligations have been performed in full, as the case may be.

49. Disclosure

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

(a) disclose 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.

(2) A lender or investor may rely on written representations of the municipality signed by the accounting officer, if the lender or investor did not know and had no reason to believe that those representations were false or misleading.

50. Municipal guarantees

A municipality may not issue any guarantee for any commitment or debt of any organ of state or person, except on the following conditions:

(a) The guarantee must be within limits specified in the municipality's approved budget;

(b) a municipality may guarantee the debt of a municipal entity under its sole control only if the guarantee is authorised by the council in the same manner and subject to the same conditions applicable to a municipality in terms of this Chapter if it incurs debt;

(c) a municipality may guarantee the debt of a municipal entity under its shared control or of any other person, but only with the approval of the National Treasury, and then only if-

(i) the municipality creates, and maintains for the duration of the guarantee, a cash-backed reserve equal to its total potential financial exposure as a result of such guarantee; or

(ii) the municipality purchases and maintains in effect for the duration of the guarantee, a policy of insurance issued by a registered insurer, which covers the full amount of the municipality's potential financial exposure as a result of such guarantee.

51. National and provincial guarantees

Neither the national nor a provincial government may guarantee the debt of a municipality or municipal entity except to the extent that Chapter 8 of the Public Finance Management Act provides for such guarantees.