THABAZIMBI LOCAL MUNICIPALITY

BORROWING FRAMEWORK POLICY 2024-25

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BORROWING POLICY

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1. DEFINITIONS

In this Policy, unless the context indicates otherwise –

Act means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

Authorized official means an employee of the Municipality responsible for carrying out any duty or function, or exercising any power in terms of this policy and includes employees delegated to carry out or exercise such duties, functions or powers;

Borrower will be the Thabazimbi Local Municipality;

Council means the Municipal Council of the Municipality;

COID means the Compensation for Occupational Injuries and Diseases;

CFO means the Chief Financial Officer of the Municipality;

Disclosure statement means a statement issued or to be issued by the Municipality which intends to incur debt by issuing municipal debt instruments;

Financing agreement means any loan agreement, lease, installment, purchase arrangement under which the Municipality undertakes to repay a long-term debt over a period of time;

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

Lender means a juristic person who provides debt finance to the Municipality;

Loan covenant means a condition in an agreement relating to a loan or bond issue that requires the borrower to fulfill 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 default on the loan being declared, penalties being applied, or the loan being recalled;

Long term debt means debt repayable by the Municipality over a period exceeding one (1) year;

Municipality means the Local Municipality of Thabazimbi;

Municipal debt means:

a) a monetary liability or obligation on a Municipality by –
    i. a financing agreement, note, debenture, bond or overdraft; and
    ii. the issuance of municipal debt instruments; and
b) a contingent liability such as that created by guaranteeing a monetary liability or obligation of another.

Security means any mechanism intended to secure the interest of a lender or investor and includes any of the mechanisms mentioned;

Short term debt means debt that is repayable over a period not exceeding one (1) year;

Sinking fund means a fund established where provision is made to accumulate sufficient funds to repay the capital on a municipal bond issue at the end of the loan period as a lump sum which is termed a 'bullet' payment; and

QBMR means Quarterly Borrowing Monitoring Return.

2. PROBLEM STATEMENT

2.1. 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.

2.2. Given that a large portion of municipal infrastructure has a long-term economic life and the general principle that current ratepayers should not pay for an asset in the short term that is to be used by future ratepayers during the life of the asset, there is a strong economic argument to finance this capital expenditure through long-term borrowing in order to accelerate the pace of delivery and to mirror the repayment of funds with the economic life of the asset. The economic life of assets should always be equal to or longer than the tenure of the debt finance.

2.3. It would be appropriate for the Municipality to adopt a borrowing policy which shall be consistent with the Act and its regulations.

3. DESIRED OUTCOME

3.1. This Policy, in line with sections 19, 46 and 47 of the Act, sets out the procedures to be followed in sourcing funding from external financial service providers. 3.2. The objectives of the policy are to:

a) enable the Municipality to exercise their obligation to ensure sufficient cash resources to implement capital programme in the most effective manner;
b) ensure compliance with the relevant legal and statutory requirements relating to municipal borrowing;
c) govern the taking up of short-term and long-term debt according to the legislative framework;
d) manage interest rate and credit risk exposure;
e) maintain debt within specified limits and ensure adequate provision for the repayment of debt; and
f) to maintain financial sustainability.

4. SCOPE OF THE POLICY

4.1. Risk Management: The need to manage interest rate 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.

4.2. Cost of Borrowings: The borrowings should be structured to obtain the lowest possible interest rate, on the most advantageous terms and conditions, taking cognizance of borrowing risk constraints, infrastructure needs and the borrowing limits determined by Legislation.

4.3. Prudence: Borrowings shall be made with care, skill, prudence and diligence. The standard of prudence to be used shall be the "prudent person" standard and shall be applied in the context of managing overall debt.

4.4. Officials are required to adhere to:

a) Written procedures and these guidelines
b) Exercise due diligence
c) Prepare all reports timeously
d) Ensure strict compliance with all Legislation and Council Policy

5. STRATEGIC INTENT

5.1. T h e intention of the policy is to:
a) Ensure a transparent and corruption-free government;
b) Establish an efficient and productive administration that prioritizes delivery;
c) Ensure financial prudence, with clean audits by the Auditor-General.

6. POLICY PARAMETERS

6.1. The process for obtaining external loan funding for the Municipality and its municipal entities falls exclusively within the functional area of the Budget and Treasury Directorate of Finance.

6.2. All borrowings made by the Municipality must be in accordance with this policy and with any regulations promulgated by the national government.

7. ROLE PLAYERS AND STAKEHOLDERS

7.1. 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. 7.2. The Treasury Directorate is responsible for the implementation of this policy.

8. REGULATORY CONTEXT

8.1. 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.

9. CONSIDERATIONS

9.1. The Municipality from time to time, will use certain of its surplus funds to fund its Capital programme. The utilization of surplus funds enables the Municipality to reduce its reliance on external debt financing, thereby allowing it to borrow funds from external sources only when favorable market conditions prevail.

9.2. Factors to be considered when borrowing:

a) The type and extent of benefits to be obtained from the borrowing
b) The length of time the benefits will be received.
c) The beneficiaries of the acquisition or development.
d) The impact of interest and redemption payments on both current and forecasted property tax income.
e) The current and future Municipality of the property tax base to pay for borrowings and the rate of growth of the property tax base.
f) likely movements in interest rates for variable rate borrowings
g) other current and objected sources of funds
h) competing demands for funds
i) Timing of money market interest rate movements and the long-term rate on the interest rate curve.
j) 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.
k) The Municipality may only borrow funds, in terms of the Municipal Finance infrastructure to provide service delivery.

9.3. Potential Lenders Include:
a) The Development Bank of South Africa
b) Registered banks in South Africa

10. DEBT REPAYMENT PERIOD

Whilst the period for which loan debt may be repaid will vary from time to time according to the requirements of the various lenders, presently the typical debt repayment period for loans in the current economic climate is between 10 to 15 years. Cognizance is taken from the useful lives of the underlying assets to be financed by the debt, and moreover, careful consideration is taken of the interest rates on the interest yield curve. Should it be established that it is cost effective to borrow the funds on a shorter duration(as opposed to the life of the asset) as indicated by the interest yield curve, the loan will be negotiated to optimize the most favorable and cost effective benefit to the Municipality.

11. SECURITY

The Municipal Finance Management Act provides that the Municipality may provide security for any of its debt obligations, including the giving of lien, pledging, mortgaging or ceding an asset, or giving any other form of collateral. It may cede as security any category of revenue or rights of future revenue. Some Lenders may require the Municipality to agree to restrictions on debt that the Municipality may incur in future until the secured debt is settled.

12. OVERDRAFT

Thabazimbi Local Municipality does not have a bank overdraft facility.

13. SHORT TERM DEBT

The Municipal Finance Management Act provides that the Municipality may incur short-term debt only when necessary 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 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 must pay off short-term debt within the same financial year and may not renew or refinance its short-term debt. The Municipality may, in terms of the Municipal Finance Management Act, incur short term debt only if the Chief Financial Officer has made a prior written finding that the debt is either within prudential limits on short-term debt as previously approved by Municipality, or is necessary due to an emergency that could not reasonably have been foreseen and cannot await Council approval.

14. DISCLOSURE

Any official in the securing of loans by the Municipality must, when interacting with a prospective lender or when preparing documentation for consideration by a prospective investor disclose all relevant information that may be requested or that may be material to the decision of the prospective Lender or Investor. Reasonable care must be taken to ensure the accuracy of any information disclosed. Whilst this is a standard and acceptable business practice, it is also in compliance with section 49 of the Municipal Finance Management Act.

15. APPROVAL OF LOANS BY THE MUNICIPALITY

Section 46 of the Municipal Finance Management Act stipulates that the Municipality may incur long-term debt only if a resolution of Council, signed by the Mayor, has approved the debt agreement and the Accounting Officer has signed the agreement or other document which acknowledges the debt. At least 21 days prior to the meeting of the Council at which approval for the debt is to be considered, the Municipality must make public an information statement setting out particulars of the proposed debt incurred and particulars of any security to be provided. The Public, the National Treasury and Provincial Treasury must be invited to submit written comments or representations to the council in respect of the proposed debt. A copy of the information statement must be submitted to Council at least 21 days prior to the meeting to discuss the proposed loan, 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.

16. PROVISION FOR REDEMPTION OF LOANS

Thabazimbi Local Municipality may borrow from institutions and set up sinking funds to facilitate loan repayments, especially when repayment is to be met by a bullet payment on the maturity date of the loan. These sinking funds may also be invested directly with the lender's Bank. 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. Use can also be made of guaranteed endowment policies to facilitate the payment on maturity date.

17. NON-REPAYMENT OR NON-SERVICING OF LOAN

Thabazimbi Local Municipality must honor all its loan obligations timeously. Failure to effect prompt payment will adversely affect the raising of future loans at favorable costs of borrowing. In addition to the timeous payment of the loans, the Municipality must adhere to the covenants stipulated in the loan agreements.

18. PROHIBITED BORROWING PRACTICES

In the past some Municipalities have borrowed funds with the sole purpose of investing them to earn a return. The motive was clearly speculative. The cost of debt is almost always more expensive that the return that the Municipality can derive by investing in permitted investments. Consequently, as a principle, Thabazimbi local Municipality does not borrow for investment purposes, but depending on the shape of the interest yield curve may borrow in advance of its capital cash flow needs in a given financial year to take advantage of an inverse interest yield curve. Foreign Borrowing is permitted in terms of Section 47 of the Municipal Finance Management Act, whereby 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.

19. INTERNAL CONTROL

The internal control procedures involve Internal Audit and Performance Management and the Audit-General reviewing and testing the systems of the Finance Department on a regular basis. In order to prevent losses arising from fraud, misrepresentations, error, conflict of interest or imprudent action, a system of internal controls governs the administration and management of the portfolio. Controls deemed most important include:-

a) Control of collusion, separation of duties.
b) Custodial safekeeping of loan agreements and contracts.
c) Clear delegation of duties.
d) Checking and verification by senior officials of all transactions.
e) Documentations of transactions and repayments
f) Code of ethics and standards
g) Electronic Funds Transfer limits and a detailed procedure manual for the system.

20. NATIONAL TREASURY REPORTING AND MONITORING REQUIREMENTS

The Municipality submits numerous returns to the National Treasury. It is mainly coordinated by the Accounting Division. One such report deals with the Municipality's external interest paid each month. Another return, prepared on a quarterly basis, requires the Municipality to itemize all its external borrowings for the quarter ended.

21. OTHER REPORTING AND MONITORING REQUIREMENTS

Regular reporting mechanisms are in place in order to access the borrowings portfolio and to ensure compliance with policy objectives, guidelines and applicable laws.

Quarterly activities:- ○ National Treasury Borrowings return

General:- Report actual borrowings (in compliance with Section 71 of the Municipal Finance Management Act) to the mayor and Provincial Treasury Annually:-

- Preparation of Annual Budget
- Preparation of Annual Cash Flow Forecast
- Preparation of Annual Financial Statements
- Confirmation of Lender balances at financial year end obtaining written certification of loan balances at year end
- Completion of credit rating questionnaire
- Regular review by Audit General

22. POLICY REVIEW

The CFO will for the purposes of ensuring that this policy is aligned to the legislation, consider if and when necessary to amend the policy. In the event of the policy not being amended during the budget process, the approved policy will remain applicable.

ANNEXURES

EXTRACTS FROM THE LOCAL GOVERNMENT MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003-CHAPTER 6: DEBT

SHORT TERM DEBT

45(1) A municipality may incur short-term debt only in accordance with and subject to the provisions of this Act. A municipality may incur short-term debt only when necessary to bridge-

a) shortfalls within a financial year during the debt 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 resolution of the municipal council, signed by the mayor, has approved the debt agreement; and 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 approve a short-term debt individually; or 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 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 office must notify the council in writing as soon as practical of the amount, duration and any debt incurred in terms of such a credit facility, as well as options for repaying such debt.

(4) A municipality must pay off short-term debt within the financial year; and 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 willfully 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). If a lender willingly 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) Relief 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.

LONG-TERM DEBT

46. (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 as set out in section 152 of the Constitution, including costs referred to in subsection (4); or*
- *b) Refinancing existing long-term debt to subsection (5). A municipality may incur long-term debt agreement; and*
- *c) 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 has in accordance with subsection 21A of the Municipal System Act-

- *a) 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*
- *b) 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 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. Capital expenditure contemplated in subsection (1) (a) may include- financing costs including- capitalized interest for a reasonable initial period; (b) costs associated with security arrangements in accordance with section 48; discounts and fees in connection with the financing; fees for legal, financial, advisory, trustee, credit rating and other services directly connected to the financing; and costs connected to the sale or placement of debt, and costs for printing and publication directly connected to the financing 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 refinancing existing long-term debt,

- *a) Provided-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, plat or equipment for which the money was originally borrowed;*
- *c) The net present value of projected future payments (including principal and interest payments before refinancing and*
- *d) The discount rate used in projecting net present value referred to in paragraph (c0, 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)

CONDITIONS APPLYING TO BOTH SHORT-TERM AND LONG-TERM DEBT

47. 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 the Rand against any foreign currency;*

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

SECURITY

48. (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 on property, plant or equipment to be used by the municipality or such other person for the purpose of achieving the objectives 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 as 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 authorize the lender or investor direct access to such sources to ensure payment of the secured debt or performance of the secured obligations, but this form of security may not affect compliance with section 8 (2)*
- *c) undertaking 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;*
- *d) Ceding as security any category of revenue or rights for future revenue*
- *e) Undertaking to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;*
- *f) undertaking to retain revenues or specific charges, fees, tariffs or funds at a particular level or at a level sufficient to meet its financial obligations;*
- *g) Undertaking to make provision in its budgets for the payment of its financial obligations, including capital and interest;*
- *h) 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 (i) Agreeing to such other arrangements as the municipality may consider necessary and prudent.*

(3) A council resolution authorizing the provision of security in terms of subsection (2) must-

- *a) 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 matter in which the availability of the asset or right for 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 the provision 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 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.

DISCLOSURE

49. (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, 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 take reasonable care to ensure the accuracy of any information disclosed.

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

MUNICIPAL GUARANTEES

50. 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 authorized by the council in the same manner and subject to the same conditions applicable to a municipality in terms of this Chapter if it incur 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.*

NATIONAL AND PROVINCIAL GUARANTEES

51. 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/Management Finance Management Act provides for such guarantees