Harry Gwala District Municipality

BORROWING FRAMEWORK POLICY 2024-25

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1. PURPOSE OF THE POLICY

The purpose of this policy is to establish a borrowing framework for the Municipality and to set out the4 objectives, policies, statutory requirements ban guideline for the borrowing of funds.

2. LEGAL COMPLIANCE

2.1 The relevant legislation and regulations in terms of which borrowing decisions are governed is the Local Government Municipal Finance management act no 56 of 2003.

3. DEFINITIONS/ABBREVIATIONS

MFMA - the Municipal Finance Management Act, (No.56 of 2003)

MBRR - means Municipal Budgeting & Reporting Regulations (Government Gazette 32141 dated 17 April 2009)

GRAP - means Generally Recognised Accounting Practice

DORA - Division of Revenue of Act.

CFO - means Chief Financial Officer

IDP - means Integrated Development Plan

SDBIP - means Service Delivery and Budget Implementation Plan

HOD - means Head of Department

CPIX - means Consumer Price Index excluding interest rates on mortgage bonds

COUNCILLOR - means a member of a municipal council

LENDER - means a person or service provider who provides debt finance to a municipality or municipal entity.

MUNICIPAL ANAGER - means a person appointed in terms of section 82(1)a of the Municipal Structures Act

PUBLIC FUNDS - means funds collected by the National Government from taxes and other forms.

SHORT TERM DEBT-means debt that is repayable over a period not exceeding one year.

LONGTERM DEBT- means debt repayable over a period exceeding one year.

SECURITY- means a lien, pledge, mortgage, cession, or other form of collateral intended to secure the interest of a creditor.

FINANCIAL 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.

4. OBJECTIVE OF BORROWING POLICY

4.1 To manage interest rate and credit risk exposure. Maintain debt within specified limits and ensure adequate provision for the repayment of debt, Ensure compliance with all legislation and council policy governing borrowing of funds.

5. TYPES OF DEBT

5.1 The policy applies to the debt incurred by the municipality through the issue of municipal debt instruments or in any other way.

5.2 Without derogating from the generality of the preceding subparagraph, this policy will apply to any debt whether short term or long term;

- 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 agreement;
  - (ii) Leases;
  - (iii) Instalment purchase contract;
  - (iv) Hire purchase arrangement;
- To any contingent liability such as that created by guaranteeing a monetary liability or obligation of another.

6. SCOPE OF THE POLICY

6.1 Risk Management

The need to manage interest rate risk, credit risk exposure and to maintain debt within specified limits is the foremost objectives 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.

6.2 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 legislation.

6.3 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 to managing overall debt. 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 timeously;
(d) Ensure strict compliance with all legislation and council policy.

7. FACTORS TO BE CONSIDERED WHEN BORROWING

7.1 The municipality shall consider 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) The beneficiaries of the acquisition or development financed by the debt;
(d) The impact of interest and redemption payment 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 competing demands for funds
(h) Timing of money market interest rate movements and the long term rates on the interest rate curve

7.2 The municipality will, in general, seek to minimise its dependence on borrowings in order to minimise future revenue committed to debt servicing and redemption charges.

7.3 The municipality may only borrow funds, in terms of Municipal Finance infrastructure to provide service delivery.

8. SOURCES OF BORROWINGS

8.1 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

9. SHORT TERM DEBT

9.1 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, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

9.2 The municipality must pay off short term debt within the same financial year and may not renew or refinance its short-term debt.

9.3 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 the municipality, or is necessary due to an emergency that could not reasonably have been foreseen and cannot await council approval.

10. OVERDRAFT

10.1 Overdraft facilities are regulated by section 45 (3) of the Municipal Finance Management Act.

10.2 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.

11. SECURITY

11.1 A municipality may, by resolution of its council provide security for
(a) any of its debt obligations; and
(b) contractual obligations of the municipality undertaken in connection with capital expenditure by the persons 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 52 of the constitution.

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

(a) Giving a lien on, or pledging, 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 8 (2) of the MFMA;
(c) Undertaking to deposit funds with the lender, investor or third party as security
(d) Undertaking to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;
(e) Undertaking to retain revenues or specific municipal tariffs or other charges, fees or funds at a particular level sufficient to meet its financial obligations;
(f) Undertaking to make provision in its budget for the payment of its obligations, including capital and interest;
(g) 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
(h) Agreeing to such other arrangements as the municipality may consider necessary and prudent.

11.3 A council resolution authorising 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 municipal services will be protected.

11.4 If the resolution has determine4d that the asset or right is necessary for the 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

11.5 A determination in terms of section 9 (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.

12. DEBT REPAYMENT PERIOD

12.1 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 between 10 to 15 years.

12.2 Cognizance is taken of 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.

12.3 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 favourable and cost-effective benefit to the municipality.

13. LONG TERM DEBT

13.1 The municipality may incur debt only in accordance with and subject to any applicable provisions of section 46 (1) of the Municipal Finance Management 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 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 generated services which is water and sanitation.
(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.

13.2 A municipality may incur long term debt only if the Accounting Officer of the municipality has in accordance with subsection 21 (a) of the MFMA:

(a) At least 21 days prior to the meeting of t6he 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 purpose for which the debt is to be incurred and particulars of any security to be provided;
(b) invite the public, the National Treasury and relevant Provincial Treasury to submit written comments or representations to the council in respect of the proposed debt; and
(c) 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
(j) the anticipated total cost in connection with such debt over the repayment period

13.3 Capital expenditure 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 of the act;
 (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 the financing.
(b) Cost of professional services directly related to the capital expenditure; and
(c) Such other costs as may be prescribed.

13.4 A municipality may borrow money for the purpose of refinancing existing long-term debt provided that:
(a) The existing long-term debt was lawfully incurred;
(b) The refinancing 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 refinancing; and
(d) 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.

13.5 A municipality's long-term debt must be consistent with its approved capital budget.

13.6 The municipality may also incur long term debt in the form of finance lease (instalment sale agreement) for the purchase of various vehicles and equipment.

14. RELATIONSHIP WITH OTHER POLICIES

This policy needs to be read in conjunction with other relevant adopted policies of the municipality, including the following:
(a) Delegation of Powers;
(b) Accounting Policy;
(c) Cash Management and Investment Policy
(d) Long Term Financial Plan Policy;
(e) Budget Implementation and Monitoring Policy;

15. DISCLOSURE

15.1 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:
15.1.1 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
15.1.2 take reasonable care to ensure the accuracy of any information disclosed.
15.2 Information to be provided should include:
15.2.1 Audited financial statements for the preceding three financial years with audited outcomes;
15.2.2 Approved annual budget;
15.2.3 The municipal integrated development plan;
15.2.4 Repayment schedules pertaining to existing short-term or long-term debt.
15.3 A lender or investor may rely on written representations of the municipality signed by the AO, if the lender or investor did not know and had no reason to believe that those representations were false or misleading.

16. MUNICIPAL GUARANTEES

16.1 A municipality may not issue any guarantee for any commitment or debt of any organ of state or person, except on the following condition:
16.1.1 The guarantee must be within limits specified in the municipality's approved budget.
16.2 Neither the national nor a provincial government may guarantee the debt of a municipality except to the extent that chapter 8 of the Public Finance Management Act provides for such guarantees.

17. COUNCIL APPROVAL

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.

18. INTERNAL CONTROL

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

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

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

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

18.4 senior officials check and verify all transactions;

18.5 transactions and repayments are properly documented;

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

18.7 procedures relating to the borrowing process are established.

19. 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 its external borrowings.

20. NON-REPAYMENT OR NON-SERVICING OF LOAN

20.1 The Municipality must honour all its loan obligations.

20.2 Failure to effect prompt payment may jeopardise the Municipality's credit rating and adversely affect the ability of the Municipality to raise loans in future at favourable interest rates.

20.3 In addition to ensuring the timely payment of the loans, the Municipality must adhere to the covenants stipulated in the loan agreements, including 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.

21. REVIEW OF POLICY

In terms of section 17(1)(e) of the MFMA this policy must be reviewed on annual basis and the review policy tabled to Council for approval as part of the budget process.
The following should be taken into account for future amendments to this policy:

- Changes in financial strategy;
- Changes in no-financial strategic strategies; and
- Changes in legislation

Policy section:	Director: Budget and Reporting
Current date:	29 March 2024
Previous review date:	27 May 2023

22. APPROVAL AND IMPLEMENTATION OF POLICY

This policy shall be implemented once approved by council on 01 July 2024.

Policy section:	Director: Budget and Reporting
Approval by council:	