PORT ST JOHN'S MUNICIPALITY

BORROWING POLICY

Table of Contents

1. PURPOSE

(1) To establish a borrowing framework policy for the municipality and set out the objectives, policies, statutory requirements and guidelines for the borrowing of funds.

2. OBJECTIVES

The objectives of this Policy are to: -

(1) Manage interest rate and credit risk exposure.
(2) Maintain debt within specified limits and ensure adequate provision for the repayment of debt.
(3) To ensure compliance with all legislation and council policy governing borrowing of funds.

3. SCOPE OF THE POLICY

The primary goal in the borrowing of funds is to ensure that the funds are obtained at the lowest possible interest rates at minimum risk, within the parameters of authorized borrowings. The factors below have to be considered:

(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.

(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.

(3) Prudence

Borrowings shall be made with care, skill, prudence and diligence.

4. LEGISLATIVE FRAMEWORK AND DELEGATION OF AUTHORITY

The relevant Legislation in terms of which borrowing decisions are governed is the Local Government Municipal Finance Management Act, No 56 of 2003.

5. TYPES OF LOANS AND FINANCING

(1) Short-term debt

Short-term debt is debt repayable over a period not exceeding one year.

(2) Long-term debt

Long-term debt is debt repayable over a period exceeding one year.

6. FACTORS TO BE CONSIDERED WHEN BORROWING

There are factors which have to be considered by the municipality when borrowing or financing. These are as follows:

(1) Compliance with MFMA Section 45 and 46
(2) The type and extent of benefits to be obtained from the borrowing.
(3) The length of time the benefits will be received.
(4) The beneficiaries of the acquisition or development.
(5) The impact of interest and redemption payments on both current and forecasted property tax and services revenue.
(6) The current and future capacity of the property tax base and rendering of services to pay for borrowings and the rate of growth of the property tax base and services.
(7) Likely movements in interest rates for variable rate borrowings.
(8) Other current and projected sources of funds.
(9) Competing demands for funds.
(10) Timing of money market interest rate movements and the long-term rates on the interest rate curve.

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. The municipality may only borrow funds, in terms of the Municipal Finance Management Act (MFMA), for the purpose of acquiring assets, improving facilities or infrastructure to provide service delivery. Port St John's Local Municipality may incur long term debt only for the purpose of capital expenditure on infrastructure, 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. The use of external loans should be limited to financing infrastructure where a return can be realised from tariffs to service the debt, or major infrastructure exceeding R10 million for a single project, with long term benefits to the community as a whole, where indirect revenue streams are evident.

7. REFINANCING DEBT

The municipality may borrow money for the purpose of refinancing existing long-term debt, provided that:

(1) The existing long-term debt was lawfully incurred;
(2) The refinancing will not extend the term of the debt beyond the useful life of the infrastructure, property, plant or equipment for which the money was originally borrowed
(3) 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
(4) The discount rate used in projecting net present value referred to in paragraph (3), 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.

Cognisance must be taken of any early repayment penalty clauses in the initial loan agreement, as part of the financial feasibility assessment. No loans will be prematurely redeemed unless there is a financial benefit to the municipality.

8. DEBT REPAYMENT PERIOD

Whilst the period for which loan debt may be received will vary from time to time according to the needs of the various lenders, presently the typical debt repayment period for loans is fifteen (15) years, though not closely matching the underlying asset lives serviced by the loans. Cognisance 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. 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 optimise the most favourable and cost-effective benefit to the municipality.

9. SECURITY

The municipality may, by council resolution, provide security for:

(1) Any of its debt obligations.
(2) Any debt obligations of a municipal entity under its sole control; or
(3) 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.

The municipality may provide any appropriate security, including:

(1) Giving a lien on, or pledging, mortgaging, ceding or otherwise hypothecating, an asset or right, or giving any other form of collateral.
(2) 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 must flow through the primary bank account of the municipality.
(3) Undertaking to deposit funds with the lender, investor or third party as security.
(4) 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.
(5) Ceding as security any category of revenue or rights to future revenue.
(6) Undertaking to have disputes resolved through mediation, arbitration, or other dispute resolution mechanisms.

(7) 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.

(8) Undertaking to make provision in its budgets for the payment of its financial obligations, including capital and interest.

(9) 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

(10) Agreeing to such other arrangements as the municipality may consider necessary and prudent.

A council resolution authorising the provision of security in terms of subsection (1) above:

(1) 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

(2) 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.

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.

A determination 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.

10. OVERDRAFT

Port St John's Local Municipality does not have bank overdraft facility unless approved by council in terms of section 11 below.

11. SHORT TERM DEBT

The municipality may incur short-term debt only in accordance with and subject to the provisions of this policy and only when necessary to bridge:

(1) 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

(2) Capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

The municipal council may approve an individual transaction or a credit facility for a line of credit or overdraft facility.

The municipality must pay off short term debt within the same financial year and may not renew or refinance its short-term debt if it will have the effect of extending the short term debt into a new financial year.

12. DISCLOSURE

The municipality must, when interacting with a prospective lender or when preparing documentation for consideration by a prospective investor:

(1) Disclose all relevant information that may be requested or that may be material to the decision of the prospective lender or Investor

(2) Take reasonable care to ensure the accuracy of any information disclosed.

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.

13. GUARANTEES

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

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

(2) The 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 policy if it incurs debt.

(3) The municipality may guarantee the debt of a municipal entity under its shared control, but only with the approval of the National Treasury, and then only if:

a) 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

b) 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.

14. APPROVAL OF LOANS BY THE MUNICIPALITY

The municipality may incur long-term debt only if:

(1) A resolution of the Council, signed by the Speaker, has approved the debt agreement and.

(2) The accounting officer has signed the agreement or other document which acknowledges the debt.

The municipality may incur long-term debt only if the accounting officer of the municipality:

(1) Has 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, 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

(2) Invite the public, the National Treasury and Provincial Treasury to submit written comments or representations to the council in respect of the proposed debt.

(3) Has submitted a copy of the information statement to Council at least 21 days prior to the meeting to approve the loan agreement, together with:

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.

15. PROVISION FOR REDEMPTION OF LOANS

(1) Port St John's Local Municipality may borrow from institutions and 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.

(2) 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.

16. NON-REPAYMENT OR NON-SERVICING OF LOAN

Port St John's Local Municipality must honour all its loan obligations regularly. Failure to effect prompt payment will adversely affect the raising of future loans at favourable costs of borrowing. Failure to pay loan instalment will have severe repercussions and may jeopardise the municipality's credit rating.

In addition to the timeous payment of the loans, the municipality must adhere to the covenants stipulated in the loan agreements.

17. PROHIBITED BORROWING PRACTICES

Port St John's Local Municipality shall not borrow for investment purposes, with the sole purpose of investing to earn a return. The cost of debt is almost always more expensive than the return that the municipality can derive by investing in permitted investments.

The 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 9 above has been complied with if security is to be provided by the municipality.

18. NATIONAL TREASURY AND OTHER REPORTING AND MONITORING REQUIREMENTS

The municipality submits returns to National Treasury quarterly and annually, as well as submissions to Council. It is mainly coordinated by the financial services department.

19. MUNICIPAL REGULATIONS ON DEBT DISCLOSURE

(1) The Municipal Regulations on Debt Disclosure has been promulgated (Government Gazette no. 29966, 15 June 2007) and has been effective from 01 July 2007 for a municipality or municipal entity. Refer to Annexure A2, Municipal Finance Management Act: Municipal Regulations on Debt Disclosure.

(2) The implementation of the regulations will help to strengthen the level of confidence in municipal fiscal affairs and enable the capital markets to effectively participate by providing access to a range of competitive funding instruments for the provision of municipal infrastructure and other capital development in accordance with section 46 of the Municipal Finance Management Act (MFMA).

20. OTHER CONSIDERATIONS

The Municipality shall use its surplus funds, grants and external long-term debt to implement its Integrated Development Plan (IDP) to facilitated the much needed service delivery program.

21. REVIEW OF POLICY

This policy will be reviewed on an annual basis to ensure that it is in line with the municipality’s strategic objectives.

22. IMPLEMENTATION OF THIS POLICY

This policy shall be implemented as at...............

ADOPTION OF THE POLICY

Policy adopted by Council of Port St Johns Local Municipality for implementation.

Approved by: Council On ________________________

Date

Resolution No. ________________________

Confirmed by the Honourable Speaker ________________________

Signature

Cllr C.S Mazuza

Honourable Speaker