CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

ANNEXURE 16

DRAFT UNFORESEEN AND UNAVOIDABLE EXPENDITURE POLICY

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Version:

Department: **Budgets**

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1. DEFINITIONS AND ABBREVIATIONS

"City" or **"City of Cape Town"** means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No 479 of 22 September 2000 issued in terms of the Local Government Municipal Structures Act 1998 or any structure or employee of the City acting in terms of delegated authority.

"CFO" or **"Chief Financial Officer"** means a person designated in terms of section 80(2)(a) of the MFMA;

"IDP" means the Integrated Development Plan of the City of Cape Town which sets out the strategic and budget priorities adopted by the Council of the City of Cape Town in terms of section 25(1) of the Municipal Systems Act.

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

"Municipal Council" or "council" means the council of a municipality referred to in section 18 of the Municipal Structures Ac

"MBRR" means the Municipal Budget and Reporting Regulations made in terms of section 168 of the MFMA (Act No. 56 of 2003);

POLICY: A guide / framework enabling a municipality to achieve its objectives in the interest of the community. It is a basic principle by which a municipality is guided.

UNFORESEEN AND UNAVOIDABLE EXPENDITURE: Expenditure that could not have been foreseen at the time of adoption of the annual budget of a municipality.

2. PROBLEM STATEMENT

The purpose of this policy is to make provision for any unforeseen and unavoidable expenditure, which might occur and prescribes the process to be followed for the approval of such expenditure.

3. DESIRED OUTCOMES

This policy will help and guide the City in addressing unforeseen and unavoidable expenditure.

4. STRATEGIC FOCUS AREAS

The City's IDP identifies **five** strategic focus areas which provide a solid foundation for the articulation of service delivery. These are The Opportunity City, The Safe City, The Caring City, The Inclusive City and The Well-Run City.

Within the strategic focus areas, the City has further identified linked objectives. Accordingly, this policy supports the following strategic focus area and objective:

The Well Run City

Objective 5.1: Operational sustainability: This objective is about delivering services and creating value for customers in an operationally sustainable manner based on evidenced led decision making so that the City can remain financially stable and resilient to shocks in a changing environment.

5. ROLE PLAYERS AND STAKEHOLDERS

The role players and stakeholders who will ensure that unforeseen and unavoidable expenditure is being dealt with according to legislative requirements and council processes are:

5.1 The respective directorate / department is responsible for preparing a report on the unforeseen and unavoidable expenditure when such expenditure occurs.

5.2 The Office of the City Manager is responsible for reviewing the report in order to confirm legal compliance.

5.3 The Budgets department is responsible for confirming the financial implications.

5.4 The Mayor is responsible for reviewing, approving and tabling the report at Council for noting.

6. GUIDING PRINCIPLES

6.1 A directorate becoming aware of the need to incur unforeseen or unavoidable expenditure must immediately approach the CFO with full details on the expenditure, providing information on the consequences of not incurring the expenditure as well as an indication of the expected cost (both for the current year as well as any recurring cost resulting from the event).

6.2 Confirmation that the expenditure does not constitute expenditure that may not be allowed by the Executive Mayor as per regulation 71(2) of the MBRR must be given by the directorate when approaching the CFO.

6.3 The CFO will determine whether the cost could be dealt with through a process of virement of funds within the relevant votes, and whether sufficient funds are available for shifting within the vote" Once the CFO has supported the request, the relevant Executive Director will be required to submit a report to the Executive Mayor requesting approval. If approval is granted, the adjustment will be effected on the financial system.

6.4 The abovementioned process must be dealt with as a priority in order to ensure that administrative delays do not exacerbate the situation.

6.5 An adjustments budget, incorporating the approved expenditure, must be submitted to the next council meeting as per of Section 28 of the MFMA.

7. REGULATORY CONTEXT

7.1. This policy has been formulated in terms of the provisions of Section 29 of the MFMA and regulations 71 and 72 of the MBRR, which prescribes the process to be followed for the approval of unforeseen and unavoidable expenditure.

8. POLICY DIRECTIVE DETAILS

Unforeseen and unavoidable expenditure (MFMA Section 29)

1. *The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.*
2. *Any such expenditure-*
   - *(a) Must be in accordance with any framework that may be prescribed;*
   - *(b) May not exceed a prescribed percentage of the approval annual budget;*
   - *(c) Must be reported by the mayor to the municipal council at its next meetings; and*
   - *(d) Must be appropriated in an adjustments budget.*
3. *If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.*

Authorisation of unforeseen and unavoidable expenditure (MBRR Regulation 71)

1. *The mayor of a municipality may authorise expenditure in terms of section 29 of the Act only if-*
   - *(a) The expenditure could not have been foreseen at the time the annual budget of the municipality was passed; and*
   - *(b) The delay that will be caused pending approval of an adjustments budget by the municipal council in terms of section 28(2)(c) of the Act to authorise the expenditure may –*
     - i. *result in significant financial loss for the municipality;*
     - ii. *cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;*
     - iii. *lead to loss of life or serious injury or significant damage to property; or*
     - iv. *obstruct the municipality from instituting or defending legal proceedings on an urgent basis.*

2. *The mayor of a municipality may not authorise expenditure in terms of section 29 of the Act if the expenditure -*
   - *(a) was considered by the council, but not approved in the annual budget of the municipality or an adjustments budget;*
   - *(b) is required for -*
     - i. *price increases of goods or services during the financial year;*
     - ii. *new municipal services or functions during the financial year;*

iii. *the extension of existing municipal services of functions during the financial year;*

iv. *the appointment of personnel during the financial year; or*

v. *allocating discretionary appropriations to any vote during the financial year; or*

(c) *would contravene any existing council policy; or*

(d) *is intended to ratify irregular or fruitless and wasteful expenditure.*

Monetary limits on unforeseen and unavoidable expenditure (MBRR Regulation 72)

The amount of expenditure that a mayor of a municipality may authorise in terms of section 29 of the Act is limited to –

(a) *5% of the municipality's own revenue in the case of a municipality with approved total revenue in its current annual budget not exceeding R250 million;*

(b) *the greater of R5 million or 4% of the municipality's own revenue in the case of a municipality with approved total revenue in its current annual budget greater than R250 million but not exceeding R500 million; and*

(c) *R15 million in the case of a municipality with approved total revenue in its current annual budget greater than R500 million.*

9. IMPLEMENTATION, EVALUATION AND REVIEW OF THE POLICY

This policy framework is important for financial compliance of the City. It provides for an all-inclusive administrative procedure for the management of unforeseeable and unavoidable expenditure.

9.1 This policy will come into effect once it has been approved at Council.

9.2 In terms of section 17(1) (e) of the MFMA this policy must be reviewed on an annual basis and the reviewed policy must be tabled at Council for approval as part of the budget process.

9.3 Changes in legislation must be taken into account for future amendments to the policy.