CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

ANNEXURE 16

UNFORESEEN AND UNAVOIDABLE EXPENDITURE POLICY

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1. DEFINITIONS AND ABBREVIATIONS

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.

MFMA: means Municipal Financial Management Act.

MBRR: means Municipal Budget and Reporting Regulations.

CITY: means City of Cape Town

IDP: means Integrated Development Plan

CFO: means Chief Financial Officer

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 AREA

The **five** strategic focus areas provide a solid foundation for service delivery. The strategic focus areas are the opportunity city, the safe city, the caring city and the well-run city.

The City has also identified **11 priorities** that span the five strategic focus areas. By elevating these 11 priorities, it is expected that the strategic focus area outcomes will be accelerated.

This policy supports the following strategic focus area:
Well-run City: 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.

Objective 5.1: Operational Sustainability.

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 who is responsible for preparing a report on the unforeseen and unavoidable expenditure when such expenditure occurs.
5.2 The Legal department who is responsible for reviewing the report in order to confirm legal compliance.
5.3 The Budget department who is responsible for confirming the financial implications.
5.4 The Mayor who 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 Chief Financial Officer (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 Municipal Budget and Reporting Regulations (MBRR) must be given by the directorate when approaching the CFO.
6.3 The CFO will determine whether the cost cannot be dealt with through a process of virement of funds within the relevant votes, if sufficient funds are available for shifting within the vote.

6.4 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 of the municipality.

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

6.6 An adjustment 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 adjustment budget.*

3. *If such adjustment 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 adjustment 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. MPLEMENTATION, 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.