

**C.15.4 APPROVAL OF THE SPENDING OF FUNDS THAT WERE UNSPENT AS AT 30 JUNE 2023 IN TERMS OF SECTION 28(2)(e) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003) (MFMA) AND REGULATION 23(5) OF THE MUNICIPAL BUDGET AND REPORTING REGULATIONS, 2008 (5/1/1/6 & 3/2/5/15)**

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**PURPOSE OF SUBMISSION**

That Council consider to approve an adjustments budget as contemplated in section 28(2)(e) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) and regulation 23(5) of the Municipal Budget and Reporting Regulations, 2008 to authorise the spending of funds that were unspent as at 30 June 2023.

**BACKGROUND**

The Cape Winelands District Municipality received an Emergency Municipal Load-Shedding Relief Grant as per Provincial Gazette Extraordinary 8719 dated 13 February 2003 in the amount of R950 000. The Disaster Management Division commenced with a procurement process to acquire two back-up generators. However, due to a material irregularity in the bid specifications the Bid Adjudication Committee recommended to the Accounting Officer to cancel the tender for purchasing the said generators.

The irregularity was addressed, and the tender was readvertised on 14 July 2023.

The CWDM submitted a Roll-Over application to the Provincial Treasury for the unspent funds. If available, this approval will be distributed at the Council meeting.

**COMMENTS**

An adjustments budget, contemplated in section 28(2)(e) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the council.

In addition, regulation 23(5) of the Municipal Budget and Reporting Regulations, 2008 (published in Government Gazette No. 32141 on 17 April 2009), determines the timeframes for the tabling of the said special adjustments budget as follows:

*“An adjustments budget referred to in section 28(2)(e) of the Act may only be tabled after the end of the financial year to which the roll-overs relate, and must*

*be approved by the municipal council by 25 August of the financial year following the financial year to which the roll-overs relate.”*

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Due to the proposed roll over Capital Adjustments Budget, an additional capital item must be added to the Capital Budget as reflected below. Adjustments to the budget are reflected in Annexures “A” (Revised Schedule B Budget Document), “D” (Revised Capital Budget) and “E” (Revised Schedule B supporting documents) included in the Agenda under separate cover. Annexure “E” is still in a development phase by the service provider and will be distributed at the Council meeting.

### **Capital Expenditure**

#### Expenditure:

Description	Original budget 2023/2024	Adjustment	Adjustment Budget August 2023
2 x Back-up Generators	R0	R950 000	R950 000

#### Capital Funding:

Description	Original budget	Adjustment	Adjustment Budget
Load Shedding Relief Grant	R0	R950 000	R950 000

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Annexure “B” reflects a summary of the Total Operating Budget before the requested adjustments and Annexure “C” reflects a summary of the Total Operating Budget should the requested adjustments be approved.

### **IMPLICATIONS**

#### **PERSONNEL**

None.

*Comment prepared by: Ms. G.C.N. Julie*

#### **FINANCIAL**

The financial implications have been addressed under “BACKGROUND” and “COMMENT” above.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

## LEGAL

Section 28 of the MFMA prescribes that:

- (1) A municipality may revise an approved annual budget through an adjustments budget.
- (2) An adjustments budget—
  - (a) must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
  - (b) may appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;
  - (c) may, within a prescribed framework, authorise unforeseeable and unavoidable expenditure recommended by the mayor of the municipality;
  - (d) may authorise the utilisation of projected savings in one vote towards spending under another vote;
  - (e) **may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the council;**
  - (f) may correct any errors in the annual budget; and
  - (g) may provide for any other expenditure within a prescribed framework.
- (3) An adjustments budget must be in a prescribed form.
- (4) **Only the mayor may table an adjustments budget in the municipal council**, but an adjustments budget in terms of subsection (2)(b) to (g) may only be tabled within any prescribed limitations as to timing or frequency.
- (5) **When an adjustments budget is tabled, it must be accompanied by—**
  - (a) **an explanation how the adjustments budget affects the annual budget;**
  - (b) **a motivation of any material changes to the annual budget;**
  - (c) **an explanation of the impact of any increased spending on the annual budget and the annual budgets for the next two financial years; and**

- (d) **any other supporting documentation that may be prescribed.**

Section 69(1) and (2) of the MFMA, Budget implementation, states that:

- (1) **The accounting officer of a municipality is responsible for implementing the municipality's approved budget**, including taking all reasonable steps to ensure –
- (a) that the spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the service delivery and budget implementation plan; and
  - (b) that revenue and expenditure are properly monitored.
- (2) When necessary, **the accounting officer must prepare an adjustments budget and submit it to the mayor for consideration and tabling in the municipal council.**

*Comment prepared by: Ms. S.S. Sanders*

#### **RECOMMENDATION BY EXECUTIVE MAYOR:**

That Council consider to approve the spending of funds that were unspent as at 30 June 2023, as reflected in Annexures "A", "B", "C", "D", and "E" in terms of section 28(2)(e) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) and regulation 23(5) of the Municipal Budget and Reporting Regulations, 2008.

#### **COUNCIL MEETING: 21 AUGUST 2023: ITEM C.15.4**

Councillor M.H. Yabo requested for a caucus which was granted.

(Council adjourned at 11:22 and resumed its business at 11:27)

The Executive Mayor proposed that Council approve the spending of funds that were unspent as at 30 June 2023, as reflected in Annexures "A", "B", "C", "D", and "E" in terms of section 28(2)(e) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) and regulation 23(5) of the Municipal Budget and Reporting Regulations, 2008.

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The proposal by the Executive Mayor was seconded by Councillor M.H. Yabo.

**RESOLVED (32 Councillors) (Unanimously) :**

That the spending of funds that were unspent as at 30 June 2023, as reflected in Annexures "A", "B", "C", "D", "E" and "F" in terms of section 28(2)(e) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) and regulation 23(5) of the Municipal Budget and Reporting Regulations, 2008, be approved.