MERAFONG CITY LOCAL MUNICIPALITY
ANTI-CORRUPTION STRATEGY

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1.   BACKGROUND

This anti-corruption strategy has been developed for Merafong City Local Municipality (MCLM or Municipality) to give effect to the expressed commitment of the Municipality to fight corruption in the institution and all the parties it engages with in its activities. This strategy is largely aligned to the Local Government Anti-Corruption Strategy (LGACS) 2016.

Corruption breaks down societal norms, erodes good governance and obstructs service delivery. Municipalities must combat corruption not as a side project, but as part of the consistent drive to deliver services to communities, and to achieve the other 'Objects of local government" as set out in section 152 of the Constitution of South Africa.

South Africa has, amongst other countries, the best pieces of anti-corruption legislation and policy frameworks to guide the behavior and conduct of public servants and any other individuals that interact with them and or render services to the public sector. These have largely been developed since 1994. In addition, regulatory mechanisms have been put in place to govern the conduct of political office bearers, such as Premiers and Members of the Executive Council (MEC). These frameworks deal with, *inter alia*, issues of financial disclosure, conflict of interest and insider information. South Africa has further supported the United Nations, African Union, Southern African Development Community and the Organisation for Economic Co-operation and Development international legal instruments on anti-corruption.

In short, it can be argued that the elements of an effective anti-corruption framework exist in South Africa and in the Provinces, including Gauteng. However, these do not function optimally and are not effectively adhered to. South Africa continues to rank amongst the highest in terms of levels of corruption and perceptions of corruption.

2   DEFINITION OF CORRUPTION

Settling on a working definition of "corruption" is essential for setting the tone for this strategy. Proceeding to identify a working definition of corruption could begin by acknowledging the fact that general definitions of corruption seem to be difficult to produce, and beginning to look at how the act of corruption has been legally acceptable definition of corruption and as well as of what sorts of conduct should be included or excluded particularly in developing criminal laws or other politically sensitive concepts of corruption.

For example, on the one hand, the United Nations (UN), in its toolkit (2001), proposes the following definition: Corruption is an abuse of public power for private gain that hampers public interest, while on the other hand, experts such as Elliston and Feldberg (1985, p.25) provide a

classic definition of corruption which holds that: "A public official is corrupt if that official accepts money or something he or she is under a duty to do anyway, under a duty not to do, or for exercising legitimate discretion for improper reason"

However, most members of the public understand the word corruption much more broadly to include the abuse of resources, maladministration, theft and fraud. To ensure the public's faith in the public service, it is crucial to address the risks of any of these occurring, as well as addressing the risks of corruption as defined in the Prevention and Combating of Corrupt Activities Act 12 of 2004. Even minor transgressions like small scale theft, misuse or abuse of property, abuse of sick leave, or generally failing to comply with laws, rules and regulations can have a major effect. Tolerating small scale transgressions often creates an environment for larger scale irregularities to take place. Hence, when people engage in such activities, they are loosely accused of doing something illegal, immoral or unethical.

Transparency International defines corruption as: "The abuse of entrusted power for private gain '; this is the latest definition of corruption.

3. PROBLEM STATEMENT

Corruption is a universal problem that undermines growth and development by diverting resources away from development programmes, its effects are particularly harmful to developing countries and achieving good governance and fighting corruption is amongst the most important challenges facing new democracies, such as South Africa. MCLM, like many other municipalities, is also exposed to vulnerabilities of both fraud and corruption.

4. THE COSTS OF CORRUPTION

There are generally four broad areas where the costs of corruption manifest, which is Political, Economical , Social and Environmental

Political

On the political front, corruption is a major obstacle to democracy and the rule of law. In a democratic system, offices and institutions lose their legitimacy when they're misused for private advantage. This is harmful in established democracies, but even more so in newly emerging ones. It is extremely challenging to develop an accountable political leadership in a corrupt climate.

Economical

Economically, corruption depletes national wealth. Corrupt politicians invest scarce public resources in projects that will line their pockets rather than benefit communities, and prioritise high-profile projects such as dams, power plants, pipelines and refineries over less spectacular but more urgent infrastructure projects such as schools, hospitals and roads. Corruption also hinders development of fair market structures and distorts competition, which in turn deters investment.

Social

Corruption corrodes the social fabric of society. It undermines people's trust in the political system, in its institutions and its leadership. A distrustful or apathetic public can then become yet another hurdle to challenging corruption.

Environmental

Environmental degradation is another consequence of corrupt systems. The lack of, or non-enforcement of, environmental regulations and legislation means that precious natural resources are carelessly exploited, and entire ecological systems are ravaged. From mining, to logging, to carbon offsets, companies across the globe continue to pay bribes in return for unrestricted access and the concomitant destruction.

5.   DIMENSIONS OF CORRUPTION

In order to develop an Anti –Corruption Strategy, it is important to understand the various forms in which corruption manifests itself in the organisation and elsewhere in the society. The following examples illustrate the various manifestations.

a.   *Bribery*: Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of a public servant. This benefit may accrue to the public servant, another person or an entity. A variation of this manifestation occurs where a political or government official is offered, promised or given a benefit that improperly affects the actions or decisions of the political party or government. In its most extreme manifestation this is referred to as State Capture, or the sale of Parliamentary votes, Presidential decrees, criminal court decisions and commercial decisions. Example: A traffic officer accepts a cash payment in order not to issue a speeding fine.

b.   *Embezzlement*: This involves theft of resources by persons entrusted with the authority and control of such resources. Example: Hospital staff that steal medicines and in turn sell these to private pharmacists.

c.   ***Fraud***: This involves actions or behaviours by a public servant, other person or entity that fool others into providing benefit that would not normally accrue to the public servant, other persons or entity. Example: A public servant that registers a fictitious employee in order to collect the salary of that fictitious employee.

d.   ***Extortion***: This involves coercing a person or entity to provide a benefit to a public servant, another person or an entity in exchange for acting(or failing to act) in a particular manner. Example: a public health official threatens to close a restaurant on the basis of fabricated health transgression unless the owner provides the public health official with regular meals.

e.   ***Abuse of power***: This involves the public servant using his/her vested authority to improperly benefit another public servant, person or entity (or using vested authority to improperly discriminate against another public servant, person or entity). Example: During the tender process but before actual selection of a successful contractor is made, the head of the department expresses his/her wish to see the contract awarded to a specific person.

f.   ***Conflict of interest***: This involves a public servant acting or failing to act on a matter where the public servant has an interest or another person or entity that stands in a relationship with the public servant has an interest. Example: A public servant considers tenders for a contract and awards the tender to a company of which his/her partner is a director.

g.   ***Insider trading/ Abuse of privileged information***: This involves the use of privileged information and knowledge that a public servant possesses as a result of his/her office to provide an unfair advantage to another person or entity to obtain a benefit, or to accrue a benefit to himself/herself. Example: a local government official has, as a result of his/her particular office, knowledge of residential areas that are to be rezoned as business areas. He/she informs friends and family to acquire the residential properties ahead of proclamation with a view to selling these as business properties at a premium once proclaimed.

h.   ***Favouritism***: This involves the provision of services or resources according to personal affiliations (for example ethnic, religious, party political affiliations, etc.) of a public servant. Example: a regional manager in a particular Province ensures that only persons from the same tribe are successful in tenders for the supply of foods in the manager's geographic area of responsibility.

i. ***Nepotism***: This involves a public servant ensuring that family members are appointed to public service positions or that family members receive contracts from state resources. This manifestation is similar to conflict of interests and favouritism. Example: a head of department appoints his/her sister's child to a position even when more suitable candidates have applied for that position.

The above illustrations of the manifestations of corruption is by no means complete or exhaustive. Corruption appears in permutations and in degrees of intensity. Degrees of intensity vary from the occasional acceptance of bribes to systematic corruption where the bribery is the accepted way of "doing business" and large-scale looting of a country's resources take place. Thus, corruption also manifests as personal and political corruption. Corruption increases if left unattended and once this has culminated in systematic corruption, it creates a bigger challenge to address.

Socio-economic conditions, the political-institutional infrastructure, cultural heritage, and other factors influence the way in which corruption is perceived and addressed. Whilst corruption seems easily identifiable, the varying perspectives make it particularly difficult to define corruption and develop appropriate remedies. Such perspectives vary from a Moralist-Normative perspective (corruption is inherently bad), the Functionalist perspective (corruption is ever present in society and not always unwanted), the Public Office-Legalist perspective (legal institutions independent from government are required to combat corruption), the Public Interest-Institutional perspective (institutions shape individual corrupt behaviour), the Interest-maximizing perspective (a market centred perspective that accuses officials of converting political resources into goods needed to initiate and maintain corrupt relations) and the political economy perspective (state is the mechanism for the accumulation of wealth, especially where indigenous people lack independent accesses to the economy outside of the State).

Understanding the dimensions of corruption entails also understanding what is not corruption. Corruption is often described interchangeably with maladministration, incapacity and inefficiency, especially because public resources are being used. The deficiency of approaching corruption in this manner is that corruption becomes non definable and thus impossible to address. Though corruption seems easily identifiable, it is of paramount importance to establish a workable legal definition of corruption, in order to maximise preventative and combating efforts including the proper arrangement of responsibilities between institutions.

6. PRINCIPLES UNDERLYING THE STRATEGY

a. The need for a holistic and integrated approach to fighting corruption, with a balanced mixture of prevention, investigation, prosecution and public participation as the platform for this strategy.
b. Constitutional requirements for the criminal justice system and public administration.

c. This strategy must operate independently but complementary to national strategies, particularly with regard to detection, investigation, prosecution and adjudication of acts of corruption, as well as the recovery of the proceeds of corruption.

d. Acts of corruption are regarded as criminal acts and can be dealt with either in the administrative or criminal justice system, or both if needs be.

e. all aspects of the strategy must be:

i. supported with comprehensive education, training and awareness;

ii. coordinated with national and provincial government;

iii. subjected to continuous risk assessment; and

iv. expressed in terms of measurable and time-bound implementation targets.

f. Promoting integrity, professionalism and ethical conduct in the institution.

7.   OBJECTIVES OF THE STRATEGY(LGACS)

The Anti-Corruption Strategy of MCLM is aligned with the 2016 Local Government Anti-Corruption Strategy (LGACS) championed by Department of Cooperative Governance and Traditional Affairs . The local government anti-corruption strategy is built around the following three strategic objectives and the supporting focus areas:

1. **Promoting community ownership**
    a) Facilitating a national dialogue on governance and ethical leadership in municipalities
    b) Implementing basic public participation responsibilities
    c) Developing and promoting good practice and community oversight
    d) .Driving an anti-corruption awareness campaign

2. **Strengthening municipalities' resilience against corruption**
    a) Implementing the Integrity Management Framework in municipalities
    b) Developing a community of Integrity Management Practitioners

3. **Building trust and accountability through effective investigation and resolution**
    a) Developing municipal capability to manage investigations and consequences
    b) Providing capacity support to municipalities for investigations and disciplinary procedures
    c) Improving oversight of investigations and consequences

8. OBJECTIVES OF THE STRATEGY (MCLM)
*   To fight fraud and corruption in MCLM in all its forms, through the prevention and combating of corruption.
*   To identify common strategic priorities in combating corruption
*   To promote good governance and best practice in MCLM

- To promote professional ethics within the different departments in the municipality through the implementation of the Gauteng Municipal Integrity Project
- To magnify MCLM's efforts to create awareness, training and education about corruption including how and where to report corruption and any ethical misdemeanors.
- To create a culture of zero tolerance for corruption and whistle-blowing in MCLM's community and all sectors.
- To strengthen compliance and enforcement of regulatory mechanisms and accountability of municipal employees at all levels.
- To strengthen consequence management within the municipality

8.   SCOPE AND PURPOSE

The purpose of MCLM anti-corruption strategy is to outline an approach that is holistic, integrative and pragmatic enough to enhance the municipality's efforts in intensifying the fight against corruption. This includes detection, prevention and combating of fraud and corruption with a referral of serious cases of corruption and fraud to special investigation units and or agencies in collaboration with the criminal justice system.

While government's anti-corruption efforts must reach society as a whole, the strategic focus is on reducing and eliminating the occurrences of corruption within the public service. It further holds for MCLM that the key outcome is to reduce incidents of fraud and corruption and promote an ethical institution.

This strategy mainly applies to all unethical conduct, fraud, corruption, or suspected irregularities of this nature involving the following target group:

- political office bearers, including the Executive Mayor and Members of the Municipal Council;
- all officials /employees of MCLM;
- private individuals and entities who provide goods and services to the municipality, including consultants, suppliers, contractors and other third parties;
- non-governmental organisations and agencies and other parties receiving benefits from the Municipality.

9.   STRATEGIC PRIORITIES UNDERLYING THE STRATEGY

Strategic Priority1:   Reporting corruption, ensuring effective follow up and maximum penalties

This includes the following key actions:

a. MCLM's commitment to ensure that wrong doing is reported (internally) and externally, including through the Fraud Hotline;

b. a culture of protected whistle-blowing within Merafong must be promoted, maintained and sustained;

c. all reported cases of anti-corruption must be investigated and dealt with accordingly;

d. MCLM should work collaboratively with the South African Police Services , including ensuring that maximum penalties are meted out against perpetrators;

e. in serious high-profile cases, the Municipality should secure the services of law enforcement agencies such as the Special Investigation Units and special courts;

f. the Municipality should maintain a central database of cases, prepare monthly reports on progress and a Report to Council on the status of cases;

g. The Merafong Fraud Hotline be made more visible through posting it on all strategic areas within the municipality and public community facilities; and

h. The naming and shaming as well as blacklisting of officials, companies and individuals found to be fraudulent and corrupt must be mandatory.

Priority 2: Promotion of ethical procurement

Despite the existence of legislation such as the Municipal Finance Management Act 56 of 2003 and significant controls over municipal procurement processes, it remains a high risk area in relation to corrupt practices and irregularities. The following actions among others are proposed in clamping down on procurement-related corruption:

a. regular review of 'the municipal procurement policy framework;

b. adopt provincial guidelines around procurement to strengthen controls;

c. ongoing training, education and communication on Supply Chain Management (SCM)processes;

d. regular, detailed audits of SCM process to identify weaknesses which contribute to fraud, corruption and other irregularities;

e. ensuring that the different steps in the SCM processes are assigned to different officials;

f. the timely and accurate reporting of suspicions of fraud, corruption and other irregularities by all employees should be encouraged by management and specific mechanisms to facilitate whistle-blowing in the Municipality should be developed and implemented as per the Protected Disclosures Act, 2000;

g. to mitigate the fraud risks associated with requests for quotations (RFQ), the issuing of a formal written RFQ should be compulsory across all departments;

h. officials involved in supply chain management must declare all interests including actual, perceived or potential on a regular basis. Furthermore, they should sign confidentiality agreements not to disclose any information received during the procurement process;

i. enforcement of the annual obligatory updating of departmental Fraud Risk Plans;

j. implementing tighter controls over contracts and more effective contract management;

k. improved levels of vetting of officials involved in SCM and relates functions and with regular reviews;

l. naming and shaming of tender defaulters through an efficient and effective contract management system;

m. improving access to public tenders and creating an environment of greater openness and transparency in relation to bidding processes and procedures for government tenders, including the compliance with the Protected Disclosures Act, Act 12 of 2000 and the Promotion of Administrative Justice Act, 2000;

n. particular attention should be paid to the involvement of the public servants in tendering for government business including a review and a strengthening of existing policies, regulations and control measures;

o. appoint Ethics Officers to play a role in supporting Executive Directors in the management and administration of financial disclosures;

p. development and implementation of MCLM-wide protocols on the verification of information in Financial Disclosure Forms;

q. the submission of Financial Disclosure Forms should be automated and an electronic database developed;

r. extending financial disclosure requirements to all and discussions with organised labour in this regard;

s. development and implementation of Merafong-wide protocols on actions to be taken with regard to non-compliance;

t. visible and meaningful disciplinary action should be taken against those who fail to submit disclosure forms, who submit forms late, who submit false information or who withhold information;

u. implementation of measures in line with the new DPSA Guidelines on remuneration outside the public service;

v. provision of inputs into the regional and provincial framework on Conflict of Interest including in relation to financial disclosures and cooling off periods; and.

x. The adoption and implementation plan by Merafong once the Strategy has been approved.

Priority 3: Building a social compact against corruption

The development of strong partnerships against corruption has been identified as a cornerstone of a national anti-corruption strategy. To strengthen partnerships with a view to building a social compact against anti-corruption in municipalities, the following *inter alia*, be addressed:

a.   the Municipal Anti-Corruption Forum should be established including more effective participation by both the MCLM and civil society representatives;

b.   a Municipal Anti-Corruption Summit should be held to consolidate a common approach to the combating of fraud and corruption across all sectors of society in MCLM;

c.   training and capacity building workshops on Anti-Corruption should be held with the community and community representatives;

d.   where relevant, the Anti-corruption strategy should be linked to sectoral and community safety plans; and

e.   specific joint projects and campaigns should be developed within the municipality and with business and community sectors to curb corrupt practices, encouraging prevention, education, awareness and whistleblowing.

Municipal unions should be encouraged and supported in mobilising against corruption and in advocating professional ethics among members

Strategic Priority 4: Campaigning against corruption and building an ethical public service

Linked to the above priority on the development of a social compact against corruption, is the need to develop and sustain visibility, Merafong-wide of anti-corruption and ethics promotion campaigns and steps to build an ethical institution. This includes media and communication campaigns to promote professional ethics within the municipality, external ethics awareness campaigns, education and training.

Key activities should include the following:

a.   public launch of the Merafong Anti-Corruption Strategic Framework and related measures;

b.   promotion of the concept and practice of ethics management with the Municipality;

c.   development of permanent training manuals for all the Municipality's employees and management on anti-corruption frameworks and ethics management.

d.   promotion of anti-corruption and ethics at appropriate levels within the Municipality;

e.   the finalisation of the Code of ethics and the organisational structure around ethics management;

f.   development and implementation of total ethics management programme in municipalities;

g.   ensuring that the Municipality adopts an anti-corruption strategy;

h.   establishment of ethics infrastructure and systems, including ethics offices and ethics committees;

i.   development of mandatory sector-specific codes of conduct and professional ethics;

j.   the inclusion of conflict of interest and a system of declaration of assets/financial interests in the codes of conduct; and

k.   developing internal capacity within the municipality to conduct regular ethics audits, and reported on, in annual reports;

l.   professional ethics must be promoted through explanatory manuals, continuous training and education and establishing partnership with professional associations; and

m.   the Executive Committee must be sensitised through awareness, training and education to espouse professional ethics and to provide leadership to other employees.

Strategic Priority 5: Sectoral Anti-Corruption Strategies and Plans

Fraud and corruption manifests themselves in various forms in the public service and particularly at the interface between public and private sector and in the provision of services to the public. Some of these have been outlined above. While the MCLM's Anti-Corruption Strategy is intended to provide an over-all guide to the direction of the government's anti-corruption efforts and resources, the further elaboration of this framework within particular sectors is critical to government efforts to stamp out corruption. These sectoral strategies and plans should take into account the specific risks, conditions and forms that corrupt and fraudulent acts take within the sector and the tactics and measures required to prevent as well as combat these and to promote ethical practices within the sector.

The term sector in this context is used fairly loosely to refer to a distinct grouping of activities or service provided by government or other areas of focus. However, it could also be interpreted to refer to various civil society sectors or organised formations within the community

These sectoral anti-corruption strategies should also take into account the measures to improve service delivery within the sector and minimise confrontation resulting from poor service delivery. Poor service delivery is seen as one of the dimensions of corruption and sectoral strategies need to take this into account.

Further attention should also be given to the manner in which corruption interacts with and compounds other forms of the abuse of power by municipal officials, including unfair discrimination and the abuse of women. For example, the forced exchange of "sexual favours" in return to, "jumping the queue" to get access to a particular municipal public service. This necessitates the development of departmental strategies that will ensure that problems such as the ones cited above are fully and successfully addressed. The departments that are vulnerable to corrupt activities and practices related to the critical and massive services they render to Gauteng communities according to their functional areas are- Local Government and Housing, Health, education, Community Safety and Finance (former GSSC).
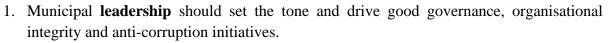
10.   THE LOCAL GOVERNMENT INTEGRITY MANAGEMENT FRAMEWORK

The Local Government Integrity Management Framework sets out the responsibility of municipalities in implementing the 2015 Local Government Anti-Corruption Strategy.

The following diagram gives an overview of the Framework.

1. Municipal **leadership** should set the tone and drive good governance, organisational integrity and anti-corruption initiatives.
2. **Communities** must be acknowledged as the 'owners' of municipalities and initiatives must be put in place to ensure transparent and accountable governance, and community oversight.
3. Appropriate **governance structures** should be in place and should ensure effective governance, oversight and the implementation of the integrity management framework. There should be sufficient capacity to implement the integrity management framework.
4. Municipalities should institutionalise integrity management initiatives based on the four pillars of:
   - prevention
   - detection
   - investigation; and
   - resolution

5. Effective information management systems should be implemented and municipalities must submit reports to appropriate entities to ensure transparency through monitoring, oversight and accountability.

11. LEGISLATIVE FRAMEWORK

The following legislation guides South Africa and its institutions' efforts to combat and prevent corruption:

i. Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)
ii. Promotion of Access to Information Act, 2000 (Act No 2. of 2000)
iii. Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000) (the PAJA)
iv. Protected Disclosures Act, 2000 (Act No26 of 2000)
v. Public Finance Management Act, 1999 (Act No. 1 of 1999) (the PFMA)
vi. Municipal Finance Management Act, 2003 (Act No.56 of 2003)
vii. Finance Intelligence Centre Act, 2001 as amended (Act No 38 of 2001)
viii. Prevention of Organised Crime Centre Act, 1998 (Act No 121 of 1998
ix. National Prosecuting Authority, 1998 (Act No. 32 of 1998)
x. Public Service Act, 1994 as amended by (Act 30 of 2007)

12. CONCLUSION

This Anti - Corruption Strategy is based on the Local Government Anti-Corruption Strategy 2016 Framework. The National and Provincial government are committed to the fight against fraud and corruption, regardless whether or not the perpetrators are internal or external. Therefore, the municipality aligns itself to the commitment.

13. REVIEW OF THE STRATEGY

This strategy will be reviewed every three years or as and when there are changes in legislation or circumstances necessitate the review.

14.   APPROVAL AND ADOPTION

_____   Date _____
E SEGAKWENG-DIALE
CHIEF RISK OFFICER

_____   Date _____
DP MOLOKWANE
CHIEF OPERATIONS OFFICER

_____
DD MABUZA
MUNICIPAL MANAGER   Date _____