Elizabeth Comfort
Finance Director

Department of Finance
Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

July 21, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

Adoption of a Clackamas County Debt Management Policy

Purpose/Outcomes	Adoption of a Clackamas County Debt Management Policy
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Effective upon adoption
Previous Board Action/Review	Business Meeting discussion on June 8, 2022 Issues July 19, 2022
Strategic Plan Alignment	Build public trust through good government by providing budget responsibility and transparency
Counsel Review	N/A
Procurement Review	1. Was the item processed through Procurement? yes ☐ no X 2. If no, provide brief explanation: This is a Budget item and does not require Procurement's involvement
Contact Person	Sandra Montoya, email smontoya@clackamas.us
Contract No.	N/A

BACKGROUND:
The County's previous debt policy (issued December 1996) has been enhanced to provide further clarity, and reflect best practices as recommended by the Government Finance Officers Association (GFOA).

Finance is recommending the adoption of an updated Debt Management Policy, and direct staff to build future budgets guided by this policy.

These documents have been reviewed and approved by the Policy Committee, the County's Executive Management Team, and the sent to the unions for comment. This policy will require BCC approval, as the previous policy was Board approved.

Sincerely,

Elizabeth Comfort

Elizabeth Comfort
Finance Director

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

A Resolution Adopting a Debt Management Policy	}	Resolution No. __________ *Page 1 of 17*

WHEREAS, the County is authorized to issue debt under State statute (ORS, 287A) which establishes limits on the amount of debt that may be issued; and

WHEREAS, the County's Debt Management Policy establishes requirements to comply with applicable State statutes, County imposed debt limitations, and Internal Revenue Service requirements; and

WHEREAS this policy will provide important information to staff, potential financial investors, advisors, and State and Federal regulatory authorities.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners declares its Debt Management Policy to be as follows:

Clackamas County
Debt Management Policy

I. GENERAL POLICY

The County and its Agencies (County) shall undertake and maintain all long- and short-term debt financings in compliance with applicable Federal law, the Oregon Constitution, Oregon Revised Statutes (ORS), and Oregon Administrative Rules (OAR). The County will further comply with Security and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB) rules regarding ongoing disclosure, and oversight of participants in the municipal debt market including advisors and securities dealers. Finally, the County will comply with IRS regulations for tax-exempt and tax-advantaged debt issuance.

The Debt Management Policy sets forth the practices for debt issuance and the management of outstanding debt. The Policy establishes certain limits which recognize the County's capital requirements, its ability to repay financial obligations, and the existing legal, economic, financial, and debt market conditions. Specifically, the Policy is intended to assist the County in the following:

1. Evaluating available debt issuance options;
2. Maintaining appropriate capital assets for present and future needs;
3. Promoting sound financial management through accurate and timely information on financial conditions;
4. Protecting and enhancing the County's credit rating(s); and
5. Safeguarding the legal use of the County's financing authority through an effective system of internal controls.

II. DEFINITIONS

A) Agencies - refer to legally separate organizations for which Clackamas County is financially accountable and has a significant role in their governance and management. Clackamas County currently has seven agencies: the Clackamas Development Agency, North Clackamas Parks & Recreation District (NCPRD), Library Service District of Clackamas County, Extension and 4-H Service District, Enhanced Law Enforcement District, Strict Lighting District, and Water Environment Services.

Water Environment Services (WES), a frequent debt issuer, has been delegated authority to adopt its own debt policy.

B) Arbitrage - refers to the difference between the interest paid on tax-exempt bonds and the interest earned by investing proceeds of tax-exempt bonds in higher-yielding taxable securities. Federal income tax laws generally restrict the ability to earn arbitrage in connection with tax-exempt bonds.

C) Bond Counsel - an attorney or law firm retained by the County to advise and prepare debt issuance and continuing disclosure documents. An important function of Bond Counsel is to provide an opinion regarding the tax-exempt status of a bond issue.

D) Continuing Disclosure – disclosure of material information provided to the marketplace by the County and Agencies after the initial issuance of municipal debt. Such disclosures include, but are not limited to, annual financial information, certain operating information and notices about specified events affecting the County or Agencies, the municipal debt itself or the project(s) financed.

E) Credit Enhancement - the use of the credit of an entity other than the County to provide additional security in a bond or note financing. This term typically is used in the context of bond insurance, bank letters of credit and credit programs offered by federal or state agencies.

F) Credit Rating - an opinion by a rating agency (e.g., Moody's Investors Service, and Standard & Poor's) on the creditworthiness of a bond issue.

G) EMMA (Electronic Municipal Market Access System) - an online source operated by the MSRB providing free access to municipal disclosures and educational materials about the municipal securities market. EMMA serves as the source for official statements and other primary market disclosure documents for new issues of municipal debt, as well as the official source for continuing disclosures on outstanding debt issues.

H) Finance Director - For the purpose of this Policy each reference to the "Finance Director" shall mean the County's Finance Director or their designee, which may include Agency staff.

I) Interfund Loans:

1) *Capital Loan* – a loan between County funds for the purpose of financing the design, acquisition, construction, installation, or improvement of real property.
2) *Operating Loan* – a loan between County funds for the purpose of paying operating expenses.

J) Municipal Advisor - a person or firm registered and regulated by the Securities and Exchange Commission and MSRB who provides advice to the County and its agencies with respect to the issuance of municipal debt, including advice regarding structure, timing, terms, the method of sale and other matters concerning such financial obligations. SEC regulations require that Municipal Advisors maintain a fiduciary duty to advise and act in the County's best interest.

K) Municipal Securities Rulemaking Board (MSRB) - a self-regulatory organization, consisting of representatives of securities firms, bank dealers, municipal advisors, issuers, investors and the public, that is charged with primary rulemaking authority over municipal securities dealers and municipal advisors. MSRB rules are approved by the Securities and Exchange Commission (SEC).

L) Official Statement - a document prepared on behalf of the County or Agency in connection with a primary debt offering that discloses material information. Official statements typically include information regarding the purposes of the issue, how the securities will be repaid, and the financial and economic characteristics of the issuer. This information is used by investors and other market participants to evaluate the credit quality and potential risks of the primary offering.

M) Refunding - a process whereby the County refinances outstanding bonds by issuing new bonds. The primary reason for refunding bonds is to reduce the County's interest costs. Other reasons include restructuring debt service payments, releasing restricted revenues, and easing administrative requirements.

N) Securities and Exchange Commission (SEC) - a federal agency responsible for supervising and regulating the securities industry. Although municipal securities are exempt from the SEC's registration requirements, Municipal Advisors and securities dealers are subject to SEC regulation and oversight.

O) Tax Certificate - a document executed by the County at the time of initial issuance of tax-exempt bonds certifying to various matters relating to compliance with federal income tax laws and regulations, including arbitrage rules.

P) Underwriter (or Investment Banker) - a municipal securities dealer that purchases a new issue of municipal debt from the County often for resale in the secondary market. The underwriter may acquire the securities either by negotiation with the County or by award based on competitive bidding.

III. POLICY GUIDELINES

The Finance Director is responsible for administering the County's debt programs, including the sale and management of debt, and monitoring ongoing federal and state regulatory compliance. The Finance Director may delegate debt management to individual Agencies.

The Finance Director has delegated authority to WES to adopt its own policy.

The Finance Department shall assume the lead role for all County debt issuance and management activities, unless otherwise delegated to County Agencies, and make recommendations to the Board of County Commissioners as necessary to accomplish County's debt financing objectives. The Finance Director may choose to delegate authority to another member of the Finance Department staff to lead the debt management process and assume the responsibilities as outlined in this policy.

Departments and Agencies are responsible for coordinating with the Finance Department in connection with any planned or active debt issuance to ensure compliance with the Debt Management Policy and other rules and regulations.

Long-term debt obligations will not be used to fund general operations of the County. The scope, requirements, demands of the County budget and financial plan, reserve levels, and the ability or need to expedite or maintain the programmed schedule of approved capital projects, will be considered when deciding to issue long-term debt. All borrowings must be authorized by the Board of County Commissioners.

Debt cannot be issued to fund capital projects unless such capital projects have been included in a budget and associated capital improvement plan (CIP). Inclusion in the CIP may occur as part of an action related to budget approval or budget adjustment approved by the Board of County Commissioners.

For debt-financed projects, the County shall consider making a cash contribution, "Pay-As-You-Go" funding, as a source of funds from either current resources or from outside cash funding sources (e.g., state or federal grants) to County projects. The target cash contribution shall be determined on a case-by-case basis for each given project; however, a minimum cash contribution must be made to cover project costs which cannot be capitalized and/or ineligible under the federal tax code on tax-exempt bonds.

At least every three years, the Finance Director shall review the County's Debt Management Policy and, if needed based on market, statutory or regulatory developments, recommend updates for approval. In addition, the Debt Management Policy may be updated at any time for any immediate needs (e.g., new regulations) subject to County approval.

Section VI describes the requirements and procedures of the County's Debt Management Policy and is organized under the following headings:

A. Type and Use of Debt
B. Federal, State or Other Loan Programs
C. Debt Refinancing
D. Debt Structure Considerations
E. Method of Sale
F. Investment of Bond Proceeds
G. Credit Ratings/Objectives
H. Bond Issuance Investor Relations
I. Post Issuance Tax and Arbitrage Rebate Compliance
J. Disclosure and Continuing Disclosure
K. Consultants and Advisors
L. Interfund Loans
M. Reporting Requirements

IV. PROCESS AND PROCEDURES

A. Type and Use of Debt

The County will issue debt as needed and as authorized by the Board of County Commissioners in a form related to the type of improvement to be financed.

1. General Obligation Bonds - General obligation (GO) bonds are authorized under ORS 287A, payable from a dedicated tax levy and subject to voter approval by the electorate of the County.

   General obligation bonds will be issued to finance capital projects that benefit the County as a whole.

2. Full Faith and Credit Obligations - Full Faith and Credit Obligations (FFC) authorized under ORS 287A are similar to General Obligation Bonds as the County is still required to use all legally available resources to meet debt service. However, FFC's do not include a pledge of an unlimited property tax, nor do they generate an additional property tax resource available to pay debt service. As such, they do not require voter approval, and are instead backed by the general revenue and taxing power of the County within the limits imposed by the Oregon Constitution, Article XI, Section 11.

   FFC's may be secured by a variety of pledges including property tax, gas tax and other resources of the County. FFC's are issued for projects such as transportation, public safety, facilities, equipment and other projects as authorized by the County Board of Commissioners.

3. Revenue Bonds - Revenue bonds issued under ORS 287A are payable from available revenues and will be used for County enterprise activities (e.g., Water Environment Services). Although other specific enterprise revenues can be used for debt service, no property taxes are pledged to the bonds.

   Revenue bonds are not subject to constitutional or statutory debt limits, the County's or County agency debt will not exceed legal or contractual limitations, such as rate covenants or additional bonds tests imposed by then-existing financing covenants. Revenue bonds are typically not subject to voter approval; however, they may be subject to referral.

4. Other Financing Tools - The County may utilize other financing long-term methods such as Certificates of Participation, Capital Leases secured by the property, urban renewal secured by tax increment revenues, or local improvement district financings secured by assessments.

   In each case, the Finance Director will consult with the County's Municipal Advisor and Bond Counsel on the feasibility of these capital financing instruments. This includes analyzing the effects on debt capacity, budget flexibility, cash flow sufficiency, cost of issuance, and other market factors. In all cases, any financing requires the approval of the Board of County Commissioners.

5. Variable Rate Obligations - The County will generally seek to obtain financing through fixed rate obligations. When appropriate, however, the County may choose to issue variable rate obligations. Such variable rate obligations may pay a rate of interest that varies according to a predetermined formula or a rate of interest that is based on a periodic remarketing of securities.
6. Short-Term Financing -The County may issue short-term notes (e.g., Tax Anticipation, Bond Anticipation, Revenue Anticipation and Grant Anticipation) when necessary and approved by the County Board of Commissioners. Anticipation notes are secured by a revenue pledge of taxes committed, but not yet collected, anticipated bond proceeds, project revenues and anticipated grant resources. Prior to selling Revenue and Grant anticipation notes the County must identify a secondary source of repayment for the notes if expected project revenue/grant funding does not occur.

B. Federal, State, or Other Loan Programs

To the extent it benefits the County, the County may participate in federal, state, or other loan programs that are secured by any of the sources identified above. The Finance Director shall evaluate the requirements of these programs to determine if the County is well served by employing them and make recommendations to the County Administrator and Board of County Commissioners.

For purposes of this Policy, the County shall treat and report these commitments in a manner consistent with other County debt obligations. To the extent required by the loans or other outstanding debt agreements, the County shall include the financial requirements of these commitments when determining additional bonds tests, coverage requirements, debt limitations, continuing disclosure requirements and any other conditions imposed by the County's outstanding obligations.

C. Debt Refinancing

Refunding obligations may be issued to retire all or a portion of an outstanding debt issue. Economic refundings may refinance high-coupon debt at lower interest rates to achieve debt service savings. Alternatively, the County may conduct a refunding for reasons other than cost savings, such as to restructure debt service payments, to change the type of debt instruments, to release restricted revenues, to ease administrative requirements, or to remove undesirable covenants.

The Finance Department and Municipal Advisor will monitor refunding opportunities for all outstanding debt obligations on a periodic basis applying established criteria in determining when to issue refunding debt and bring forth the recommended opportunities with appropriate Board of County Commissioners actions and related documentation.

For coordination purposes, notification should be made to the County Treasurer as soon as the County decides to move forward with a debt refinancing.

D. Debt Structure Considerations

1. Maturity of Debt - The final maturity of the debt shall not exceed, and preferably be less than, the remaining average useful life of the assets being financed, and to comply with Federal tax regulations, the average life of a financing shall not exceed 120% of the average life of the assets being financed.

2. Debt Service Structure - In consultation with the Municipal Advisor debt service payments for new money issues will be structured according to the type of debt issuance (e.g., general obligation vs. revenue bonds), revenue sources and anticipated revenue collections. The Finance Director will recommend debt service repayment plans based on overall affordability with the goal of repaying the debt as quickly as feasible.

3. Lien Structure - Senior and subordinate liens may be used to maximize the most critical constraint, either cost or capacity, thus allowing for the most beneficial leverage of revenues.

4. Capitalized Interest —– Excluding business-like activities, the County may elect to fund capitalized interest in connection with the construction of certain projects if revenue from such projects or from other identified sources is not initially available to pay debt service on related debt. Additionally, the County may consider funding capitalized interest if such a strategy will minimize the financial impact to of such borrowing on County rate or taxpayers.

5. Reserve Funds - A reserve fund for a debt issuance may be required for credit rating or marketing reasons. If required, such reserve fund can be funded with:

   a. The proceeds of a debt issue;
   b. The reserves of the County; or,
   c. A surety policy.

   A cash reserve fund will be invested pursuant to the investment restrictions associated with the respective financing documents and the County's investment policy. For each debt issue, the Finance Director will evaluate whether a reserve fund is necessary for credit rating or marketing purposes and the benefits of funding or maintaining the reserve requirement with cash or a surety policy, in addition to determining the benefits of borrowing the necessary funds or using cash reserves. This evaluation will be done in consultation with finance staff, Treasurer's Office and in consideration of the chart of accounts structure.

6. Redemption Provisions - In general, the County will seek the right to optionally redeem debt at par as specified in the bond issuance documents no later than ten years after issuance. Redemption provisions will be established on a case-by-case basis, taking into consideration market conditions and the results of a call option analysis prior to the time of sale. Because the issuance of non-callable debt may restrict future financial flexibility, cost will not be the sole determinant in the decision to issue non-callable debt.

7. Credit Enhancement - Credit enhancement (e.g., bond insurance or letters of credit) on County financings will only be used when net debt service is reduced by more than the cost of the enhancement. The County will evaluate the availability and cost/benefit of credit enhanced debt versus unenhanced debt prior to issuing any debt.

E. Method of Sale

The County will select a method of sale that is the most appropriate when considering the financial market, transaction-specific and County-specific conditions, and advantages. There are three basic methods of sale: Competitive Sale, Negotiated Sale, and Direct Placement. Each type of debt sale has the potential to provide the lowest cost or satisfy other priorities given the right conditions.

In consultation with the Municipal Advisor, the Finance Director will select the most appropriate method of sale considering the prevailing financial market and transaction-specific conditions. If a negotiated sale is expected to provide overall benefits, the senior managing underwriters and co-managers shall be selected through the process described in Section K.4.

F. Investment of Bond Proceeds

The County Treasurer is responsible for investing bond proceeds in accordance with legal requirements and the County's Investment Policy.

For each debt issuance the Finance or Agency staff will provide the County Treasurer with cash flow/projection spreadsheet(s), as known, so the County Treasurer can maximize the return on the investment of the bond proceeds.

G. Credit Ratings/Objectives

The County's objective is to maintain an excellent credit rating (or ratings) considering the County's financial condition as a way of balancing financing costs and cash flow. The Finance Director shall be responsible for managing the County's credit rating agencies relationship. This effort shall include providing the rating agencies with the County's annual budget, financial statements, and other information they may request. Full disclosure of operations will be made to the credit rating agencies.

The Finance Director shall also coordinate periodic meetings with the rating agencies and communicate with them prior to each debt issuance. The County will evaluate the benefits of a higher rating at lower debt cost versus a lower rating that provides more debt capacity and flexibility.

H. Bond Issuance Investor Relations

The Finance Director shall be responsible for managing relationships with bond issue related investors. The Finance Director will also be responsible for responding to inquiries from institutional and retail investors related to bonds, and for proactively communicating with such bond issue related investors if necessary. Such communication shall be made only as permitted under applicable federal securities laws, in consultation with the County's bond counsel. Nothing in this section of this policy should be construed to supersede the County's investment policy managed by the County Treasurer as outlined in section F (above).

I. Post Issuance Tax and Arbitrage Rebate Compliance

The County will comply with all financing covenants to maintain the validity of the issuance of debt, including, but not limited to tax-exemption, arbitrage rebate compliance, insurance provisions, reporting and monitoring requirements. Any instance of noncompliance will be reported to the Board of County Commissioners.

1. External Advisors and Documentation - The County shall consult with bond counsel, County Counsel, County Treasurer, and advisors, as needed, throughout the debt issuance process to identify requirements and to establish procedures necessary or appropriate so that the bonds or other obligations will continue to qualify for tax-exempt status, if applicable.

Those requirements and procedures shall be documented in the tax certificate and agreement ("Tax Certificate") and/or other documents finalized at or before issuance of the bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and certain other applicable post-issuance requirements of federal tax law throughout (and, in some cases, beyond) the term of the bonds. This shall include, without limitation, consultation in connection with any potential changes in use of bond-financed or refinanced assets.

The County may engage expert advisors to assist in the calculation of arbitrage rebate payable in respect of the investment of bond proceeds, unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of bonds.

Unless otherwise provided by the transaction documentation relating to the bonds, unexpended bond proceeds shall be segregated from other funds of the County.

2. Investment Documentation - The investment of bond proceeds shall be managed by the County Treasurer (as outlined in section F). The County Treasurer shall prepare (or cause to be prepared) periodic statements regarding the investments and transactions involving bond proceeds. Finance should work with the County Treasurer before the issuance of any bonds to discuss and mutually agree on the frequency and information needed involving the bond proceeds.

3. Arbitrage Rebate and Yield - Unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of bonds, the Finance Director or Treasurer, shall be responsible for:

   a. Either (1) engaging the services of a rebate service provider and, prior to each rebate calculation date, causing the County Treasurer[1] and the County's selected Trustee[2] to deliver periodic statements concerning the investment of bond proceeds to the rebate service provider, or (2) undertaking rebate calculations themselves and retaining and obtaining periodic statements concerning the investment of bond proceeds[3];

   b. Providing to the rebate service provider additional documents and information reasonably requested;

[1] See Section I(2) for more information.
[2] See Section K(6) for more information.
[3] See Section I(2) for more information.

c. Monitoring efforts of the rebate service provider;

d. Assuring payment of required rebate amounts, if any, no later than 60 days after each five-year anniversary of the issue date of the bonds, and no later than 60 days after the last bond of each issue is redeemed;

e. During the construction period of each capital project financed in whole or in part by bonds, monitoring the investment and expenditure of bond proceeds and consulting with the rebate service provider to determine compliance with any exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months, or two years, as applicable, following the issue date of the bonds; and

f. Retaining copies of all arbitrage reports, investment records and trustee statements.

4. Use of Bond Proceeds and Bond-Financed or Refinanced Assets

The Finance Director shall be responsible for:

a. Monitoring the use of bond proceeds including investment earnings in coordination with the County Treasurer, reimbursement of expenditures made before bond issuance, and the use of the financed asset throughout the term of the bonds. This is to ensure compliance with covenants and restrictions set forth in the Tax Certificate relating to the bonds;

b. Maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of bonds (including investment earnings and reimbursement of expenditures made before bond issuance), including a final allocation of the bond proceeds documented on or before the later of 18 months after an expenditure is paid or the related project is placed in service, and in any event before the fifth anniversary of the bond issuance;

c. Consulting with bond counsel, other legal counsel, and other advisors in the review of any change in use or transfer of bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate relating to the bonds;

d. To the extent the County discovers that any applicable tax restrictions regarding use of bond proceeds and bond-financed or refinanced assets will or may be violated, consulting promptly with bond counsel, other legal counsel, and other advisors to determine a course of action to preserve the tax-exempt status of the bonds (if applicable).

J. Disclosure and Continuing Disclosure

The County is required to provide disclosure, generally in the form of an official statement, relating to each public offering of debt. The County is responsible for providing complete and accurate information to be included in the official statement and is responsible for the overall content of the document, although it may rely on an external party (e.g., bond counsel or disclosure counsel) to assist in the creation of the document.

1. Primary Disclosure Policies - The Finance Director is responsible for information requests relating to official statements to be used in the initial offering of the County's borrowings. The Finance Director will request information required for disclosure to investors and rating agencies from relevant departments and will sign a statement attesting to the accuracy and completeness of the information therein. The Board of County Commissioners will be provided with a copy of the official statement for each issue of debt.
2. Continuing Disclosure Policies - Under Rule 15c2-12 of the Securities and Exchange Commission, adopted under the Securities Exchange Act of 1934, the County is required to enter a contract to provide "secondary market disclosure" relating to each publicly offered bond issue (referred to as an "undertaking"). The Finance Director shall review any proposed undertaking to provide secondary market disclosure and negotiate any commitments therein.

   Additionally, bonds sold via the direct placement method may have specific disclosure requirements required by the purchaser.

   Internal procedures shall be developed that identify the information that is obligated to be submitted in an annual filing, the dates on which filings are to be made, list the events required to be disclosed, and identify the person responsible for making the filings.

   The Annual Report may fulfill annual financial information filing obligations. The information provided in the Annual Report does not have to be replicated when filing with the Electronic Municipal Market Access (EMMA) portal. If the County agrees to furnish information that is outside the scope of the Annual Report, that information may be included as a supplement Annual Report when filing with EMMA. On its completion, the Annual Report should be immediately submitted to EMMA.

   Each time the County issues new bonds, the Finance Director (in consultation with bond counsel and the municipal advisor) will review the County's compliance with prior continuing disclosure undertakings and make any necessary corrective filings.

In addition to continuing disclosure undertakings associated with public bond offerings as required by SEC Rule 15c2-12, the County may also be subject to ongoing reporting requirements associated with other debt obligations, such as bank loans.

K. Consultants and Advisors

1. Municipal Advisor - The County will retain an independent registered municipal advisor (MA) through a process administered by the Finance Director consistent with the rules adopted by the County’s Local Contract Review Board (LCRB). Selection of the County’s MA should be based on the following:

   a. Experience in providing consulting services to issuers similar to the County;
   b. Ability to meet all regulatory requirements;
   c. Knowledge and experience in structuring and analyzing large complex debt issues;
   d. Ability to conduct competitive selection processes to obtain related financial services (including underwriters and other service providers);
   e. Experience and reputation of assigned personnel; and
   f. Fees and expenses.

   The County expects that its MA will provide objective advice and analysis, maintain confidentiality of County financial plans, and fully disclose any potential conflicts of interest.

2. Bond Counsel - For all debt issues, the County will engage and retain an external bond counsel through a process administered by the Finance Director and County Counsel consistent with the rules adopted by the County’s LCRB.

   Where required by the lender and/or bond investors, debt issued by the County will include a written opinion by bond counsel affirming that the County is legally authorized to issue the debt, stating that the County has met all state constitutional and statutory requirements necessary for issuance, and determining the debt’s federal income tax status. Bond Counsel may also draft the Official Statement in lieu of having a separate disclosure counsel.

3. Disclosure Counsel - The County may engage and retain, when appropriate, Disclosure Counsel through a process administered by the Finance Director and County Counsel consistent with the rules adopted by the County’s LCRB, to prepare official statements for debt issues. Disclosure Counsel will be responsible for providing that the official statement complies with all applicable rules, regulations, and guidelines and be a firm with extensive experience in public finance.

4. Underwriters - For negotiated sales, underwriters will be required to demonstrate sufficient capitalization and experience related to the debt issuance in question. The Finance Director, in consultation with the Municipal Advisor, will establish a pool of qualified underwriters through a process consistent with the rules adopted by the County's LCRB and may designate one or more firms as eligible to be senior managers and one or more firms as eligible to be co-managers. Criteria to be used in the appointment of qualified underwriters will include:

   a. Quality and applicability of financing ideas;
   b. Demonstrated ability to manage the type of financial transaction in question;
   c. Demonstrated ability to structure debt issues efficiently and effectively;
   d. Demonstrated ability to sell debt across a wide span of investors;
   e. Demonstrated willingness to put capital at risk;
   f. Experience and reputation of assigned personnel;
   g. Past performance and references; and
   h. Fees and expenses.

5. Debt Issued Through Commercial Banks - The Finance Director, in consultation with the Municipal Advisor may solicit proposals from commercial banks to provide lines of credit, letters of credit, direct bank placements, and other credit facilities, as needed.

   A bank or pool of banks will be selected through a process administered by the Finance Director consistent with the rules adopted by the County's LCRB.

   Selection of such providers will be based upon the proposed financial terms deemed most advantageous to the County, including, but not limited to lowest interest cost, prepayment flexibility, terms and structure, and fees.

6. Trustee and Paying Agent Services - The County Treasurer will recommend the use and selection of the Trustee and Paying Agent services as needed, based on a competitive solicitation or other list of qualified financial institutions maintained by the Treasurer and allowed by Oregon Revised Statutes.

L. Interfund Loans

An interfund loan is a transfer between funds for an approved amount and a plan of repayment during a specified period of time. Interfund loans are subject to the requirements of ORS 294.468 and designed to provide financing resources to address cash flow needs of the County.

Interfund loans can be of two types:

1. Capital Loan: a loan between County funds for the purpose of the design, acquisition, construction, installation, or improvement of real property.

2. Operating Loan: a loan between County funds for the purpose of paying operating expenses.

Interfund loan requests must be reviewed and approved by the Finance Director prior to a request for authorization by Board of County Commissioners. They are subject to the following requirements, including compliance with ORS 294.468:

a. Loans will only be authorized after it has been demonstrated that reasonable consideration was given to other potential resources available to the department/fund requesting the loan.

b. Interfund loans must be authorized by Board Resolution, stating the fund from which the loan is made, the destination fund, the purpose of the loan, the principal amount of the loan, the interest rate at which the loan shall be repaid, and a schedule for repayment of principal and interest.

c. The interest rate on Capital and Operating Loans shall be set at the stated rate of interest paid by Oregon Local Government Investment Pool as reported by the County Treasurer at the time the loans are approved by the Board of County Commissioners, plus two percent (2% APR).

d. Interfund loans cannot not be made from debt service reserve funds, or any other funds restricted by law, constitutional provisions, bond covenants, grantor requirements or other County restrictions.

e. Capital Loans cannot not exceed 10 years.

f. Operating Loans cannot extend beyond end of the subsequent fiscal year.

g. Interfund loans may be repaid in advance without any additional accrual of interest or other penalties.

h. Performance of each interfund loan shall be monitored on an annual basis jointly between the County Finance Department and the department responsible for the fund receiving the loan.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

A Resolution Adopting a Debt Management Policy } Resolution No. __________

M. Reporting Requirements

The Finance Director will report to the Board of County Commissioners on an annual basis the following information:

a. A summary of outstanding debt obligations to include the series name, original amount of issuance, outstanding principal amount, issue date, maturity dates, interest rates, and annual debt service;
b. The amount of the net variable rate obligation and percentage as compared to outstanding debt, if applicable;
c. Other considerations if applicable, including (but not limited to): refunding opportunities, performance of variable rate obligations, and/or proposed new debt issuances.

DATED this

BOARD OF COUNTY COMMISSIONERS

____
Chair

____

Recording Secretary

☐ Administrative Policy
☐ Operational Policy

Clackamas County Policy

Name of Policy	Debt Management Policy	Policy #	FIN-1.102
Policy Owner Name	Elizabeth Comfort	Effective Date	
Policy Owner Position	Finance Director	Approved Date	
Approved By		Last Review Date	
Signature		Next Review Date	

I. PURPOSE

This policy provides guidance on the issuance, structure, and management of the County and its agencies' long- and short-term debt. This policy reflects debt management best practices as recommended by the Government Finance Officers Association (GFOA).

II. AUTHORITY

This policy is adopted through BCC Resolution _____ dated July 21, 2022 and supersedes the previous policy adopted by BCC Board Order 96-689 dated November 7, 1996.

GENERAL POLICY

The County and its Agencies (County) shall undertake and maintain all long- and short-term debt financings in compliance with applicable Federal law, the Oregon Constitution, Oregon Revised Statutes (ORS), and Oregon Administrative Rules (OAR). The County will further comply with Security and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB) rules regarding ongoing disclosure, and oversight of participants in the municipal debt market including advisors and securities dealers. Finally, the County will comply with IRS regulations for tax-exempt and tax-advantaged debt issuance.

The Debt Management Policy sets forth the practices for debt issuance and the management of outstanding debt. The Policy establishes certain limits which recognize the County's capital requirements, its ability to repay financial obligations, and the existing legal, economic, financial, and debt market conditions. Specifically, the Policy is intended to assist the County in the following:

1. Evaluating available debt issuance options;
2. Maintaining appropriate capital assets for present and future needs;
3. Promoting sound financial management through accurate and timely information on financial conditions;
4. Protecting and enhancing the County's credit rating(s); and
5. Safeguarding the legal use of the County's financing authority through an effective system of internal controls.

III. DEFINITIONS

A) Agencies - refer to legally separate organizations for which Clackamas County is financially accountable and has a significant role in their governance and management. Clackamas County currently has seven agencies: the Clackamas Development Agency, North Clackamas Parks & Recreation District (NCPRD), Library Service District of Clackamas County, Extension and 4-H Service District, Enhanced Law Enforcement District, Strict Lighting District, and Water Environment Services.

Water Environment Services (WES), a frequent debt issuer, has been delegated authority to adopt its own debt policy.

B) Arbitrage - refers to the difference between the interest paid on tax-exempt bonds and the interest earned by investing proceeds of tax-exempt bonds in higher-yielding taxable securities. Federal income tax laws generally restrict the ability to earn arbitrage in connection with tax-exempt bonds.

C) Bond Counsel - an attorney or law firm retained by the County to advise and prepare debt issuance and continuing disclosure documents. An important function of Bond Counsel is to provide an opinion regarding the tax-exempt status of a bond issue.

D) Continuing Disclosure – disclosure of material information provided to the marketplace by the County and Agencies after the initial issuance of municipal debt. Such disclosures include, but are not limited to, annual financial information, certain operating information and notices about specified events affecting the County or Agencies, the municipal debt itself or the project(s) financed.

E) Credit Enhancement - the use of the credit of an entity other than the County to provide additional security in a bond or note financing. This term typically is used in the context of bond insurance, bank letters of credit and credit programs offered by federal or state agencies.

F) Credit Rating - an opinion by a rating agency (e.g., Moody's Investors Service, and Standard & Poor's) on the creditworthiness of a bond issue.

G) EMMA (Electronic Municipal Market Access System) - an online source operated by the MSRB providing free access to municipal disclosures and educational materials about the municipal securities market. EMMA serves as the source for official statements and other primary market disclosure documents for new issues of municipal debt, as well as the official source for continuing disclosures on outstanding debt issues.

H) Finance Director - For the purpose of this Policy each reference to the "Finance Director" shall mean the County's Finance Director or their designee, which may include Agency staff.

I) Interfund Loans:

1) *Capital Loan* – a loan between County funds for the purpose of financing the design, acquisition, construction, installation, or improvement of real property.
2) *Operating Loan* – a loan between County funds for the purpose of paying operating expenses.

J) Municipal Advisor - a person or firm registered and regulated by the Securities and Exchange Commission and MSRB who provides advice to the County and its agencies with respect to the issuance of municipal debt, including advice regarding structure, timing, terms, the method of sale and other matters concerning such financial obligations. SEC regulations require that Municipal Advisors maintain a fiduciary duty to advise and act in the County's best interest.

K) Municipal Securities Rulemaking Board (MSRB) - a self-regulatory organization, consisting of representatives of securities firms, bank dealers, municipal advisors, issuers, investors and the public, that is charged with primary rulemaking authority over municipal securities dealers and municipal advisors. MSRB rules are approved by the Securities and Exchange Commission (SEC).

L) Official Statement - a document prepared on behalf of the County or Agency in connection with a primary debt offering that discloses material information. Official statements typically include information regarding the purposes of the issue, how the securities will be repaid, and the financial and economic characteristics of the issuer. This information is used by investors and other market participants to evaluate the credit quality and potential risks of the primary offering.

M) Refunding - a process whereby the County refinances outstanding bonds by issuing new bonds. The primary reason for refunding bonds is to reduce the County's interest costs. Other reasons include restructuring debt service payments, releasing restricted revenues, and easing administrative requirements.

N) Securities and Exchange Commission (SEC) - a federal agency responsible for supervising and regulating the securities industry. Although municipal securities are exempt from the SEC's registration requirements, Municipal Advisors and securities dealers are subject to SEC regulation and oversight.

O) Tax Certificate - a document executed by the County at the time of initial issuance of tax-exempt bonds certifying to various matters relating to compliance with federal income tax laws and regulations, including arbitrage rules.

P) Underwriter (or Investment Banker) - a municipal securities dealer that purchases a new issue of municipal debt from the County often for resale in the secondary market. The underwriter may acquire the securities either by negotiation with the County or by award based on competitive bidding.

IV. POLICY GUIDELINES

The Finance Director is responsible for administering the County's debt programs, including the sale and management of debt, and monitoring ongoing federal and state regulatory compliance. The Finance Director may delegate debt management to individual Agencies.

The Finance Director has delegated authority to WES to adopt its own policy.

The Finance Department shall assume the lead role for all County debt issuance and management activities, unless otherwise delegated to County Agencies, and make recommendations to the Board of County Commissioners as necessary to accomplish County's debt financing objectives. The Finance Director may choose to delegate authority to another member of the Finance Department staff to lead the debt management process and assume the responsibilities as outlined in this policy.

Departments and Agencies are responsible for coordinating with the Finance Department in connection with any planned or active debt issuance to ensure compliance with the Debt Management Policy and other rules and regulations.

Long-term debt obligations will not be used to fund general operations of the County. The scope, requirements, demands of the County budget and financial plan, reserve levels, and the ability or need to expedite or maintain the programmed schedule of approved capital projects, will be considered when deciding to issue long-term debt. All borrowings must be authorized by the Board of County Commissioners.

Debt cannot be issued to fund capital projects unless such capital projects have been included in a budget and associated capital improvement plan (CIP). Inclusion in the CIP may occur as part of an action related to budget approval or budget adjustment approved by the Board of County Commissioners.

For debt-financed projects, the County shall consider making a cash contribution, "Pay-As-You-Go" funding, as a source of funds from either current resources or from outside cash funding sources (e.g., state or federal grants) to County projects. The target cash contribution shall be determined on a case-by-case basis for each given project; however, a minimum cash contribution must be made to cover project costs which cannot be capitalized and/or ineligible under the federal tax code on tax-exempt bonds.

Agencies shall consider making cash contributions, "Pay-As-You-Go" funding, to their respective projects from their resources or outside funding sources (e.g. state or federal grants). Agency dollars have a restricted purpose that cannot be distributed to the County for projects, unless there is a direct correlation to the Agency's purpose(s).

At least every three years, the Finance Director shall review the County's Debt Management Policy and, if needed based on market, statutory or regulatory developments, recommend updates for approval. In addition, the Debt Management Policy may be updated at any time for any immediate needs (e.g., new regulations) subject to County approval.

Section VI describes the requirements and procedures of the County's Debt Management Policy and is organized under the following headings:

A. Type and Use of Debt
B. Federal, State or Other Loan Programs
C. Debt Refinancing
D. Debt Structure Considerations
E. Method of Sale
F. Investment of Bond Proceeds
G. Credit Ratings/Objectives
H. Bond Issuance Investor Relations
I. Post Issuance Tax and Arbitrage Rebate Compliance
J. Disclosure and Continuing Disclosure
K. Consultants and Advisors
L. Interfund Loans
M. Reporting Requirements

V. PROCESS AND PROCEDURES

A. Type and Use of Debt

The County will issue debt as needed and as authorized by the Board of County Commissioners in a form related to the type of improvement to be financed.

1. General Obligation Bonds - General obligation (GO) bonds are authorized under ORS 287A, payable from a dedicated tax levy and subject to voter approval by the electorate of the County.

   General obligation bonds will be issued to finance capital projects that benefit the County as a whole.

2. Full Faith and Credit Obligations - Full Faith and Credit Obligations (FFC) authorized under ORS 287A are similar to General Obligation Bonds as the County is still required to use all legally available resources to meet debt service. However, FFC's do not include a pledge of an unlimited property

tax, nor do they generate an additional property tax resource available to pay debt service. As such, they do not require voter approval, and are instead backed by the general revenue and taxing power of the County within the limits imposed by the Oregon Constitution, Article XI, Section 11.

FFC's may be secured by a variety of pledges including property tax, gas tax and other resources of the County. FFC's are issued for projects such as transportation, public safety, facilities, equipment and other projects as authorized by the County Board of Commissioners.

3. Revenue Bonds - Revenue bonds issued under ORS 287A are payable from available revenues and will be used for County enterprise activities (e.g., Water Environment Services). Although other specific enterprise revenues can be used for debt service, no property taxes are pledged to the bonds.

   Revenue bonds are not subject to constitutional or statutory debt limits, the County's or County agency debt will not exceed legal or contractual limitations, such as rate covenants or additional bonds tests imposed by then-existing financing covenants. Revenue bonds are typically not subject to voter approval; however, they may be subject to referral.

4. Other Financing Tools - The County may utilize other financing long-term methods such as Certificates of Participation, Capital Leases secured by the property, urban renewal secured by tax increment revenues, or local improvement district financings secured by assessments.

   In each case, the Finance Director will consult with the County's Municipal Advisor and Bond Counsel on the feasibility of these capital financing instruments. This includes analyzing the effects on debt capacity, budget flexibility, cash flow sufficiency, cost of issuance, and other market factors. In all cases, any financing requires the approval of the Board of County Commissioners.

5. Variable Rate Obligations - The County will generally seek to obtain financing through fixed rate obligations. When appropriate, however, the County may choose to issue variable rate obligations. Such variable rate obligations may pay a rate of interest that varies according to a predetermined formula or a rate of interest that is based on a periodic remarketing of securities.

6. Short-Term Financing - The County may issue short-term notes (e.g., Tax Anticipation, Bond Anticipation, Revenue Anticipation and Grant Anticipation) when necessary and approved by the County Board of Commissioners. Anticipation notes are secured by a revenue pledge of taxes committed, but not yet collected, anticipated bond proceeds, project revenues and anticipated grant resources. Prior to selling Revenue and

Grant anticipation notes the County must identify a secondary source of repayment for the notes if expected project revenue/grant funding does not occur.

B. <u>Federal, State, or Other Loan Programs</u>

To the extent it benefits the County, the County may participate in federal, state, or other loan programs that are secured by any of the sources identified above. The Finance Director shall evaluate the requirements of these programs to determine if the County is well served by employing them and make recommendations to the County Administrator and Board of County Commissioners.

For purposes of this Policy, the County shall treat and report these commitments in a manner consistent with other County debt obligations. To the extent required by the loans or other outstanding debt agreements, the County shall include the financial requirements of these commitments when determining additional bonds tests, coverage requirements, debt limitations, continuing disclosure requirements and any other conditions imposed by the County's outstanding obligations.

C. <u>Debt Refinancing</u>

Refunding obligations may be issued to retire all or a portion of an outstanding debt issue. Economic refunding may refinance high-coupon debt at lower interest rates to achieve debt service savings. Alternatively, the County may conduct a refunding for reasons other than cost savings, such as to restructure debt service payments, to change the type of debt instruments, to release restricted revenues, to ease administrative requirements, or to remove undesirable covenants.

The Finance Department and Municipal Advisor will monitor refunding opportunities for all outstanding debt obligations on a periodic basis applying established criteria in determining when to issue refunding debt and bring forth the recommended opportunities with appropriate Board of County Commissioners actions and related documentation.

For coordination purposes, notification should be made to the County Treasurer as soon as the County decides to move forward with a debt refinancing.

D. <u>Debt Structure Considerations</u>

1. <u>Maturity of Debt</u> - The final maturity of the debt shall not exceed, and preferably be less than, the remaining average useful life of the assets being financed, and to comply with Federal tax regulations, the average life of a financing shall not exceed 120% of the average life of the assets being financed.

2. Debt Service Structure - In consultation with the Municipal Advisor debt service payments for new money issues will be structured according to the type of debt issuance (e.g., general obligation vs. revenue bonds), revenue sources and anticipated revenue collections. The Finance Director will recommend debt service repayment plans based on overall affordability with the goal of repaying the debt as quickly as feasible.

3. Lien Structure - Senior and subordinate liens may be used to maximize the most critical constraint, either cost or capacity, thus allowing for the most beneficial leverage of revenues.

4. Capitalized Interest –– Excluding business-like activities, the County may elect to fund capitalized interest in connection with the construction of certain projects if revenue from such projects or from other identified sources is not initially available to pay debt service on related debt. Additionally, the County may consider funding capitalized interest if such a strategy will minimize the financial impact to of such borrowing on County rate or taxpayers.

5. Reserve Funds - A reserve fund for a debt issuance may be required for credit rating or marketing reasons. If required, such reserve fund can be funded with:

    a. The proceeds of a debt issue;
    b. The reserves of the County; or,
    c. A surety policy.

    A cash reserve fund will be invested pursuant to the investment restrictions associated with the respective financing documents and the County's investment policy. For each debt issue, the Finance Director will evaluate whether a reserve fund is necessary for credit rating or marketing purposes and the benefits of funding or maintaining the reserve requirement with cash or a surety policy, in addition to determining the benefits of borrowing the necessary funds or using cash reserves. This evaluation will be done in consultation with finance staff, Treasurer's Office and in consideration of the chart of accounts structure.

6. Redemption Provisions - In general, the County will seek the right to optionally redeem debt at par as specified in the bond issuance documents no later than ten years after issuance. Redemption provisions will be established on a case-by-case basis, taking into consideration market conditions and the results of a call option analysis prior to the time of sale. Because the issuance of non-callable debt may restrict future financial

flexibility, cost will not be the sole determinant in the decision to issue non-callable debt.

7. Credit Enhancement - Credit enhancement (e.g., bond insurance or letters of credit) on County financings will only be used when net debt service is reduced by more than the cost of the enhancement. The County will evaluate the availability and cost/benefit of credit enhanced debt versus unenhanced debt prior to issuing any debt.

E. Method of Sale

The County will select a method of sale that is the most appropriate when considering the financial market, transaction-specific and County-specific conditions, and advantages. There are three basic methods of sale: Competitive Sale, Negotiated Sale, and Direct Placement. Each type of debt sale has the potential to provide the lowest cost or satisfy other priorities given the right conditions.

In consultation with the Municipal Advisor, the Finance Director will select the most appropriate method of sale considering the prevailing financial market and transaction-specific conditions. If a negotiated sale is expected to provide overall benefits, the senior managing underwriters and co-managers shall be selected through the process described in Section K.4.

F. Investment of Bond Proceeds

The County Treasurer is responsible for investing bond proceeds in accordance with legal requirements and the County's Investment Policy.

For each debt issuance the Finance or Agency staff will provide the County Treasurer with cash flow/projection spreadsheet(s), as known, so the County Treasurer can maximize the return on the investment of the bond proceeds.

G. Credit Ratings/Objectives

The County's objective is to maintain an excellent credit rating (or ratings) considering the County's financial condition as a way of balancing financing costs and cash flow. The Finance Director shall be responsible for managing the County's credit rating agencies relationship. This effort shall include providing the rating agencies with the County's annual budget, financial statements, and other information they may request. Full disclosure of operations will be made to the credit rating agencies.

The Finance Director shall also coordinate periodic meetings with the rating agencies and communicate with them prior to each debt issuance. The County will evaluate the benefits of a higher rating at lower debt cost versus a lower rating that provides more debt capacity and flexibility.

H. <u>Bond Issuance Investor Relations</u>

The Finance Director shall be responsible for managing relationships with bond issue related investors. The Finance Director will also be responsible for responding to inquiries from institutional and retail investors related to bonds, and for proactively communicating with such bond issue related investors if necessary. Such communication shall be made only as permitted under applicable federal securities laws, in consultation with the County's bond counsel. Nothing in this section of this policy should be construed to supersede the County's investment policy managed by the County Treasurer as outlined in section F (above).

I. <u>Post Issuance Tax and Arbitrage Rebate Compliance</u>

The County will comply with all financing covenants to maintain the validity of the issuance of debt, including, but not limited to tax-exemption, arbitrage rebate compliance, insurance provisions, reporting and monitoring requirements. Any instance of noncompliance will be reported to the Board of County Commissioners.

1. <u>External Advisors and Documentation</u> - The County shall consult with bond counsel, County Counsel, County Treasurer, and advisors, as needed, throughout the debt issuance process to identify requirements and to establish procedures necessary or appropriate so that the bonds or other obligations will continue to qualify for tax-exempt status, if applicable.

   Those requirements and procedures shall be documented in the tax certificate and agreement ("Tax Certificate") and/or other documents finalized at or before issuance of the bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and certain other applicable post-issuance requirements of federal tax law throughout (and, in some cases, beyond) the term of the bonds. This shall include, without limitation, consultation in connection with any potential changes in use of bond-financed or refinanced assets.

   The County may engage expert advisors to assist in the calculation of arbitrage rebate payable in respect of the investment of bond proceeds, unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of bonds.

   Unless otherwise provided by the transaction documentation relating to the bonds, unexpended bond proceeds shall be segregated from other funds of the County.

2. Investment Documentation - The investment of bond proceeds shall be managed by the County Treasurer (as outlined in section F). The County Treasurer shall prepare (or cause to be prepared) periodic statements regarding the investments and transactions involving bond proceeds. Finance should work with the County Treasurer before the issuance of any bonds to discuss and mutually agree on the frequency and information needed involving the bond proceeds.

3. Arbitrage Rebate and Yield - Unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of bonds, the Finance Director or Treasurer, shall be responsible for:

   a. Either (1) engaging the services of a rebate service provider and, prior to each rebate calculation date, causing the County Treasurer[1] and the County's selected Trustee[2] to deliver periodic statements concerning the investment of bond proceeds to the rebate service provider, or (2) undertaking rebate calculations themselves and retaining and obtaining periodic statements concerning the investment of bond proceeds[3];

   b. Providing to the rebate service provider additional documents and information reasonably requested;

   c. Monitoring efforts of the rebate service provider;

   d. Assuring payment of required rebate amounts, if any, no later than 60 days after each five-year anniversary of the issue date of the bonds, and no later than 60 days after the last bond of each issue is redeemed;

   e. During the construction period of each capital project financed in whole or in part by bonds, monitoring the investment and expenditure of bond proceeds and consulting with the rebate service provider to determine compliance with any exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months, or two years, as applicable, following the issue date of the bonds; and

   f. Retaining copies of all arbitrage reports, investment records and trustee statements.

4. Use of Bond Proceeds and Bond-Financed or Refinanced Assets

   The Finance Director shall be responsible for:

[1] See Section I(2) for more information.
[2] See Section K(6) for more information.
[3] See Section I(2) for more information.

a. Monitoring the use of bond proceeds including investment earnings in coordination with the County Treasurer, reimbursement of expenditures made before bond issuance, and the use of the financed asset throughout the term of the bonds. This is to ensure compliance with covenants and restrictions set forth in the Tax Certificate relating to the bonds;

b. Maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of bonds (including investment earnings and reimbursement of expenditures made before bond issuance), including a final allocation of the bond proceeds documented on or before the later of 18 months after an expenditure is paid or the related project is placed in service, and in any event before the fifth anniversary of the bond issuance;

c. Consulting with bond counsel, other legal counsel, and other advisors in the review of any change in use or transfer of bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate relating to the bonds;

d. To the extent the County discovers that any applicable tax restrictions regarding use of bond proceeds and bond-financed or refinanced assets will or may be violated, consulting promptly with bond counsel, other legal counsel, and other advisors to determine a course of action to preserve the tax-exempt status of the bonds (if applicable).

J. Disclosure and Continuing Disclosure

The County is required to provide disclosure, generally in the form of an official statement, relating to each public offering of debt. The County is responsible for providing complete and accurate information to be included in the official statement and is responsible for the overall content of the document, although it may rely on an external party (e.g., bond counsel or disclosure counsel) to assist in the creation of the document.

1. Primary Disclosure Policies - The Finance Director is responsible for information requests relating to official statements to be used in the initial offering of the County's borrowings. The Finance Director will request information required for disclosure to investors and rating agencies from relevant departments and will sign a statement attesting to the accuracy and completeness of the information therein. The Board of County Commissioners will be provided with a copy of the official statement for each issue of debt.

2. Continuing Disclosure Policies - Under Rule 15c2-12 of the Securities and Exchange Commission, adopted under the Securities Exchange Act of 1934, the County is required to enter a contract to provide "secondary market disclosure" relating to each publicly offered bond issue (referred to as an "undertaking"). The Finance Director shall review any proposed undertaking to provide secondary market disclosure and negotiate any commitments therein.

   Additionally, bonds sold via the direct placement method may have specific disclosure requirements required by the purchaser.

   Internal procedures shall be developed that identify the information that is obligated to be submitted in an annual filing, the dates on which filings are to be made, list the events required to be disclosed, and identify the person responsible for making the filings.

   The Annual Report may fulfill annual financial information filing obligations. The information provided in the Annual Report does not have to be replicated when filing with the Electronic Municipal Market Access (EMMA) portal. If the County agrees to furnish information that is outside the scope of the Annual Report, that information may be included as a supplement to the Annual Report when filing with EMMA. On its completion, the Annual Report should be immediately submitted to EMMA.

   Each time the County issues new bonds, the Finance Director (in consultation with bond counsel and the municipal advisor) will review the County's compliance with prior continuing disclosure undertakings and make any necessary corrective filings.

   In addition to continuing disclosure undertakings associated with public bond offerings as required by SEC Rule 15c2-12, the County may also be subject to ongoing reporting requirements associated with other debt obligations, such as bank loans.

K. Consultants and Advisors

1. Municipal Advisor - The County will retain an independent registered municipal advisor (MA) through a process administered by the Finance Director consistent with the rules adopted by the County's Local Contract Review Board (LCRB). Selection of the County's MA should be based on the following:

   a. Experience in providing consulting services to issuers similar to the County;
   b. Ability to meet all regulatory requirements;

c. Knowledge and experience in structuring and analyzing large complex debt issues;
d. Ability to conduct competitive selection processes to obtain related financial services (including underwriters and other service providers);
e. Experience and reputation of assigned personnel; and
f. Fees and expenses.

The County expects that its MA will provide objective advice and analysis, maintain confidentiality of County financial plans, and fully disclose any potential conflicts of interest.

2. <u>Bond Counsel</u> - For all debt issues, the County will engage and retain an external bond counsel through a process administered by the Finance Director and County Counsel consistent with the rules adopted by the County's LCRB.

   Where required by the lender and/or bond investors, debt issued by the County will include a written opinion by bond counsel affirming that the County is legally authorized to issue the debt, stating that the County has met all state constitutional and statutory requirements necessary for issuance, and determining the debt's federal income tax status. Bond Counsel may also draft the Official Statement in lieu of having a separate disclosure counsel.

3. <u>Disclosure Counsel</u> - The County may engage and retain, when appropriate, Disclosure Counsel through a process administered by the Finance Director and County Counsel consistent with the rules adopted by the County's LCRB, to prepare official statements for debt issues. Disclosure Counsel will be responsible for providing that the official statement complies with all applicable rules, regulations, and guidelines and be a firm with extensive experience in public finance.

4. <u>Underwriters</u> - For negotiated sales, underwriters will be required to demonstrate sufficient capitalization and experience related to the debt issuance in question. The Finance Director, in consultation with the Municipal Advisor, will establish a pool of qualified underwriters through a process consistent with the rules adopted by the County's LCRB and may designate one or more firms as eligible to be senior managers and one or more firms as eligible to be co-managers. Criteria to be used in the appointment of qualified underwriters will include:

   a. Quality and applicability of financing ideas;
   b. Demonstrated ability to manage the type of financial transaction in question;
   c. Demonstrated ability to structure debt issues efficiently and effectively;

d. Demonstrated ability to sell debt across a wide span of investors;
e. Demonstrated willingness to put capital at risk;
f. Experience and reputation of assigned personnel;
g. Past performance and references; and
h. Fees and expenses.

5. Debt Issued Through Commercial Banks - The Finance Director, in consultation with the Municipal Advisor may solicit proposals from commercial banks to provide lines of credit, letters of credit, direct bank placements, and other credit facilities, as needed.

   A bank or pool of banks will be selected through a process administered by the Finance Director consistent with the rules adopted by the County's LCRB.

   Selection of such providers will be based upon the proposed financial terms deemed most advantageous to the County, including, but not limited to lowest interest cost, prepayment flexibility, terms and structure, and fees.

6. Trustee and Paying Agent Services - The County Treasurer will recommend the use and selection of the Trustee and Paying Agent services as needed, based on a competitive solicitation or other list of qualified financial institutions maintained by the Treasurer and allowed by Oregon Revised Statutes.

L. Interfund Loans

An interfund loan is a transfer between funds, within Clackamas County or within an Agency, for an approved amount and a plan of repayment during a specified period of time.

Interfund loans are subject to the requirements of ORS 294.468 and designed to provide financing resources to address cash flow needs of the County.

Interfund loans can be of two types:

1. Capital Loan: a loan between County funds for the purpose of the design, acquisition, construction, installation, or improvement of real property.

2. Operating Loan: a loan between County funds for the purpose of paying operating expenses.

Interfund loan requests must be reviewed and approved by the Finance Director prior to a request for authorization by Board of County Commissioners. They are subject to the following requirements, including compliance with ORS 294.468:

a. Loans will only be authorized after it has been demonstrated that reasonable consideration was given to other potential resources available to the department/fund requesting the loan.

b. Interfund loans must be authorized by Board Resolution, stating the fund from which the loan is made, the destination fund, the purpose of the loan, the principal amount of the loan, the interest rate at which the loan shall be repaid, and a schedule for repayment of principal and interest.

c. The interest rate on Capital and Operating Loans shall be set at the stated rate of interest paid by Oregon Local Government Investment Pool as reported by the County Treasurer at the time the loans are approved by the Board of County Commissioners, plus two percent (2% APR).

d. Interfund loans cannot not be made from debt service reserve funds, or any other funds restricted by law, constitutional provisions, bond covenants, grantor requirements or other County restrictions.

e. Capital Loans cannot not exceed 10 years.

f. Operating Loans cannot extend beyond end of the subsequent fiscal year.

g. Interfund loans may be repaid in advance without any additional accrual of interest or other penalties.

h. Performance of each interfund loan shall be monitored on an annual basis jointly between the County Finance Department and the department responsible for the fund receiving the loan.

M. <u>Reporting Requirements</u>

The Finance Director will report to the Board of County Commissioners on an annual basis the following information:

a. A summary of outstanding debt obligations to include the series name, original amount of issuance, outstanding principal amount, issue date, maturity dates, interest rates, and annual debt service;
b. The amount of the net variable rate obligation and percentage as compared to outstanding debt, if applicable;
c. Other considerations if applicable, including (but not limited to): refunding opportunities, performance of variable rate obligations, and/or proposed new debt issuances.

VI. ACCESS TO POLICY

This Policy is available on the County's website.
The Finance Director's debt issuance delegation form to County agencies is available on the Intranet. **ADDENDA**

The Clackamas County Investment Policy is available on the County's internet located here https://www.clackamas.us/treasurer.

COVER SHEET

☐ New Agreement/Contract

☐ Amendment/Change/Extension to ____________________

☒ Other Admin Policy Approval

Originating County Department: Finance

Other party to contract/agreement: ______________________

Description:

Debt Management Administrative Policy Approval

After recording please return to: Jennifer Johnson, Finance, jjohnson@clackamas.us

☐ County Admin

☐ Procurement

If applicable, complete the following:

Board Agenda Date/Item Number: ____________________

Clear Print