

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Sitting/Acting as (if applicable)

Policy Session Worksheet

Presentation Date: 10/25/2022 **Approx. Start Time:** 10:00am **Approx. Length:** 15 minutes

Presentation Title: WES Debt Management Policy

Department: Presenters: Water Environment Services

Other Invitees: Greg Geist, Ron Wierenga, Erin Blue
Elizabeth Comfort, Sandra Montoya

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

WES is presenting a newly drafted WES Debt Management Policy for Board Approval.

EXECUTIVE SUMMARY:

On July 21, 2022, Clackamas County (County) adopted an updated debt policy to provide further clarity and reflect debt management best practices as recommended by the Government Finance Officers Association (GFOA). The County provided a draft of their proposed policy to Water Environment Services staff, and invited feedback. After review, particularly of the approval and continued reporting process, and in consideration of the significant amount of debt WES issues, staff conferred and decided to recommend a separate WES policy relating to debt. The authority to adopt a separate WES policy was delegated in the County's adopted policy.

The proposal for a specific WES policy arose because the amount of WES' currently outstanding debt principal, ~\$149 million, is close in size to the cumulative total principal of the outstanding debt for the rest of the County. WES' debt issuances and compliance requirements are also a bit more complicated than a typical Clackamas County component unit. This complexity is due in part to WES' legal structure as a municipal partnership, which requires the three underlying districts to vote regarding debt issuances in addition to WES, for a total of 4 approval actions to issue debt by WES under one Master Order. WES also currently handles ongoing bond covenant and reporting compliance directly, e.g. WES does its own continuing disclosure reporting, directly contracts with bond counsel and financial advisors for both issuances and updates, bondholder's agent interactions, and rating agencies (WES is separately rated from the County, and currently holds a "AAA" rating).

The proposed WES Debt Management Policy essentially mirrors the County's updated policy and reflects the same debt management best practices. Similar to the County debt policy adopted in July 2022, this department-specific proposed policy addresses all of WES' long- and short-term debt financings in compliance with applicable Federal law, the Oregon Constitution, Oregon Revised Statutes (ORS), and Oregon Administrative Rules (OAR). WES 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, WES will comply with IRS regulations for tax-exempt and tax-advantaged debt issuance.

The WES Debt Management Policy sets forth the practices for debt issuance and the management of outstanding debt. The WES Policy establishes certain limits which recognize WES' capital requirements, its ability to repay financial obligations, and the existing legal,

economic, financial, and debt market conditions. Specifically, the WES Policy is intended to assist 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 WES' credit rating(s); and
5. Safeguarding the legal use of WES' financing authority through an effective system of internal controls.

Given the nature of the proposed WES policy, and to provide clarity and transparency to the public regarding the importance of a consistent approach to debt management, WES requests that the Board, as the governing body of WES, adopt the WES Debt Management Policy, and direct staff to build future budgets and long-term financial plans guided by this policy.

The proposed policy has been reviewed and approved by County Finance and recommended by the WES Advisory Committee.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? ☐ YES ☒ NO

What is the cost? There is no cost associated with approval of the debt management policy. The policy determines how WES' debt will be managed, and does not authorize any future debt issuances.

What is the funding source? N/A

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?

Updating the WES Debt Management Policy for alignment with best practices and long-term financial sustainability goals. Particularly relevant in supporting the achievement of WES' capital improvement plan and long range financial plan.

- How does this item align with the County's Performance Clackamas goals?

Build Trust in Good Government - This policy provides guidance on the issuance, structure, and management of the WES' long- and short-term debt.

LEGAL/POLICY REQUIREMENTS:

Although the WES Debt Management Policy could be approved as a department specific policy that was not previously codified in a resolution or order, Staff is seeking Board adoption of the policy to be consistent with the Board's adoption of the overall County Debt Management Policy. The BCC was briefed on the WES Debt Management Policy on October 18, 2022.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Discussed with County Finance and developed internally. The draft WES-specific policy was presented to the WES Advisory Committee at two separate meetings, in January 2022 and March 2022. After deliberation, the Committee recommended adoption of the policy. WES' policy was also reviewed by County Finance Management in August 2022 and incorporates their input.

OPTIONS:

- 1) Approve the WES Debt Management Policy.
- 2) Direct staff to make modifications to the drafted policy.
- 3) Reject the drafted policy and amend the County's policy to include WES.



RECOMMENDATION:

Option 1) Approve the WES Debt Management Policy.

ATTACHMENTS:

WES 2022 Debt Policy
Redline against County policy

SUBMITTED BY:

Division Director/Head Approval  _____
Department Director/Head Approval  _____
County Administrator Approval _____

For information on this issue or copies of attachments, please contact: Ckoontz@clackamas.us , 503-679-4034



☐ Administrative Policy
☒ Operational Policy

Water Environment Services Policy

Name of Policy	WES Debt Management Policy	Policy #	
Policy Owner Name	Greg Geist	Effective Date	
Policy Owner Position	WES 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 Water Environment Services' (WES) 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 the Board of County Commissioners, acting as the governing body of Water Environment Services (BCC), pursuant to the delegated authority in the Clackamas County Debt Management Policy adopted in July 2022 authorizing WES to adopt its own debt management policy. This policy is distinct from the Clackamas County Debt Management Policy and supersedes the previous policy adopted by BCC Board Order 96-689, November 1996.

III. GENERAL POLICY

WES 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). WES will further comply with Security and Exchange Commission and Municipal Securities Rulemaking Board rules regarding ongoing disclosure, and oversight of participants in the municipal debt market including advisors and securities dealers. Finally, WES 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 WES' 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 WES 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 WES' credit rating(s); and

5. Safeguarding the legal use of WES' financing authority through an effective system of internal controls.

IV. DEFINITIONS

- A) 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.
- B) Bond Counsel - an attorney or law firm retained by WES 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.
- C) Continuing Disclosure – disclosure of material information provided to the marketplace by WES 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 WES, the municipal debt itself or the project(s) financed.
- D) Credit Enhancement - the use of the credit of an entity other than WES 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.
- E) 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.
- F) 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.
- G) WES Director - For the purpose of this Policy each reference to the "WES Director" shall mean WES' Director or their designee, which may include but is not limited to the WES Assistant Director or the WES Finance Manager
- H) Municipal Advisor - a person or firm registered and regulated by the Securities and Exchange Commission and MSRB who provides advice to WES 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 WES' best interest.

- I) 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).
- J) Official Statement - a document prepared on behalf of WES 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.
- K) Refunding - a process whereby WES refinances outstanding bonds by issuing new bonds. The primary reason for refunding bonds is to reduce WES' interest costs. Other reasons include restructuring debt service payments, releasing restricted revenues, modifying bond covenants, and easing administrative requirements.
- L) 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.
- M) Tax Certificate - a document executed by WES 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.
- N) Underwriter (or Investment Banker) - a municipal securities dealer that purchases a new issue of municipal debt from WES often for resale in the secondary market. The underwriter may acquire the securities either by negotiation with WES or by award based on competitive bidding.

V. POLICY GUIDELINES

The WES Director is responsible for administering WES' debt programs, including the sale and management of debt, and monitoring ongoing federal and state regulatory compliance.

WES shall make recommendations to the BCC as necessary to accomplish WES' debt financing objectives. The WES Director may choose to delegate authority to another member of the WES Finance Department staff to lead the debt management process and assume the responsibilities as outlined in this policy.

WES shall coordinate as necessary with the County Finance Department and County Treasurer's Office 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 WES. The scope, requirements, demands of WES' 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 BCC.

Debt cannot be issued to fund capital projects unless such capital projects have been included in WES' 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 BCC.

For debt-financed projects, WES 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 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.

WES' debt strategy shall target three purposes: (i) efficient and cost-effective funding and completion of necessary WES infrastructure; (ii) gradual, relatively linear rate adjustments to avoid "rate shock"; and (iii) participation in the costs of constructed infrastructure by future users of the system.

At least every three years, the WES Director shall review WES' 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 BCC approval.

VI. PROCESS AND PROCEDURES

This section describes the requirements and procedures of WES' 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

A. Type and Use of Debt

WES will issue debt as needed and as authorized by the BCC in a form related to the type of improvement to be financed. No Clackamas County (County) general fund support or property tax revenues are anticipated, but may be included to further general County purposes as decided by the BCC in their role as the governing body of the County.

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 WES and/or its underlying districts, namely Clackamas County Service District No.1, the Surface Water Management Agency of Clackamas County, and the Tri-City Service District.
2. Revenue Bonds and Revenue Obligations - Revenue bonds issued under ORS 287A and Revenue Obligations issued under ORS 271 are payable from available revenues. 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, WES' 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.

3. Other Financing Tools - WES may utilize other financing long-term methods such as Certificates of Participation, Capital Leases secured by the property, or local improvement district financings secured by assessments.

In each case, the WES Director will consult with WES' 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 BCC.

4. Variable Rate Obligations - WES will generally seek to obtain financing through fixed rate obligations. When appropriate, however, WES 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.

5. Short-Term Financing - WES may issue short-term notes (e.g., Bond Anticipation, Revenue Anticipation and Grant Anticipation) when necessary and approved by the BCC. Anticipation notes are secured by a revenue pledge of anticipated bond proceeds, project revenues and/or anticipated grant resources. Prior to selling Revenue and Grant anticipation notes WES 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 WES, WES may participate in federal, state, or other loan programs that are secured by any of the sources identified above. The WES Director shall evaluate the requirements of these programs to determine if WES is well served by employing them and make recommendations to the WES Administrator and BCC. WES specifically will evaluate Clean Water Act State Revolving Fund loans and Water Infrastructure Finance and Innovation Act (WIFIA) financing options.

For purposes of this Policy, WES shall treat and report these commitments in a manner consistent with other WES debt obligations, although it is not required to consider such debt *pari passu* to issued revenue bonds or obligations unless required under the terms of such program. To the extent required by the loans or other outstanding debt agreements, WES 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 WES' outstanding obligations.

C. Debt Refinancing

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, WES 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.

WES and the 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 BCC actions and related documentation.

For coordination purposes, notification should be made to the County Treasurer as soon as WES 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 WES 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. 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 WES; or,
 - c. A surety policy.

A cash reserve fund will be invested pursuant to the investment restrictions associated with the respective financing documents and WES' investment policy. For each debt issue, the WES 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 WES finance staff, Treasurer's Office and in consideration of the chart of accounts structure.

5. Redemption Provisions - In general, WES 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.

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

E. Method of Sale

WES will select a method of sale that is the most appropriate when considering the financial market, transaction-specific and WES-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. The default for revenue bonds and revenue obligations shall be competitive sale.

In consultation with the Municipal Advisor, the WES 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 WES 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

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

The WES Director shall also coordinate periodic meetings with the rating agencies and communicate with them prior to each debt issuance. WES 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 WES Director shall be responsible for managing relationships with bond issue related investors. The WES 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 WES' 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

WES 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 BCC.

1. External Advisors and Documentation - WES 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.

WES 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 WES.

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. WES shall 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 WES Director or County 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 Treasurer¹ and WES' selected Trustee² 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 proceeds³;
 - 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 WES 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 WES 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

WES is required to provide disclosure, generally in the form of an official statement, relating to each public offering of debt. WES 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 WES Director is responsible for information requests relating to official statements to be used in the initial offering of WES' borrowings. The WES 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 BCC 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, WES is required to enter a contract to provide “secondary market disclosure” relating to each publicly offered bond issue (referred to as an “undertaking”). The WES 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 WES 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 WES issues new bonds, the WES Director (in consultation with bond counsel and the municipal advisor) will review WES’ 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, WES may also be subject to ongoing reporting requirements associated with other debt obligations, such as bank loans.

K. Consultants and Advisors

1. Municipal Advisor - WES will retain an independent registered municipal advisor (MA) through a process administered by the WES Director consistent with the County’s Local Contract Review Board (LCRB) rules. Selection of WES’ MA should be based on the following:
 - a. Experience in providing consulting services to issuers similar to WES;
 - 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.

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

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

Where required by the lender and/or bond investors, debt issued by WES will include a written opinion by bond counsel affirming that WES is legally authorized to issue the debt, stating that WES 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 - WES may engage and retain, when appropriate, Disclosure Counsel through a process administered by the WES Director and County Counsel consistent with the County's LCRB rules, 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 WES Director, in consultation with the Municipal Advisor, will establish a pool of qualified underwriters through a process consistent with the County's LCRB rules 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 WES 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 WES Director consistent with the County's LCRB rules.

Selection of such providers will be based upon the proposed financial terms deemed most advantageous to WES, 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

1. Per the opinion of County Counsel, WES does not have the authority to make interfund loans to Clackamas County or their other component units.

M. Reporting Requirements

The WES Director will report to the BCC 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; and
- c. Other considerations if applicable, including (but not limited to): refunding opportunities, performance of variable rate obligations, and/or proposed new debt issuances.

VII. ACCESS TO POLICY

This Policy is available on WES' and the County's website.

ADDENDA

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



<input type="checkbox"/> Administrative Policy
<input checked="" type="checkbox"/> Operational Policy

Clackamas County Water Environment Services Policy

Name of Policy	WES Debt Management Policy	Policy #	
Policy Owner Name	Elizabeth Comfort Greg Geist	Effective Date	
Policy Owner Position	Finance WES Director	Approved Date	
Approved By		Last Review Date	
Signature		Next Review Date	

A.I. PURPOSE

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

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B.II. AUTHORITY

This policy is adopted through the Board of County ~~Commissioner's~~ Commissioners, acting as the governing body of Water Environment Services (BCC), ~~rule-making authority pursuant to the delegated authority in the Clackamas County Debt Management Policy adopted in July 2022 authorizing WES to adopt its own debt management policy. This policy is distinct from the Clackamas County Debt Management Policy~~ and supersedes the previous policy adopted by BCC Board Order 96-689, November 1996.

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C.III. GENERAL POLICY

~~The County and its Agencies (County)~~ WES 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~~ WES 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~~ WES will comply with IRS regulations for tax-exempt and tax-advantaged debt issuance.

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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~~ WES' 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~~ WES 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~~ WES' credit rating(s); and

5. Safeguarding the legal use of ~~the County's~~WES' financing authority through an effective system of internal controls.

IV. 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-A)~~ 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.

~~G-B)~~ Bond Counsel - an attorney or law firm retained by ~~the County~~WES 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-C)~~ Continuing Disclosure - disclosure of material information provided to the marketplace by ~~the County and Agencies~~WES 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~~WES, the municipal debt itself or the project(s) financed.

~~E-D)~~ Credit Enhancement - the use of the credit of an entity other than ~~the County~~WES 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-E)~~ 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-F)~~ 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.

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~~H.G)~~ FinanceWES Director - For the purpose of this Policy each reference to the "~~Finance-WES~~ Director" shall mean ~~the County's FinanceWES'~~ Director or their designee, which may include Agency staff but is not limited to the WES Assistant Director or the WES Finance Manager.

~~I.~~ Interfund Loans:

- ~~i.~~ Capital Loan — a loan between County funds for the purpose of financing the design, acquisition, construction, installation, or improvement of real property.
- ~~ii.~~ Operating Loan — a loan between County funds for the purpose of paying operating expenses.

~~J.H)~~ 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~~WES 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~~WES' best interest.

~~K.I)~~ 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.J)~~ Official Statement - a document prepared on behalf of ~~the County or Agency~~WES 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.K)~~ Refunding - a process whereby ~~the County~~WES refinances outstanding bonds by issuing new bonds. The primary reason for refunding bonds is to reduce ~~the County's WES'~~ interest costs. Other reasons include restructuring debt service payments, releasing restricted revenues, modifying bond covenants, and easing administrative requirements.

~~N.L)~~ 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

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requirements, Municipal Advisors and securities dealers are subject to SEC regulation and oversight.

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

E.V. POLICY GUIDELINES

The ~~Finance~~WES Director is responsible for administering ~~the County's~~WES' 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~~WES 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~~BCC as necessary to accomplish ~~County's~~WES' debt financing objectives. The ~~Finance~~WES Director may choose to delegate authority to another member of the WES Finance Department staff to lead the debt management process and assume the responsibilities as outlined in this policy.

~~Departments and Agencies are responsible for~~WES shall coordinate as necessary ~~with the County Finance Department and County Treasurer's Office 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~~WES. The scope, requirements, demands of ~~the County~~WES' 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~~BCC.

Debt cannot be issued to fund capital projects unless such capital projects have been included in ~~a budget and associated~~WES' capital improvement plan (CIP).

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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~~BCC.

For debt-financed projects, ~~the County~~WES 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.

WES' debt strategy shall target three purposes: (i) efficient and cost-effective funding and completion of necessary WES infrastructure; (ii) gradual, relatively linear rate adjustments to avoid "rate shock"; and (iii) participation in the costs of constructed infrastructure by future users of the system.

~~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~~WES Director shall review ~~WES'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~~BCC approval.

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

- ~~1. Type and Use of Debt~~
- ~~2. Federal, State or Other Loan Programs~~
- ~~3. Debt Refinancing~~
- ~~4. Debt Structure Considerations~~
- ~~5. Method of Sale~~
- ~~6. Investment of Bond Proceeds~~
- ~~7. Credit Ratings/Objectives~~
- ~~8. Bond Issuance Investor Relations~~
- ~~9. Post Issuance Tax and Arbitrage Rebate Compliance~~
- ~~10. Disclosure and Continuing Disclosure~~
- ~~11. Consultants and Advisors~~
- ~~12. Interfund Loans~~
- ~~13. Reporting Requirements~~

VI. **PROCESS AND PROCEDURES**

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This section describes the requirements and procedures of WES' 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
- F.

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a.A. Type and Use of Debt

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~~The County~~WES will issue debt as needed and as authorized by the ~~Board of County Commissioners~~BCC in a form related to the type of improvement to be financed. No Clackamas County (County) general fund support or property tax revenues are anticipated, but may be included to further general County purposes as decided by the BCC in their role as the governing body of the County.

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~~WES and/or its underlying districts, namely Clackamas County Service District No.1, the Surface Water Management Agency of Clackamas County, and the Tri-City Service District.

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2. Revenue Bonds and Revenue Obligations - Revenue bonds issued under ORS 287A and Revenue Obligations issued under ORS 271 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.

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Revenue bonds are not subject to constitutional or statutory debt limits, ~~the County's or County agency~~WES' 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.

3. Other Financing Tools - ~~The County~~WES 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.

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In each case, the ~~Finance~~WES Director will consult with ~~the County's~~WES' 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~~BCC.

4. Variable Rate Obligations - ~~The County~~WES will generally seek to obtain financing through fixed rate obligations. When appropriate, however, ~~the County~~WES 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.

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5. Short-Term Financing - ~~The County~~WES 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~~BCC. Anticipation notes are secured by a revenue pledge of ~~taxes committed, but not yet collected~~, anticipated bond proceeds, project revenues and/or anticipated grant resources. Prior to selling Revenue and Grant anticipation notes ~~the County~~WES must identify a secondary source of repayment for the notes if expected project revenue/grant funding does not occur.

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b.B. Federal, State, or Other Loan Programs

To the extent it benefits ~~the County~~WES, ~~the County~~WES may participate in federal, state, or other loan programs that are secured by any of the sources identified above. The ~~Finance~~WES Director shall evaluate the requirements of these programs to determine if ~~the County~~WES is well served by employing them and make recommendations to the ~~County~~WES Administrator and ~~Board of County Commissioners~~BCC. WES specifically will evaluate Clean Water Act State Revolving Fund loans and Water Infrastructure Finance and Innovation Act (WIFIA) financing options.

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For purposes of this Policy, ~~the County~~WES shall treat and report these commitments in a manner consistent with other ~~County~~WES debt obligations, although it is not required to consider such debt *pari passu* to issued revenue bonds or obligations unless required under the terms of such program. To the extent required by the loans or other outstanding debt agreements, ~~the County~~WES 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~~WES' outstanding obligations.

~~c.~~C. Debt Refinancing

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~~WES 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~~WES and ~~the~~ 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~~ BCC actions and related documentation.

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

~~d.~~D. Debt Structure Considerations

~~a.~~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.

~~b.~~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~~WES Director will recommend debt service repayment plans based on overall affordability with the goal of repaying the debt as quickly as feasible.

~~c.~~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.

~~d.~~4. 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:

~~1.~~a. The proceeds of a debt issue;

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- ~~2.b.~~ The reserves of ~~the County~~WES; or,
~~3.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~~WES' investment policy. For each debt issue, the ~~Finance~~-WES 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 WES finance staff, Treasurer's Office and in consideration of the chart of accounts structure.

- ~~e.5.~~ Redemption Provisions - In general, ~~WES~~~~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.

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- ~~f.6.~~ Credit Enhancement - Credit enhancement (e.g., bond insurance or letters of credit) on ~~County~~WES financings will only be used when net debt service is reduced by more than the cost of the enhancement. ~~The County~~WES will evaluate the availability and cost/benefit of credit enhanced debt versus unenhanced debt prior to issuing any debt.

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~~e.E.~~ Method of Sale

~~The County~~WES will select a method of sale that is the most appropriate when considering the financial market, transaction-specific and ~~County~~WES-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. The default for revenue bonds and revenue obligations shall be competitive sale.

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In consultation with the Municipal Advisor, the ~~Finance~~-WES 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.F.~~ Investment of Bond Proceeds

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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~~WES 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.G. Credit Ratings/Objectives

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

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

h.H. Bond Issuance Investor Relations

The ~~Finance~~WES Director shall be responsible for managing relationships with bond issue related investors. The ~~Finance~~WES 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~~WES' 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.I. Post Issuance Tax and Arbitrage Rebate Compliance

~~The County~~WES 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~~BCC.

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1. External Advisors and Documentation - ~~The County~~WES 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.

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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~~WES 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~~WES.

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~~WES ~~should~~ shall 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.

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

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- a. Either (1) engaging the services of a rebate service provider and, prior to each rebate calculation date, causing the County Treasurer¹ and ~~the County's~~WES' selected Trustee² to deliver periodic statements concerning the investment of bond proceeds to the rebate service provider, or (2) undertaking rebate calculations themselves and

¹ See Section I(2) for more information.

² See Section K(6) for more information.

retaining and obtaining periodic statements concerning the investment of bond proceeds³;

- 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~~-WES 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

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³ See Section I(2) for more information.

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~~WES 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).

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j-j. Disclosure and Continuing Disclosure

~~The County~~WES is required to provide disclosure, generally in the form of an official statement, relating to each public offering of debt. ~~WES~~~~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.

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1. Primary Disclosure Policies - The ~~Finance~~WES Director is responsible for information requests relating to official statements to be used in the initial offering of ~~WES~~~~the County's~~ borrowings. The ~~Finance~~WES 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~~BCC will be provided with a copy of the official statement for each issue of debt.

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2. Continuing Disclosure Policies - Under Rule 15c2-12 of the Securities and Exchange Commission, adopted under the Securities Exchange Act of 1934, ~~the County~~WES 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~~WES Director shall review any proposed undertaking to provide secondary market disclosure and negotiate any commitments therein.

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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~~WES 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 ~~WES~~~~the County~~ issues new bonds, the ~~Finance~~WES Director (in consultation with bond counsel and the municipal advisor) will review ~~the County's~~WES' 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~~WES may also be subject to ongoing reporting requirements associated with other debt obligations, such as bank loans.

k.K. Consultants and Advisors

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

- ~~1-a.~~ Experience in providing consulting services to issuers similar to ~~the County~~WES;
- ~~2-b.~~ Ability to meet all regulatory requirements;
- ~~3-c.~~ Knowledge and experience in structuring and analyzing large complex debt issues;
- ~~4-d.~~ Ability to conduct competitive selection processes to obtain related financial services (including underwriters and other service providers);
- ~~5-e.~~ Experience and reputation of assigned personnel; and
- ~~6-f.~~ Fees and expenses.

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

- ~~7-2.~~ Bond Counsel - For all debt issues, ~~the County~~WES will engage and retain an external bond counsel through a process administered by the ~~Finance~~WES Director and County Counsel consistent with ~~the rules adopted by~~ the County's LCRB rules.

Where required by the lender and/or bond investors, debt issued by ~~the County~~WES will include a written opinion by bond counsel affirming that ~~the County~~WES is legally authorized to issue the debt, stating that ~~WES~~~~the~~

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~~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.

8.3. Disclosure Counsel - ~~The County~~WES may engage and retain, when appropriate, Disclosure Counsel through a process administered by the ~~Finance~~WES Director and County Counsel consistent with ~~the rules adopted by~~ the County's LCRB rules, 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.

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9.4. Underwriters - For negotiated sales, underwriters will be required to demonstrate sufficient capitalization and experience related to the debt issuance in question. The ~~Finance~~WES 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 rules 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:

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I.a. Quality and applicability of financing ideas;

II.b. Demonstrated ability to manage the type of financial transaction in question;

III.c. Demonstrated ability to structure debt issues efficiently and effectively;

IV.d. Demonstrated ability to sell debt across a wide span of investors;

V.e. Demonstrated willingness to put capital at risk;

VI.f. Experience and reputation of assigned personnel;

VII.g. Past performance and references; and

VIII.h. Fees and expenses.

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10.5. Debt Issued Through Commercial Banks - The ~~Finance~~WES 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.

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

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

~~11.6.~~ 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.

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~~11.L. Interfund Loans~~

~~1. Per the opinion of County Counsel, WES does not have the authority to make interfund loans to Clackamas County or their other component units.~~

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~~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.~~

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~~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.~~

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~~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:~~

- ~~1. 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.~~
- ~~2. 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.~~
- ~~3. 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).~~
- ~~4. 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.~~

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~~5. Capital Loans cannot not exceed 10 years.~~

~~6. Operating Loans cannot extend beyond end of the subsequent fiscal year.~~

~~7. Interfund loans may be repaid in advance without any additional accrual of interest or other penalties.~~

~~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.M. Reporting Requirements

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

A)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)b. _____ The amount of the net variable rate obligation and percentage as compared to outstanding debt, if applicable; and

G)c. _____ Other considerations if applicable, including (but not limited to): refunding opportunities, performance of variable rate obligations, and/or proposed new debt issuances.

G.VII. ACCESS TO POLICY

This Policy is available on WES' and 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>.

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CLACKAMAS

WATER
ENVIRONMENT
SERVICES

October 18, 2022

Water Environment Services Debt Management Policy

Ron Wierenga, Assistant Director

Erin Blue, Finance Manager



WES Debt Summary

- AAA credit rating through S&P Global Ratings
- ~\$149 million in outstanding principal
- Most recent issuance in February 2021 for \$40 million at 0.84% interest
- Capital and long-term financial plans anticipate significant financing needs over next 10 years

Policy Background

- Updated County Debt Management Policy adopted in July 2022
 - Formalizes best practices as recommended by Government Accounting Standards Board
 - Delegates WES authority to adopt its own debt policy

WES Debt Management Policy Highlights

- Mirrors the County's updated policy
- Differences primarily in establishing WES as the policy owner
- Incorporates utility management best practices
 - Revenue obligations and bonds
 - Clean Water State Revolving Fund and other industry-specific financing options
 - Debt strategy for rate-making and capital investment
 - Preference for competitive sale
- Presented to and recommended by WES Advisory Committee
- Reviewed by County Finance Management

Recommendation

- WES staff request the Board of County Commissioners approve a policy session for further review and approval of the proposed WES Debt Management Policy.