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RESOLUTION NO. 2021-184

A RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS OF SARASOTA COUNTY, FLORIDA

KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FL

RE: ADOPTION OF REVISED DEBT MANAGEMENT POLICY

WHEREAS, the Sarasota County Commission last adopted the Sarasota County Debt Management Policy on December 11, 2012; and

WHEREAS, best practices issued by the Government Finance Officers Association with regard to government debt management policies have continued to evolve since that time; and

WHEREAS, Federal Securities Law related to tax-exempt debt have also changed; and

WHEREAS, the Governmental Accounting Standards Board have issued pronouncements related to tax-exempt debt and lease financings; and

WHEREAS, it is in the best interest of the County and its citizens to update the Debt Management Policy to reflect these changes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, as follows:

1. The revised Sarasota County Debt Management Policy attached hereto as Exhibit "A" is hereby adopted as the Debt Management Policy of Sarasota County.
2. This Resolution shall take effect immediately upon its adoption.

PASSED AND DULY Adopted this 12th day of October, 2021.

BOARD OF COUNTY COMMISSIONERS OF  
SARASOTA COUNTY, FLORIDA

By [Signature]  
Chairman

ATTEST  
KAREN E. RUSHING, Clerk of the  
Circuit Court and Ex-Officio Clerk  
Of the Board of County Commissioners  
Sarasota County, Florida

By: Manà Bocci  
Deputy Clerk

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# Exhibit A.

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R2021-184

# SARASOTA COUNTY

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# DEBT MANAGEMENT POLICY



SARASOTA COUNTY

DEBT MANAGEMENT POLICY

Table of Contents

- I. DEBT RESPONSIBILITIES ..... 4
  - A. POLICY ..... 4
  - B. AUTHORITY ..... 4
  - C. PURPOSES AND USES ..... 5
- II. CREDITWORTHINESS ..... 5
  - A. CREDIT RATINGS ..... 5
  - B. FINANCIAL DISCLOSURE ..... 5
  - C. CAPITAL PLANNING ..... 6
  - D. DEBT LIMITS ..... 6
- III. DEBT STRUCTURE ..... 6
  - A. DEBT STRUCTURE ..... 6
  - B. TYPES OF DEBT INSTRUMENTS AND PLEDGES/SECURITY ..... 6
  - C. DEBT STRUCTURING ..... 8
  - D. TAXABLE VERSUS TAX-EXEMPT DEBT ..... 8
  - E. REFUNDINGS ..... 9
  - F. CREDIT ENHANCEMENTS ..... 9
  - G. VARIABLE RATE DEBT ..... 9
  - H. SHORT-TERM NOTES ..... 9
  - I. STATE AND FEDERAL LOAN PROGRAMS ..... 10
  - J. CERTIFICATES OF OFFICIAL INTENT TO REIMBURSE ..... 10
  - K. LEASE AGREEMENTS ..... 10
  - L. USE OF DERIVATIVES ..... 10
- IV. DEBT ADMINISTRATION ..... 10
  - A. ANNUAL DEBT REPORT ..... 10
  - B. REPORT TO DEBT HOLDERS ..... 11
  - C. ARBITRAGE COMPLIANCE ..... 12
  - D. TAX-EXEMPT DEBT POST ISSUANCE COMPLIANCE ..... 12
  - E. FINANCING PROPOSALS ..... 12
  - F. CONDUIT BOND FINANCING ..... 12
- V. FINANCING TEAM ..... 13
  - A. FINANCING TEAM SELECTION PROCESS ..... 13
  - B. FINANCIAL ADVISOR ..... 13
  - C. BOND COUNSEL ..... 13
  - D. DISCLOSURE COUNSEL ..... 13
  - E. UNDERWRITERS ..... 14
  - F. UNDERWRITER'S COUNSEL ..... 14
  - G. PAYING AGENT ..... 14
  - H. OTHER SERVICE PROVIDERS ..... 14
- VI. DEBT ISSUANCE PROCESS ..... 14
  - A. BOND AND NOTE SALES ..... 14
  - B. INVESTMENT OF BOND AND NOTE PROCEEDS ..... 15
  - C. USE OF BOND AND NOTE PROCEEDS ..... 15

- D. COSTS AND FEES ..... 15
- E. METHOD OF SALE ..... 15
- VII. TAX-EXEMPT DEBT POST-ISSUANCE COMPLIANCE GUIDELINES ..... 16
  - A. PURPOSE ..... 16
  - B. RESPONSIBILITY OF COUNTY OFFICIALS ..... 16
  - C. CLOSING OF DEBT ISSUANCES ..... 17
  - D. USE OF DEBT PROCEEDS ..... 17
  - E. ARBITRAGE LIMITATIONS IMPOSED ON DEBT ISSUANCES ..... 20
  - F. ACCOUNTING FOR DEBT PROCEEDS ..... 23
  - G. RECORDKEEPING ..... 24
- VIII. CONTINUING DISCLOSURE OBLIGATIONS GUIDELINES ..... 26
  - A. PURPOSE ..... 26
  - B. RESPONSIBILITY OF COUNTY OFFICIALS ..... 27
  - C. PRINCIPLES ..... 27
  - D. POLICIES ..... 28
  - E. PROCEDURES ..... 31
  - F. VOLUNTARY CLOSING AGREEMENT ..... 37
  - G. CONTINUING EDUCATION ..... 37

The basis for the sound administration of a debt program incorporates an integral policy that establishes boundaries to manage outstanding debt or issuance of new debt with fiscal and financial discipline. It is important to maintain and adhere to a long-term financial plan and the established policy to protect the credit quality and the financial position of the County.

## **I. DEBT RESPONSIBILITIES**

### **A. POLICY**

This Policy provides general guidance to Sarasota County Administration (County Administration), Office of the County Attorney (OCA) and the Clerk of the Circuit Court and County Comptroller (Clerk and Comptroller) in the capacity as Comptroller, with respect to the desires of the Sarasota County Board of County Commissioners (Board), for the issuance and management of all debt issued by Sarasota County, Florida (the County). However, nothing in this Policy shall be viewed as limiting the lawful authority of the Board to pursue the issuance of debt through all lawful means even in circumstances that may deviate from the general guidance of this Policy. All references herein to the term Debt Management Team shall refer to the professional staff from the County Administration, the OCA, and the Clerk and Comptroller assigned to assist in the management of the County's debt and that apply their individual professional judgment within their own areas of expertise but do not legally operate as a collective body. Under the guidance of federal and state laws, the County's Charter, Ordinances and Resolutions, the County may periodically enter into debt obligations to finance the construction or acquisition of infrastructure, buildings and other assets or to refinance existing debt and unfunded liabilities for the purpose of meeting its governmental obligations to its citizens. All debt will be issued and administered to obtain the best long-term financial advantage to the County while making every effort to maintain and improve the County's bond ratings and reputation within the investment community. It is the policy of the County to comply with all applicable federal tax rules related to its tax-exempt or tax advantaged debt issuances. References to "tax-exempt" debt herein, include any federally tax advantaged debt subject to Section 103 of the Internal Revenue Code, or other related provisions, including, without limitation tax credit bonds and "direct pay" tax credit debt.

### **B. AUTHORITY**

Debt of Sarasota County is subject to the Internal Revenue Code, Florida Statutes, the County Charter, County Ordinances, and County Resolutions which outline legal borrowing authority, restrictions, limits and compliance requirements. While the Florida Constitution and Statutes authorize the issuance of bonds by counties, these debt policies are established to provide supplemental guidance consistent with the existing statutory authority.

## C. PURPOSES AND USES

### 1. Asset Life

The County will consider long-term financing for the acquisition, replacement, or expansion of capital assets (including land, software and equipment) if it has a useful life, or average useful life of at least five years or to refinance existing debt when the conditions are favorable or in the case of an emergency and approved by the Board. County debt will generally not be issued for periods exceeding the useful life or average useful life of the project or projects to be financed.

### 2. Capital Financing

The County normally will rely on specifically generated funds and/or grants and contributions from other governments to finance its capital needs on a pay-as-you-go basis. Periodically, it may become necessary to secure financing that is considered interim or temporary in nature, and allows maximum flexibility in Capital Improvement Program (CIP) implementation (short-term debt).

Debt of longer repayment periods (long-term debt) will be issued for capital projects when it is an appropriate means to achieve a fair allocation of costs between current and future beneficiaries.

## II. **CREDITWORTHINESS**

### A. CREDIT RATINGS

The County seeks to maintain the highest possible credit ratings for all categories of short-term and long-term debt that can be achieved without compromising delivery of basic County services and achievement of adopted County policy objectives.

### B. FINANCIAL DISCLOSURE

The County is committed to provide complete financial disclosure, and cooperate fully with rating and other agencies, institutions, individual investors, other levels of government and the general public to share clear, comprehensible, and accurate financial and other relevant debt information in accordance with Federal securities laws. The County is also committed to meeting secondary disclosure requirements on a complete and timely basis.

The Clerk and Comptroller Finance Department (Finance Department) is responsible for ongoing disclosure to established national information repositories and maintaining compliance with disclosure standards promulgated by state and national regulatory bodies, and may carry out such responsibility through the engagement of an outside dissemination agent and by using the Clerk and Comptroller and/or County's internet website.

### C. CAPITAL PLANNING

To enhance creditworthiness and prudent financial management, the County is committed to systematic capital planning, coordinating intergovernmental cooperation, and long-term financial planning. Evidence of this commitment to systematic capital planning is demonstrated through adoption and periodic adjustment of a Comprehensive Plan pursuant to Chapter 163, Florida Statutes, and the annual adoption of a five-year CIP.

### D. DEBT LIMITS

The County will keep outstanding debt within the limits prescribed by State Statute and County Charter and at levels consistent with its creditworthiness, best practices, needs and affordability objectives.

## III. **DEBT STRUCTURE**

### A. DEBT STRUCTURE

Debt will be structured to achieve the lowest possible net cost to the County given prevailing market conditions, the urgency of capital funding needs, and the nature and type of security to be provided. To the extent possible, the County will design the repayment of its overall debt to rapidly recapture its credit capacity for future use.

### B. TYPES OF DEBT INSTRUMENTS AND PLEDGES/SECURITY

The County shall utilize the following types of security or any variation or combination of each when it incurs debt. The security shall be based on the revenue stream pledged to service the debt and the nature of the Capital Projects to be financed.

1. Bonds are a long-term debt security issued by a government at a fixed interest rate to finance capital projects.
  - a. General Obligation (GO) Bonds are long-term debt instruments secured by the County's ability to levy ad valorem taxes on real and personal property within the County. The full faith and credit of the County is the pledge of the general taxing powers for the payment of this obligation. In accordance with Florida Statutes, GO Bonds must be approved by a majority of those voting on a bond proposal in a bond referendum unless they mature in not more than a year or meet the statutory refunding exception.
  - b. Non-Self-Supporting Revenue Bonds are long-term debt instruments secured by dedicated non-ad valorem revenues derived from sources other than Enterprise Revenues such as half-cent sales tax, tourist development taxes, and other special taxes.

- c. Self-Supporting Revenue Bonds are long-term debt instruments secured by non-ad valorem revenues derived from fees and charges from the County's Enterprise Operations such as Solid Waste, Water and Wastewater System, and Stormwater System (Enterprise Revenues).
2. Commercial Paper (CP) is a short-term debt instrument that may be used for periods not to exceed five years. The County can utilize a covenant to budget and appropriate legally available non-ad valorem revenues (CB&A pledge) or Enterprise Revenues for its short-term borrowings under programs such as the Florida Local Government Commercial Paper Loan Program (a variable rate debt). This program provides cash flow and cash management capabilities to implement the County's ongoing CIP for interim or temporary up-front financing to the County's pay-as-you-go CIP. A project financed with short-term notes, such as tax-exempt commercial paper may be "taken out" by a bank loan or public issue once costs for the project are finalized.
3. Bank Loans provide an alternative to the funding of projects with publicly sold bonds where interest costs are estimated to be lower than a comparatively priced public issue.
4. State and Federal Programs are long-term loans issued by a state or federal agency for a qualifying project loan. They are secured based on the revenue stream pledged to service the debt and nature of the capital projects to be financed. State Revolving Fund loans and the loans through the Water Infrastructure and Finance and Innovation Act, which is administered by the Federal Environmental Protection Agency, are examples of state and federal loan programs.
5. As part of the overall financing plan the Debt Management Team will determine the security pledge for the debt and whether the debt is issued on parity with existing debt or as a subordinate debt. To the extent it is in the best interest of the County, there is a preference that there be a nexus between the revenue pledged and the specific purpose for which the debt is issued. Additionally, bonds should generally be equally and ratably secured by the revenues pledged to the repayment of any outstanding debt. However, the creation of a subordinate lien is permissible if a first lien is not available, or if it is economically beneficial, or advantageous to the County.
6. Other types of debt that may be used are anticipation notes used as short-term financing and other promissory notes that may be issued for the repayment of short-term or long-term debt.

### C. DEBT STRUCTURING

Debt will be designed in accordance with Florida Statutes and the useful life of the asset. It is structured for the shortest amortization period consistent with a fair allocation of costs to current and future beneficiaries or users, in order to achieve the lowest possible net cost and recapture credit capacity for future use.

The Debt Management Team may determine that it is beneficial to the overall financing structure to capitalize interest costs to better match debt repayment with revenues and operations.

The County will normally seek to structure debt with level debt service costs over the life of the debt. The "backloading" or "wrapping" of debt service costs will be considered when:

1. Natural disasters, extraordinary factors, or unanticipated external factors make the short- term cost of the debt prohibitive.
2. The benefits derived from the debt issuance can clearly be demonstrated to be greater in the future than in the present.
3. When such structuring is beneficial to the County's overall amortization schedule.
4. When such structuring will allow debt service to more closely match projected revenues during the early years of the project's operation.

### D. TAXABLE VERSUS TAX-EXEMPT DEBT

The County will seek first to issue tax-exempt debt. Should the situation arise, the County will carefully consider whether issuing taxable debt is the best financing option for a proposed project or refinancing and develop a thorough understanding of the differences between the tax-exempt and taxable markets before proceeding with a planned sale.

The Debt Management Team will conduct an analysis of how these differences would affect the overall financial plan and ability to manage its debt and consult appropriate counsel and advisors.

## E. REFUNDINGS

The Debt Management Team will monitor refunding opportunities of the County's outstanding debt portfolio. Refunding opportunities will be considered (within federal tax law constraints) if:

1. There is a net economic benefit,
2. Essential in order to modernize covenants or for restructuring purposes,
3. Essential to operations and management.

The net economic benefit to the County generally must provide a net present value savings of at least five percent of the debt being refunded. Refundings that offer less than a five percent net present value savings may be considered on a case-by-case basis. Refunding with negative savings will not be considered unless there is a compelling public policy or legal objective to do so, including to restructure underlying bond documents pursuant to which the revenues are pledged. The County will seek to purchase United States Treasury Securities State and Local Government Series (SLGS) to fund its refunding escrows. The County may choose to fund an escrow through the purchase of treasury securities on the open market when market conditions make such an option financially preferred or SLGS are not available.

## F. CREDIT ENHANCEMENTS

Credit enhancement, such as letters of credit, bond insurance, and reserve policies, may be used but only when net debt service on the bonds is reduced by more than the costs of the credit enhancement.

## G. VARIABLE RATE DEBT

The County may choose to issue securities that pay a rate of interest that varies according to a pre-determined formula or results from a periodic remarketing of the securities, consistent with state law and prevailing covenants of existing debt and depending on market conditions. The County will limit its outstanding debt in a variable rate to reasonable levels in relation to total outstanding debt.

## H. SHORT-TERM NOTES

Use of short-term borrowing, such as bond anticipation notes and commercial paper, will be undertaken only if the transaction costs plus interest on the debt are less than the cost of internal financing, or if the available cash for internal financing is insufficient to meet funding requirements. When internal financing is utilized, it will be evidenced by an Interfund Loan Note and if such financing is provided by the General Fund, said note will be approved by the Board.

## I. STATE AND FEDERAL LOAN PROGRAMS

These programs provide funds for projects such as water supply and distribution facilities, stormwater control and treatment projects, air and water pollution control, solid waste disposal facilities, infrastructure, etc. In programs like the State of Florida Revolving Loan Fund (SRF), local governments benefit from the strength of the state's credit and costs are traditionally low.

Other programs, like the Water Infrastructure Finance and Innovation Act (WIFIA), provide partial funding for large water and wastewater related projects and others like the State Infrastructure Bank (SIB) Loan provide funding for infrastructure type projects. Whenever possible, these types of programs shall be considered if the implementation costs are not excessive, interest costs are below prevailing open market conditions and legal terms are acceptable.

## J. CERTIFICATES OF OFFICIAL INTENT TO REIMBURSE

In developing the funding plan for a project, an operating department may decide to advance cash towards the initial funding of the project, with the expectation that such cash outlay will be recaptured from a subsequent issuance of tax-exempt debt. Before any such cash outlays are made (or in no event later than 60 days after the cash outlay is made), the operating department must file a Certificate of Official Intent to Reimburse with the OFM in accordance with Treasury Regulation Section 1.150-2. The County Administrator or designee will approve such Certificates and place them on file with Board Records. When the subsequent tax-exempt debt is issued, Bond Counsel will be provided with a copy of the Certificate so that the reimbursement from tax-exempt proceeds can be processed.

## K. LEASE AGREEMENTS

Financing leases in general do not provide an economic advantage and their use is not recommended unless it can be demonstrated to be beneficial to the County.

## L. USE OF DERIVATIVES

The use of derivative instruments in general is not recommended by the County.

## IV. DEBT ADMINISTRATION

### A. ANNUAL DEBT REPORT

The Clerk and Comptroller is responsible for preparing and delivering an Annual Debt Report to the Board as part of its annual review of the Annual Comprehensive Financial Report. This report, known as the Consolidated Major Revenue and Debt Report, shall pertain to the prior Fiscal Year and may include the following elements:

1. A history and brief description of all outstanding bonds,
2. A review of the County's bonded debt over the last ten years and a comparison of the County's debt to that of other similarly populated counties in Florida,
3. Information on the Commercial Paper Loan Program, Bank Loans, the State Revolving Fund Program or other similar programs, and debt issued through the conduit financing programs,
4. Information on arbitrage with accompanying schedules to provide a brief history of debt affected by arbitrage, the financial impact, and the current status.

#### **B. REPORT TO DEBT HOLDERS**

The Clerk and Comptroller shall prepare and release to all interested parties the Annual Comprehensive Financial Report which will act as the ongoing disclosure document required under the Continuing Disclosure Rules promulgated by the Securities Exchange Commission (SEC) Rule 15c2-12 (The Rule).

This report shall contain general and demographic information on the County and a discussion of:

1. General Government,
2. Solid Waste System,
3. Water and Wastewater Utility System,
4. Stormwater Utility System, and
5. Any additional systems that may subsequently be established by the Board.

The information presented on General Government and on each enterprise system shall comply with the disclosure obligations set forth in the Continuing Disclosure Agreements executed in connection with its outstanding debt obligations and may include information, including but not limited to, the following: service areas, rates and charges, financial statement excerpts, outstanding and proposed debt, a summary of certain bond resolution provisions, a management discussion of operations, and other information the County shall deem to be important. The specific information required to be updated annually is included in each relevant Continuing Disclosure Agreement. The report shall also include Notes to the Financial Statements and, to the extent available, information on conduit debt obligations issued by the County on behalf of another entity.

### C. ARBITRAGE COMPLIANCE

The Clerk and Comptroller maintains a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the federal tax code. All arbitrage rebate calculations are completed by an outside arbitrage consultant. Arbitrage rebate liabilities are calculated annually and the liability reported in the County's annual financial statements.

### D. TAX-EXEMPT DEBT POST ISSUANCE COMPLIANCE

There are certain post-issuance federal tax requirements that must be met pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended. In order to monitor such post issuance requirements, the Clerk and Comptroller have adopted policies and procedures with respect to Form 8038, Information Return for Tax-Exempt Private Annuity Bond Issues, compliance. A copy of the guidelines can be found in the proceeding Section VII; Tax-Exempt Debt Post-Issuance Compliance Guidelines section of this Debt Management Policy.

### E. FINANCING PROPOSALS

Any capital financing proposal to a County operating department, agency, or utility involving a pledge or other extension of the County's credit through sale of securities, execution of loans or leases, marketing guarantees, or otherwise involving directly or indirectly the lending or pledging of the County's credit, will be referred to and reviewed by the Clerk and Comptroller Director of Finance (Director of Finance) and the Director of the OFM, or their respective designees. Any decision to act on such proposal will require final approval by the Board.

### F. CONDUIT BOND FINANCING

Periodically the County is approached with a request to provide conduit financing for qualified projects using Sarasota County Health Facilities Authority Bonds or Sarasota County Industrial Development Revenue Bonds. Applications for such issues are processed pursuant to guidelines approved by the Board, including credit rating requirements, private placement requirements and the purpose of the borrowing issue. The Debt Management Team will assist the Health Facilities Authority and Industrial Development Revenue Bond Citizens Advisory Committee to conduct the required public hearing and provide a final funding recommendation to the Board.

The County requires complete indemnification from third parties seeking conduit bond financing and does not accept any liability associated with conduit bond financings. Therefore, the County will not recognize a conduit bond financing as a liability.

## V. FINANCING TEAM

### A. FINANCING TEAM SELECTION PROCESS

The Board selects the external members of the Debt Management Team, known as the Financing Team on the basis of merit by using a Request for Proposal (RFP) or Request for Quote (RFQ). Following an independent review, the internal members of the Debt Management Team will provide recommendations to the Board, as requested, on the selection of Financial Advisors and Underwriters. The Board makes all final determinations and may do so with or without recommendations.

### B. FINANCIAL ADVISOR

The Board will hire a registered Financial Advisor prior to the undertaking of a debt financing. The Financial Advisor has a fiduciary duty to the County and will provide advice on determining the best type of financing for the County, selecting other finance professionals, planning the bond sale, and successfully selling and closing the bond sale. Financial Advisors are required to have comprehensive municipal debt experience, including diverse financial structuring and pricing of municipal securities. The County requires that its Financial Advisor complies with the Municipal Securities Rulemaking Board (MSRB) Rule G-42 or similar standards of conduct for municipal advisors engaging in municipal advisory activities.

The County procurement rules allow for the Financial Advisor to assist in the selection of Underwriters for the issuance of bonds or financial institutions/banks for the issuance of bank loans and notes.

### C. BOND COUNSEL

The County retains external Bond Counsel for all debt issues deemed necessary. All debt issued by the County includes a written opinion by Bond Counsel affirming that the County is authorized to issue the debt and determining the debt's federal income tax status. Bond Counsel is engaged by the Office of the County Attorney. The selection criteria include a requirement for comprehensive municipal debt experience.

### D. DISCLOSURE COUNSEL

The County retains external Disclosure Counsel for all public offerings. Disclosure Counsel renders an opinion to the County (and a reliance letter to the Underwriters if requested) in connection with each such offering to the effect that, with certain conditions, nothing came to their attention to indicate the offering document contains any untrue statement of material fact or omits to state any material fact necessary to make the statements in the offering document, in light of the circumstances under which they were made, not misleading. Disclosure Counsel shall provide legal advice to the County to assist it in meeting its secondary market disclosure obligations. Disclosure Counsel is engaged in the same manner as Bond Counsel.

#### E. UNDERWRITERS

The County selects Underwriters for competitive and negotiated sales. The Underwriters will provide ideas and suggestions with respect to structure, timing, and marketing of the bonds being sold.

#### F. UNDERWRITER'S COUNSEL

On negotiated public offerings, the senior managing Underwriter may select their Underwriter's Counsel, who will be compensated as an expense item and negotiated as part of the gross underwriting spread. The County maintains no involvement in selection of Underwriter's Counsel as the Underwriter bears responsibility for its own counsel.

#### G. PAYING AGENT

The Board may utilize a Paying Agent on all County indebtedness. The fees and expenses for servicing outstanding bonds are paid from the appropriate debt service fund, unless specified otherwise by the Board.

#### H. OTHER SERVICE PROVIDERS

The Board may periodically select other service providers (e.g., escrow agents, verification agents, trustees, arbitrage consultants, etc.) as necessary to meet legal requirements and minimize net County debt costs. These services can include debt restructuring services and security or escrow purchases. The Board may select firm(s) to provide such financial services related to debt without an RFP or RFQ, consistent with County and State legal requirements.

### VI. **DEBT ISSUANCE PROCESS**

#### A. BOND AND NOTE SALES

All proposed borrowings require the Board's final approval, which includes the adoption of appropriate Resolutions drafted by Bond Counsel and reviewed by the Debt Management Team. Before the sale of bonds or notes the Debt Management Team will identify the source and use of bond proceeds, Funds, Organization (Org) Codes and Object Codes for deposit of all bond proceeds, and Funds and Org Codes for payment of debt service. The preparation of an appropriate Budget Amendment may also be required. No bonds, notes or other forms of indebtedness shall be incurred by the Board without the Debt Management Team's review.

## B. INVESTMENT OF BOND AND NOTE PROCEEDS

All proceeds of debt incurred by the County, other than conduit debt obligations, are invested as part of the County's consolidated cash pool unless otherwise specified by the bond covenants. Investments shall be consistent with those authorized by existing County and state law and by the Board-approved Investment Policy.

## C. USE OF BOND AND NOTE PROCEEDS

All proceeds will be used as described in the resolution authorizing the issuance. In the event funds are determined, by the County, to not be needed for the purpose they were issued, such funds shall be transferred to the debt service fund to be applied to payment or prepayment of the bond or note unless otherwise authorized in the issuance resolution.

## D. COSTS AND FEES

All costs and fees related to issuance of bonds, except conduit bonds, are paid out of bond proceeds unless otherwise determined by the Debt Management Team.

## E. METHOD OF SALE

The Debt Management Team will prepare a method of bond sale for Board consideration based on a thorough analysis of the relevant rating, security, structure and other factors pertaining to the proposed bond issue. The County's policy is to sell public debt using the method of sale expected to achieve the best result, taking in to consideration all short-term and long-term implications. This analysis and selection will be undertaken with the advice of the Financial Advisor. Due to the inherent conflict of interest, the Board shall not use a broker-dealer or potential Underwriter to assist in the method of bond sale selection unless that firm has agreed not to underwrite that transaction. There are two methods to sell bonds.

### 1. Competitive Sale

In a Competitive Sale, the County conducts all tasks necessary to offer the bonds for sale and may use the assistance of attorneys, its Financial Advisor or other consultants. The bonds are awarded to the Underwriter that has submitted the best price (i.e., the lowest true interest cost bid). Once the bid is awarded, pricing and major structural aspects of the bonds are locked in regardless of the success or failure of the Underwriter to sell the bonds to investors. If the County determines that the bids are unsatisfactory, it may enter into a negotiated transaction for sale of the securities with the Board's approval. Bond Counsel and Disclosure Counsel will also be consulted.

## 2. Negotiated Sale

In a Negotiated Sale, the County selects its Underwriters through an RFP process to appoint a pool of Underwriters for a term of up to five years. From that pool, senior managing and co-managing Underwriters for individual financings are then selected through a “mini-RFP” process, typically conducted by the Financial Advisor on behalf of the County, based on their qualifications to manage the particular transaction under consideration. The Debt Management Team and the Financial Advisor then conduct the evaluation of responses. The County will employ external consultants to perform all tasks necessary to offer the bonds for sale within the County’s pool of Underwriters. The County’s Financial Advisor will advise on all aspects of the sale including selection of the Underwriter. Bond Counsel and Disclosure Counsel will also be retained.

## VII. TAX-EXEMPT DEBT POST-ISSUANCE COMPLIANCE GUIDELINES

### A. PURPOSE

These post-issuance compliance policies and procedures are intended to serve as a guide for the County to facilitate compliance with the federal tax law applicable to the County’s outstanding debt issuances. In the event these guidelines conflict, in whole or in part, with the Certificate Relating to Tax, Arbitrage, and Other Matters (the Tax Certificate) or other similar certificate prepared on behalf of the County in connection with a debt issuance, the terms of the Tax Certificate shall control. In addition, the County may deviate from these guidelines on the basis of advice of Bond Counsel. These guidelines do not apply to conduit issuances of debt by the County, however, the adoption of such guidelines by conduit borrowers is encouraged by the County.

### B. RESPONSIBILITY OF COUNTY OFFICIALS

Except as otherwise described herein, the Clerk and Comptroller and County Administration share primary responsibility for ensuring that the County’s outstanding tax-exempt debt issuances are, and will remain, in compliance with federal tax law. The County officials with primary responsibility are the Director of Finance and the County’s Chief Financial Management Officer.

The Finance Department and OFM will consult with other departments within the County, as well as third-party professionals (e.g., the County’s Bond Counsel, County’s Disclosure Counsel, County’s dissemination agent, and arbitrage rebate provider), as needed, to ensure compliance with such rules, including these guidelines. The Finance Department and OFM will ensure that these guidelines are reviewed annually.

## C. CLOSING OF DEBT ISSUANCES

### 1. Tax Certificates

The County's Bond Counsel, with assistance from the Debt Management Team and other professionals associated with the financing, shall prepare a Tax Certificate in connection with each debt issuance issued by the County, to be delivered at closing. The Tax Certificate shall serve as the operative document for purposes of establishing the County's reasonable expectations, as of the date of a debt issuance, as well as, provide a summary of the federal tax rules applicable to such issuance. The Debt Management Team, in consultation with the County's Bond Counsel, will review the Tax Certificate prepared for each of the County's debt issues prior to the closing of the issue.

### 2. Internal Revenue Service Form 8038-G – Tax-Exempt Bonds

The County's Bond Counsel, with assistance from the Debt Management Team and other professionals associated with the financing, shall prepare an IRS Form 8038-G, Information Return for Tax-Exempt Governmental Obligations or similar form, in connection with each tax-exempt debt issuance issued by the County, which the Debt Management Team will review prior to closing. Each IRS Form 8038-G prepared for a tax-exempt debt issuance will be filed with the IRS no later than the 15th day of the second calendar month after the close of the calendar quarter in which the tax-exempt obligation to which such Form 8038-G relates is issued. All Form 8038-Gs shall be filed by the County's Bond Counsel with the IRS.

## D. USE OF DEBT PROCEEDS

### 1. Private Use

The County will not knowingly take or permit to be taken any action which would cause any of its outstanding debt issuances to become "private activity bonds", as described on the next page.

Generally, an issue of debt will be considered "private activity bonds" if more than ten percent of the proceeds of the debt are used directly or indirectly in any trade or business carried on by a private business user and more than ten percent of the debt service on the debt is directly or indirectly (1) secured by any interest in property used or to be used in any trade or business carried on by a private business user or payments in respect of property used or to be used in any trade or business carried on by a private business user, or (2) derived from payments made in respect of property used or to be used in any trade or business carried on by a private business user. The threshold drops to five percent if the private business use of the debt proceeds is unrelated to or disproportionate to the governmental use of the debt proceeds.

## 2. Overview

The County routinely reviews, and will continue to review, third-party uses of its debt-financed facilities for potential "private business use". The Debt Management Team shall be responsible for such routine reviews of third-party use. In addition, the County will continue to consult regularly with its Bond Counsel regarding the applicable federal tax limitations imposed on the County's outstanding debt issuances and whether arrangements with third parties give rise to private business use of the financed projects.

In the event the County enters into any arrangement which gives rise to private business use, the County will consult its Bond Counsel regarding the arrangement and whether such arrangement impacts the tax-exempt status of the County's outstanding debt, as applicable. The County Attorney shall upon request made by the Finance Department or OFM review Service Contracts, in consultation with Bond Counsel leases and subleases, naming rights agreements, and joint venture and partnership agreements with respect to potential private business use.

The private business use arrangements to be monitored by the County include, but are not limited to, the following:

### a. Management or Other Service Contracts

In the event the County enters into a management contract, service agreement, operating agreement or license (a Service Contract) with a third-party the County will evaluate whether such arrangement results in private business use. After initial review by the County Attorney, the Debt Management Team shall monitor all service contracts that involve the use of debt-financed property for compliance.

It is the County's intent to structure all Service Contracts impacting debt-financed property so as to satisfy one of the private business use safe harbors set forth (1) IRS Revenue Procedure 2017-13 (the "Current Guidelines"), (2) to the extent applicable, IRS Revenue Procedure 97-13, 1997 1 C.B. 632, as modified by IRS Revenue Procedure 2001-39, 2001-1 C.B. 38 and amplified by IRS Notice 2014-67, 2014-46 I.R.B. 822 (10/24/2014) (the "Prior Guidelines"), or (3) any successor to Revenue Procedure 2017-13. Instead of complying with the Current Guidelines, management and service contracts entered before August 18, 2019, and not materially modified or extended after that date (except pursuant to a renewal option under which either party has a legally enforceable right to renew the contract) may comply with Prior Guidelines. If the County enters into a Service Contract that does not satisfy the safe harbors set forth in Revenue Procedure 2017-13, the County will consult with its Bond Counsel to assess the impact, if any, that the noncompliant Service Contract has on the tax status of the County's outstanding debt.

b. Lease and Subleases

After initial review by the County Attorney, the Debt Management Team shall monitor all leases and subleases that involve the use of debt-financed property, including the name of the lessee or sub-lessee, the term of the lease or sub-lease, the amount of the rent paid by the lessee or sub-lessee, and the square footage of space used by the lessee or sub-lessee relative to the square footage of the debt-financed property.

c. Naming Rights Agreements

After initial review by the County Attorney and consultation with Bond Counsel, the Debt Management Team shall monitor all naming rights agreements that involve debt-financed property, including the term of the arrangement and the amount paid by the naming party.

d. Joint Ventures and Partnership Arrangements

After initial review by the County Attorney and consultation with Bond Counsel, the Debt Management Team shall monitor all joint ventures, partnerships, or other cooperative agreements that involve the use of debt-financed property.

3. Sales of Debt-Financed Property

It is the County's policy to use debt proceeds to finance property that the County intends to own for the entire term of the debt issued to finance the projects. Prior to selling or otherwise disposing of any debt-financed project for which debt remains outstanding, the County shall consult with its Bond Counsel to determine the impact, if any, such sale or disposition would have on the tax status of the County's outstanding debt.

4. Remedial Actions

The County is aware of the remedial action rules contained in Treasury Regulations Section 1.141-12, providing the County with the ability, in certain circumstances, to voluntarily remediate violations of the private business tests or private loan financing test. Although the County intends that none of its debt issuances will require the application of the remedial action rules, prior to taking any action that would cause one or more of its outstanding debt issuances to, absent a remedial action, violate the private business tests or private loan financing test, the County shall consult with its Bond Counsel regarding the applicability of the remedial action rules to such action and the ability to remediate the impacted debt issuance.

## 5. Private Loans

Except in connection with the issuance of conduit bonds, the County will not loan the proceeds of any County debt issuance to a third party, other than governmental units within the meaning of Section 141(c) of the Code.

## E. ARBITRAGE LIMITATIONS IMPOSED ON DEBT ISSUANCES

### 1. Arbitrage Rebate Monitor

The County will continue to retain an arbitrage rebate monitor to review its outstanding debt issuances, unless, in the judgment of the Finance Department and in compliance with these policies and procedures and the Tax Certificate or other related documents entered into in connection with a debt issuance, there is no reasonable prospect of an arbitrage rebate or yield reduction payment liability. If an arbitrage rebate monitor is retained, the arbitrage rebate monitor will perform calculations to ascertain whether the County owes an arbitrage rebate payment or yield reduction payment to the IRS, including whether the debt issuance in question qualifies for an exception to the arbitrage rebate rules.

### 2. Yield Restriction Limitations

Each Tax Certificate or other related documents prepared for the County's debt issuances shall contain the applicable yield restriction investment limitations, including the applicable investment limitations imposed on proceeds of the debt issuance and any temporary periods during which the County may invest proceeds of the debt issuance at an unrestricted yield.

### 3. Monitoring Yield Restriction Limitations

The Finance Department will ensure that the County complies with the yield restriction limitations outlined in the Tax Certificate or other related documents entered into by the County in connection with a debt issuance, including any exceptions to yield restriction described therein.

#### 4. Payment of Arbitrage Rebate and Yield Reduction Liability

In the event the County owes arbitrage rebate or has accrued a yield reduction payment liability to the IRS, the County will timely submit IRS Form 8038-T, Arbitrage Rebate Yield Reduction and Penalty in Lieu of Arbitrage Rebate, to be prepared by the arbitrage rebate monitor, together with payment in the amount equal to the arbitrage rebate or yield reduction payment liability calculated by the arbitrage rebate monitor in accordance with the Tax Certificate or other related documents related to such debt issue. Timely shall mean within sixty days after each installment computation date, the County will cause to be paid to the IRS at least ninety percent of the amount of arbitrage rebate and yield reduction payment liability owed and within sixty days after the final installment computation date, the County will cause to be paid to the IRS one hundred percent of the amount of arbitrage rebate and yield reduction payment liability owed.

#### 5. Expenditure of Tax-Exempt Debt Proceeds

It is the policy of the County to expend debt proceeds as promptly and diligently as possible within the confines of these policies and procedures and the Tax Certificate or other related documents entered into by the County in connection with a particular debt issuance. For these purposes, it is the County's policy generally not to finance projects using the proceeds of debt for which the County expects that the debt proceeds will not be fully spent within three years of the date of issue of the debt.

#### 6. Arbitrage Rebate Exceptions

Each Tax Certificate or other related documents prepared for the County's debt issuances shall contain the arbitrage rebate exception(s) applicable to the debt issuance and which arbitrage rebate exceptions(s) will be applied by the rebate monitor in assessing whether the County owes arbitrage rebate.

#### 7. Verification Agent

The County will continue to retain a third-party verification agent for each of its advance refunding bond issues. The County may waive the requirement for a verification agent if no escrow securities are purchased and the escrow is gross funded. The verification agent will verify the arbitrage yield on the tax-exempt debt issuance, the arbitrage yield on the investments acquired as part of the refunding escrow established using gross proceeds of the debt issuance, and the sufficiency of the refunding escrow.

## 8. Establishment of Refunding Escrows and Trustee Responsibilities

The County will deposit debt proceeds, and any other amounts, to be used to advance refund County debt into one or more separate escrow trust accounts established with the trustee or escrow agent selected for the transaction.

Working with the Bond Counsel, and in accordance with the documentation prepared for the refunding transaction, the County will impose primary responsibility for initiating actions required to be taken with respect to the refunding escrow (including the reinvestment of amounts within the escrow and disbursing funds from the escrow) on the trustee or escrow agent. In the event of an omission on the part of the trustee or escrow agent, an error in the documentation or procedures establishing the escrow, or investment to be acquired as part of the refunding escrow is not available for purchase, the Debt Management Team will timely consult with the Bond Counsel, as applicable, to determine the impact, if any, on the status of the bond issue and actions to be undertaken by the County to ensure the continuing status of the obligations.

## 9. Acquiring Investments for Refunding Escrows

It is the policy of the County to maximize the investment return on all investments acquired with bond proceeds and to acquire such investments at fair market value. When funding deposits for refunding escrows using debt proceeds, it is the County's policy to acquire SLGS or securities purchased on the open market in accordance with the terms of the County's bond documents.

In the event the County chooses to fund an advance refunding escrow using securities purchased on the open market, the County will, if possible, solicit bids from providers of qualifying securities in accordance with the limitations described in the "3-Bid" safe harbors set forth in Treasury Regulations Section 1.148-5(d)(6).

## 10. Interest Rate Hedges

The County, through the Debt Management Team, will engage a third party Financial Advisor for all interest rate hedges entered into by the County, irrespective of whether any such hedge is acquired through a direct negotiation with the provider or procured through a bidding process. In all cases, the County will obtain appropriate certifications from its Financial Advisor and/or the provider to establish the fair market value of the product. The County will consult with its Bond Counsel with respect to all interest rate hedging transactions related to an outstanding or prospective debt issuance prior to the date on which the interest rate hedging transaction is entered into.

## F. ACCOUNTING FOR DEBT PROCEEDS

### 1. General

Except as otherwise described below and in the Tax Certificate entered into by the County in connection with a debt issuance, it is the policy of the County to consistently apply a generally accepted method of accounting for the allocation of its debt proceeds.

### 2. Investment Proceeds

Proceeds of the County's capital borrowings shall be accounted for in a separate fund or account. All proceeds shall be invested at the direction of the Finance Department in accordance with the County's investment policy adopted by the Board.

### 3. Expenditure of Debt Proceeds on Capital Projects

The respective responsible department will initially review and approve invoices related to the debt financed expenditures and forward to OFM and the Finance Department for subsequent review and approval of invoices and cause payments to be made. All invoices and records of payment shall be retained by the County in accordance with the proceeding section G, "Recordkeeping", below.

The County shall maintain an active ledger, updated with each payment of an expenditure from debt proceeds that for each outstanding debt issuance shows:

- a. The name and date of the debt issue to which the proceeds relate,
- b. The projects financed with the proceeds of the issue,
- c. The authorized amount of proceeds to be used to finance each project,
- d. The amount of proceeds of the debt issuance used to date to finance each project,
- e. The amount of unspent proceeds of the debt issuance to be used to finance each project, and
- f. The date on which the debt proceeds related to each project were fully expended.

## G. RECORDKEEPING

### 1. General

The County is aware of its ongoing recordkeeping responsibilities associated with its debt issuances. The County's relationship with its dissemination agent is intended to assist the County in maintaining compliance with its recordkeeping responsibilities. Each Tax Certificate prepared on behalf of the County for a debt issuance shall provide for a description of the records to be maintained by or on behalf of the County and period of time such records must be maintained. In addition, the County is familiar with the IRS's Frequently Asked Questions related to the recordkeeping requirements for tax-exempt debt.

### 2. Means of Maintaining Records

The County may maintain all records required to be held as described in this section in a manner consistent with State Record Law. These records will be store in paper and/or electronic form (e.g., CD, drives, disks, form either internally or through the dissemination agent). It is the policy of the County to maintain as much of its records electronically as feasible.

### 3. Transcript and Use of Debt Proceeds

The County shall maintain, or cause to be maintained, all records relating to the tax-exempt status of its tax-exempt debt issuances and the qualification of County debt and the representations, certifications and covenants set forth in its respective Tax Certificates until the date 3 years after the last outstanding obligation of the issue to which such records and Tax Certificate relate has been retired. These records include, but are not limited to, the following:

- a. Basic records and documents relating to the obligations (including the transcript, which shall include, among other records, the Tax Certificate, IRS Form 8038-G or 8038-B, verification report, authorizing resolution(s), trust indenture, loan agreement, record of public approval, and the opinion of Bond Counsel);
- b. Documentation evidencing the expenditure of debt proceeds;
- c. Documentation evidencing interest paid by the County for which refundable credits are claimed and all IRS Form 8038-CPs submitted on behalf of the County;
- d. Documentation evidencing the use of debt financed projects by public and private sources, including copies of all arrangements described in Part VII Section D of these policies and procedures;

- e. Documentation evidencing all sources of payment or security for the debt issuance; and
- f. Documentation pertaining to any investment of debt proceeds (including the purchase and sale of securities, SLGS subscriptions, yield calculations for each class of investments, actual investment income received from the investment of proceeds, guaranteed investment contracts, and rebate calculations).

#### 4. Investments

Moneys held for the credit of the funds and accounts established in the Resolution shall be invested and reinvested by the County in Investment Obligations, which are defined in the Resolution to be any obligations permitted by the investment policy adopted by the County pursuant to Section 218.415, Florida Statutes, as such policy may be modified from time to time, and in which surplus public funds may be invested under the laws of the State of Florida. Such investments or reinvestments shall mature or become available not later than the respective dates, as estimated by the County, that the moneys held for the credit of said funds and accounts will be needed for the purposes of such funds or accounts.

#### 5. Arbitrage Rebate and Yield Reduction Payment Records

The County shall maintain all records of arbitrage rebate payment and yield reduction payment calculations performed by the arbitrage rebate monitor (irrespective of whether the County owed any amount to the IRS), and records related to any arbitrage rebate payments or yield reduction payments made to the IRS, including the calculations performed by the arbitrage rebate monitor substantiating such payments, together with the IRS Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, that accompanied all such payments, until the date three years after the last outstanding obligation of the issue to which such records and rebate payments relate has been retired.

#### 6. Overpayment of Arbitrage Rebate Records

In the event the County has overpaid to the United States an arbitrage rebate or yield reduction payment liability, the County shall maintain all records of such arbitrage rebate payments or yield reduction payments, including calculations performed by the arbitrage rebate monitor, together with the IRS Form 8038-R, Request for Recovery of Overpayments Under Arbitrage Rebate Provisions, that accompanied the request for a recovery of such overpayment until the date three years after the last outstanding obligation of the issue to which such records and rebate overpayments relate has been retired.

## 7. Other Records

In addition to the records described above, the County will maintain the following records, to the extent applicable to a particular debt offering, until the date three years after the last outstanding obligation of the issue to which such relates has been retired:

- a. Minutes and resolutions authorizing the issuance of, or the reimbursement of expenditures using proceeds of, the financing,
- b. Appraisals, demand surveys and feasibility studies related to debt financed or refinanced property,
- c. Documentation relating to any third-party funding for a project to which debt proceeds will be applied (including government grants),
- d. Records of any IRS audit or compliance checks, or any other IRS inquiry related to debt.

## 8. Applicability of Recordkeeping Requirement in the Event of a Refunding

In the event the County issues debt to retire County debt, the County shall maintain all of the records described in this section with respect to the refunded debt until the date that is three years after the last outstanding obligation of the issue the proceeds of which were used to retire the refunded debt has been retired.

## VIII. CONTINUING DISCLOSURE OBLIGATIONS GUIDELINES

The County will provide continuing disclosure, such as annual financial information and material event notices, pursuant to a continuing disclosure agreement or similar document (the Continuing Disclosure Document) prepared by Disclosure Counsel and made a part of the transcript with respect to each issue of bonds of the County that is subject to such continuing disclosure requirements. The continuing disclosure obligations of the County are governed by the Continuing Disclosure Agreements (CDAs). The Finance Department is primarily responsible for undertaking such continuing disclosure obligations and to monitor compliance with such obligations. All continuing disclosure obligations are filed by the Finance Department through its dissemination agent.

### A. PURPOSE

To assist underwriters in complying with the post-issuance debt disclosure requirements of The Rule.

## B. RESPONSIBILITY OF COUNTY OFFICIALS

Generally, publicly offered bonds issued by state and local governments are subject to ongoing monitoring and reporting with respect to federal disclosure requirements pursuant to their CDAs, as well as compliance with federal tax requirements specifically related to tax-exempt bonds. In addition to federal securities and tax requirements, issuers may face a variety of other compliance obligations, such as bond indenture requirements, state and local law and policy requirements.

Comprehensive post-issuance compliance consists of policies and procedures designed to assist an issuer of bonds in complying with all of the relevant requirements that apply to each series of bonds from the date they are issued until the bonds are no longer “outstanding”.

Market disclosure in general is subject to the anti-fraud rules under the federal securities laws. Disclosures by issuers are generally made in three contexts: (1) primary market disclosure through offering documents prepared for primary offerings of securities; (2) secondary market disclosures prepared in compliance with undertakings under The Rule; and (3) releases and/or statements by the issuer and its officials that are reasonably expected to reach investors and the trading markets, such as communications through investor websites, press releases or other public responses.

The County has engaged Disclosure Counsel to advise the County with respect to disclosure obligations and requirements under the federal securities laws.

## C. PRINCIPLES

1. Everyone involved in the County disclosure process should be encouraged to raise potential disclosure items at all times in the process.
2. Everyone should be encouraged to err on the side of raising issues to the next level of the review chain.
3. It should be made clear that all participants in the disclosure process should feel free to raise any issue with the Director of Finance at any time.
4. While care should be taken not to shortcut or eliminate any steps outlined in these guidelines on an ad hoc basis, they are a continuing process and recommendations for improvement should be solicited and regularly considered.
5. The process of primary disclosure should not be viewed as a mechanical insertion of current information and data. Everyone involved in the preparation of official statements should consider the need for revisions in the form and content of the sections for which they are responsible at the time of each update.

6. Care should be taken that any information produced and maintained for public consumption, and which may be relied upon by an investor in making an investment decision in the primary or secondary market, is accurate as of its date of publication.
7. If you are not sure if it is material or not, err on the side of concluding that it is material.
8. Prior to undertaking any voluntary continuing disclosure filings, the County should first have a discussion with its Disclosure Counsel. If it is determined to be beneficial to undertake a voluntary continuing disclosure filing, the County should take care to be consistent in its filings when implementing a voluntary continuing disclosure program. Such voluntary filings can also be subject to federal securities law liability. Any voluntary continuing disclosure filings should contain no material omissions or misstatements.
9. Consideration should be made, based on consultation with Disclosure Counsel as to whether a public statement by a County official or the response by the County to an investor inquiry (e.g., a question from one of the County's bondholders) may be material enough to merit a voluntary Electronic Municipal Market Access (EMMA) filing in order to ensure that the County's bonds are trading based on equal access to material information.

#### D. POLICIES

##### 1. Preparation of Annual Continuing Disclosure Filing

By February 28th of each year, the Director of Finance shall review the County's annual filing requirements in each active continuing disclosure undertaking to determine what financial information and operating data must be updated and filed on an annual basis, and when such filings should be submitted. The Director of Finance shall involve the Accounting Manager and Debt Analyst, as appropriate, in the preparation of the requisite updates. The Director of Finance shall comply with the annual filing requirements of all such undertakings. Process of preparation shall be the same as the preparation of Official Statements. The Director of Finance may employ the services of an outside dissemination agent to assist with the foregoing responsibilities.

## 2. Monitoring Events Which May Trigger Continuing Disclosure Filing

Periodically, the Director of Finance shall review the list of enumerated events in each active continuing disclosure undertaking, to maintain an awareness of the circumstances which may trigger a filing obligation, including the time frame within which such a filing would be required to be made. The Director of Finance shall use his or her best efforts to comply with the ongoing filing requirements of all such undertakings. The Director of Finance may employ the services of an outside dissemination agent to assist with the foregoing responsibilities to transmit the annual report to the Municipal Securities Rulemaking Board (MSRB) EMMA system. There are two enumerated events which will be included in Continuing Disclosure Agreements made upon the issuance of public offerings which close on or after February 27, 2019. Those enumerated events include the following:

- a. Incurrence of a financial obligation of the issuer or obligated person, if material (a new obligation event), or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the issuer or obligated person, any of which affect security holders, if material (a revised obligation event), and
- b. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation of the issuer or obligated person, any of which reflect financial difficulties (a financial distress event). (Note the lack of a materiality standard in this section b when compared to section a above.)

## 3. Materiality, Financial Obligations and Financial Difficulties

Certain enumerated events in The Rule require a materiality determination to be made by the County. In making such a determination of materiality, the Director of Finance should ask whether the information would be important to a reasonable investor making a decision of buy or sell bonds (for example, consider what is pledged, what is the priority, what is the size of the borrowing relative to the County's budget, what events of defaults were granted, what remedies were granted, etc.). The Director of Finance should also consult Disclosure Counsel.

Once these two new undertakings (sections a and b below) are in place contractually, as a practical matter, the Director of Finance should do the following, in addition to monitoring the list of reportable events, as has been the case for many years:

- a. Inventory all existing financial obligations and planned borrowings on a spreadsheet as a living and breathing document, as outlined below,

- b. Monitor debt issuance plans and such financial obligations on an ongoing basis for any of the reportable events described in section VIII E of this document and if any such event occurs, to ensure the filing of a notice on EMMA of such within ten business days of the occurrence of such event.

The Director of Finance should consult with its ongoing Disclosure Counsel in preparing for and executing this new responsibility. Material failures to timely comply with Continuing Disclosure Agreements (i.e., foot faults) must be disclosed in official statements for five years following non-compliance. Having a dissemination agent alone is not enough because it is the Director of Finance, not the dissemination agent, which first obtains knowledge that one of these events has occurred. A dissemination agent is not generally tasked with monitoring the issuer's debt plans and financial obligations on an ongoing basis to determine if a new obligation event occurs, a revised obligation occurs or a financial distress event occurs. For example, they are often not on a distribution list for an upcoming bank loan.

Examples of a financial obligation (i.e., a new obligation event) include but are not limited to a debt obligation, a bank loan, the closing date of a drawdown line of credit, initial establishment of a new commercial paper program, a forward interest rate swap, a cap, a collar, a traditional interest rate swap, a derivative, a guarantee, an inter-local funding agreement, an equipment lease financing that is like a borrowing (e.g., a bank affiliated leasing company is involved in addition to the equipment vendor), a certificate of participation, a subject to annual appropriation financial obligation, etc. Each drawdown on a line of credit or issuance of a tranche of CP is not a separate reported financial obligation.

An example of a "revised obligation event" includes that the covenants in a private placement or loan agreement may be changed because of improvements to the financial condition of the issuer or if the parties wish to restructure the loan for other reasons. It is not necessary that a revised obligation event reflect financial difficulties. Another example would be substituting existing security with stronger security with the consent of the lender for non-financial reasons, which has nothing to do with financial difficulties and would be considered a revised obligation event.

#### 4. Website Disclaimer

The Clerk and Comptroller's and/or the County's website is a useful tool for communicating with citizens and taxpayers in the County. In certain instances, potential investors may also find the County's website useful, which requires that the County be cautious in the administration of its website. Relating to information of the "Investor Relations" variety (i.e., information that the County reasonably expects to reach investors and the trading markets), the County shall include a disclaimer, obtained from the Disclosure Counsel, before allowing access to potential investors.

## 5. Periodic Training

At least once every two years, the Disclosure Counsel shall conduct training for the County officials to review their continuing disclosure policy roles and responsibilities. Such training shall include updates on current issues in the area of federal securities law as well as a question and answer session. Feedback on the process should be invited. During the training process, modifications to section VIII of this policy, if any, should be considered.

## 6. Chief Disclosure Officer

The Director of Finance will have general oversight of the entire disclosure process which shall include:

- a. Maintaining appropriate records of compliance with the policies and procedures and decisions made with respect to disclosure issues that have been raised as a result of working through the policies and procedures,
- b. Periodically checking to determine that the policies and procedures are being followed, and
- c. Evaluating the effectiveness of the policies and procedures and making appropriate changes as needed.

## E. PROCEDURES

### 1. Watch for Reportable Events

Determine if any of the following The Rule reportable events occurred:

- a. Principal and interest payment delinquencies.
- b. Non-payment related defaults, if material.
- c. Unscheduled draws on debt service reserves reflecting financial difficulties.
- d. Unscheduled draws on credit enhancements reflecting financial difficulties.
- e. Substitution of credit or liquidity providers, or their failure to perform.
- f. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the securities, or other material events affecting the tax status of the securities.

- g. Modifications to rights of security holders, if material.
  - h. Bond calls and tender offers.
  - i. Defeasances.
  - j. Release, substitution or sale of property securing repayment of the securities, if material.
  - k. Rating changes.
  - l. Bankruptcy, insolvency or receivership.
  - m. The consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
  - n. Appointment of successor or additional trustee or the change of name of a trustee, if material.
  - o. The incurrence of a Financial Obligation of the County or Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the County or Obligated Person, any of which affect security holders, if material.
  - p. Default, event of acceleration, termination event, modification of terms or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.
2. Comply with reportable events n. (Event 15) and o. (Event 16) to The Rule  
Oversee the filing with the MSRB of notice of events n. (Event 15) and o. (Event 16.)
  3. Know the Exceptions to CDAs  
Do not file any CDAs for debt issuances that meet at least one of the following:
    - a. The entire issue for less than one million dollars (\$1,000,000)
    - b. The bonds were sold, in authorized denominations of one hundred thousand dollars (\$100,000) or more, to no more than thirty-five sophisticated investors.

- c. The bonds sold in authorized denominations of one hundred thousand dollars (\$100,000) minimum denominations, or more, and mature in nine months or less from initial issuance.
- d. The bonds were issued prior to July 1995 (or prior to December 1, 2010 for certain "puttable" securities).

#### 4. Inventory Existing Financial Obligations

Create a spreadsheet or a database to:

- a. Maintain an inventory of all existing financial obligations, and planned borrowings, on a spreadsheet by using the County's Annual Comprehensive Financial Report as a starting point.
- b. Maintain an inventory of relevant material covenants, and any other provisions (e.g., events of default, remedies, priority rights), to be in a position to timely identify events which will need to be reported.
- c. Review the inventory for the occurrence of a default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation.

#### 5. Monitor CDA's

Have a clear understanding and watch for new instances of:

- a. Any new language that will be included in CDAs.
- b. What is posted on EMMA.
- c. What the County has promised to do in CDAs.

#### 6. Determine if a Liability is a Financial Obligation

Review new contracts or agreements for the following:

- a. Determine if a new contact or agreement is a financial obligation for purposes of The Rule.

- b. When reviewing for financial obligations, consider: debt obligations or a source of payment for, an existing or planned debt obligation; and guarantees thereof. The term "debt obligation" includes leases "that operate as vehicles to borrow money". The term "financial obligation" does not include "ordinary financial and operating liabilities incurred in the normal course of the County's business", or municipal securities as to which a final official statement has been provided to the MSRB consistent with The Rule.

## 7. Determine if a Financial Obligation is Material

Consider materiality when reviewing financial obligations for reportable events:

- a. Determine materiality by asking whether the information would be important to a reasonable investor making a decision of buy or sell the County's bonds (consider what is pledged, what is the priority, what is the size of the borrowing relative to the issuer's budget, what events of defaults were granted, what remedies were granted, etc.) When in doubt, err on the side of assuming it is material.
- b. Determine materiality based on whether the information would be important to the total mix of information made available to the reasonable investor.
- c. Review agreements associated with the financial obligation, such as covenants, events of default, remedies, and priority rights, to determine if they are material.

## 8. Ensure Reportable Event Filings are Timely and Complete

When filing for a reportable event:

- a. File event notices within ten business days of the occurrence of the reportable event.
- b. Ensure any cover sheet for a filing is correct and appropriate.
- c. Determine if a summary or copy of an underlying document needs to be included in the filing of an event notice.
- d. Determine if a description, date, and other information, about the additional event disclosures, needs to be submitted.
- e. Determine which terms and conditions of the financial obligation require disclosure. These could include covenants, events of default, remedies, and priority rights.
- f. Decide to disclose the material terms either in a summary form or by posting the entire contract or agreement to EMMA.

- g. If a summary form was posted to EMMA, ensure the summary was accurate and complete.
- h. Consult with legal counsel regarding which terms and conditions to disclose.
- i. Determine if there are agreements in existing continuing disclosure undertakings to comply with The Rule as it may be amended. If there are, review the existing undertakings to determine if amendments are required, to include The Rule amendments, or if the amendments are automatically included by the terms of the existing undertakings.
- j. If the County failed to materially comply with previous commitments within the last five years, ensure the disclosure states that.

## 9. Document Compliance

For any event filings:

- a. Maintain a document file.
- b. Maintain evidence that all procedures were followed.
- c. Maintain evidence that all proper reviews were conducted.

## 10. Staffing the Disclosure Process

Consider the following staffing and communications issues:

- a. Identify personnel, including an obligated person, who can determine the occurrence of a reportable event and file notice on EMMA.
- b. Select an employee who will determine whether the government is experiencing financial difficulties.
- c. Have procedures in place to require proper communication between departments so that internal information silos are avoided.
- d. Know who is filing what, when, and where.
- e. Have a disclosure committee, which meets regularly, to consider new disclosures.

## 11. Determining Enhancements to the Disclosure Process

Consider the following when assessing potential enhancements to the disclosure process:

- a. Ensure all employees and officials, who possess relevant material information, are sufficiently involved in the disclosure process.
- b. Ensure officials with the appropriate authority, and knowledge of issuer-wide trends and risks, have reviewed disclosures.
- c. Ensure the various employees and officials who are involved in the disclosure process are working together and interacting with each other.
- d. Maintain key points in the disclosure process where the appropriate employees and officials are thinking about the big picture of the disclosure and considering whether as a whole it is complete and accurate.

## 12. Work with Disclosure Counsel

Consider the following when working with Disclosure Counsel:

- a. Retain qualified Disclosure Counsel.
- b. Discuss any proposed voluntary disclosures with Disclosure Counsel prior to their issuance. The general rule is not to undertake any voluntary disclosures, unless there is a good reason to do so (obtaining pricing benefits with rating agencies and the investor community).
- c. Discuss with Disclosure Counsel any questions on materiality.
- d. Have Disclosure Counsel review these principles, policies and procedures for accuracy and completeness.
- e. Disclosure Counsel may not be included on a distribution list for certain financing transactions, such as bank loans. Consider adding Disclosure Counsel to the distribution list for such transactions so Disclosure Counsel can assist in any filings necessary as a result of such transaction.

## 13. Train Employees on the Continuing Disclosure Process

Consider the following when training employees:

- a. Periodically train appropriate management and staff on The Rule filing requirements and procedures.

- b. Train the Director of Finance on how to formulate the text of any required disclosure.
- c. Train the Director of Finance on how to determine if a liability is a material financial obligation.
- d. Determine if training covered any trends or risk factors that might be material to bondholders.

#### 14. Professional Reading for Updates on The Rule

Periodically visit websites of organizations, such as follows, for updates on compliance of The Rule:

- a. Municipal Securities Rulemaking Board,
- b. Government Finance Officers Association,
- c. National Federation of Municipal Analysts,
- d. National Association of Bond Lawyers.

#### F. VOLUNTARY CLOSING AGREEMENT

The County is aware of its ability, pursuant to IRS Notice 2008-31, to request a voluntary closing agreement with the IRS to correct failures on the part of the County to comply with the federal tax rules related to tax-exempt debt issuances.

#### G. CONTINUING EDUCATION

The County will continue to consult regularly with its Bond Counsel regarding the federal tax rules applicable to its outstanding debt and changes to the federal tax law, and the County will regularly update these policies and procedures to reflect any such changes.

The County shall ensure the Debt Management Team, tasked with bond compliance responsibilities, shall undertake a reasonable amount of continuing education on an annual basis, including but not limited to, consulting with outside professionals, participation in conferences, reading informational updates from governmental resources and professional organizations, and attending webinars through the dissemination agent or others.