RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING REVISIONS TO COUNCIL POLICY 1-15 RELATING TO DEBT MANAGEMENT POLICY

WHEREAS, the City Council of the City of San José ("City") initially adopted City Council Policy 1-15, "Debt Management Policy", by City Council action on May 21, 2002 ("Policy"), which Policy has since been amended by the City Council on December 4, 2012, June 10, 2014, June 9, 2015, and March 7, 2017; and

WHEREAS, the City Council recognizes that cost-effective access to the capital markets depends on prudent management of the City's debt program; and

WHEREAS, it is recommended that the Policy be revised to: (1) broaden the current record-keeping requirements to the longest term required by either the Policy, the City Records Retention Policy or regulatory agencies such as the Internal Revenue Service, Municipal Securities Rulemaking Board, U.S. Securities and Exchange Commission, California Debt and Investment Advisory Commission, or other government agencies; and (2) make technical and clarifying changes; and

WHEREAS, this Policy supersedes the policy approved on March 7, 2017, under Resolution No. 78102 of the Council of the City of San José;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The revised City Council Policy, entitled "Debt Management Policy," which revised policy is attached hereto as Exhibit "A" and incorporated herein by this reference as though fully set forth herein, is hereby approved and shall, as of the date and time of

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

adoption of this Resolution, replace City Council Policy 1-15, initially approved by the City Council on May 21, 2002, and revised on December 4, 2012, June 10, 2014, June 9, 2015, and March 7, 2017.

ADOPTED this ___ day of _____, 2023 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT A

City of San José, California

COUNCIL POLICY

TITLE DEBT MANAGEMENT POLICY	**PAGE** 1 of 12	**POLICY NUMBER** 1-15
EFFECTIVE DATE May 21, 2002	**REVISED DATE**	March __, 2023

APPROVED BY COUNCIL ACTION
5/21/02, Item 3.3, Res. No. 70977; 12/4/12, Item 3.7(b), Res. No. 76500, 6/10/14, Item 3.6(d), Res. No. 77020, 6/9/15, Item 3.12, Res. No. 77385; 3/7/17, Item SJFA(2)(a), Res. No. 78102; 3/XX/23, Item SFJA(1)(b), Res No. XXXXX

DEBT MANAGEMENT POLICY

This Debt Management Policy ("Policy") sets forth certain debt management objectives, and establishes overall parameters for issuing and administering debt for which the City is financially obligated or is responsible for managing ("Debt Program"). Recognizing that cost-effective access to the capital markets depends on prudent management of the Debt Program, this ~~Debt Management~~ Policy ~~(alternatively, "Policy")~~ has been adopted by resolution.

DEBT MANAGEMENT OBJECTIVES AND GOALS

The purpose of this ~~Debt Management~~ Policy is to assist the pursuit of the following equally-important objectives and goals:

- Minimize debt service and issuance costs;
- Maintain access to cost-effective borrowing;
- Achieve the highest practical credit rating;
- Full and timely repayment of debt;
- Maintain full, accurate and ~~complete~~ timely financial disclosure and reporting;
- Ensure financial controls are in place with respect to proceeds of debt issuances; and
- Ensure compliance with applicable ~~State~~ state and ~~Federal~~ federal laws.

GENERAL PROVISIONS

I. SCOPE OF APPLICATION

A. Entities Covered.

~~These policies~~The Policy establish~~es~~ the parameters within which debt may be issued by the City of San José ("City"), the City of San José Financing Authority ("CSJFA"), the Successor Agency to the Redevelopment Agency of the City of San José ("Successor Agency") and the City of San José Parking Authority[1] (collectively, "Covered Entities") if the entity has not been suspended by the City Council. Additionally, ~~these policies apply~~the Policy applies to debt issued by the City on behalf of assessment, community facilities, or other special districts, and conduit-type financing by the City for multifamily housing or industrial development projects.

The City, as a member of Joint Powers Authorities such as the San José-Santa Clara Clean Water Financing Authority, will take ~~these policies~~the Policy into account when considering approval of the issuance of Joint Powers Authority debt for which the City is financially obligated.

Supplemental policies, tailored to the specifics of certain types of financings, may be adopted by the City Council in the future. These supplemental policies may address, but are not limited to, the City's general obligation, lease revenue, enterprise, multifamily housing, and land-secured financings.

B. Types of Debt.

1. The following types of debt may be issued under this Policy subject to ~~State~~ state and ~~Federal~~ federal law, the City's Charter, City's Municipal Code and City Council Policies, as may be applicable. Prior to issuance of debt, a reliable revenue source shall be identified to secure repayment of the debt.

    a. general obligation bonds.

    b. bond or grant anticipation notes.

    c. lease revenue bonds or notes, certificates of participation and lease purchase transactions.

    d. other revenue bonds or notes and certificates of participation.

[1] Pursuant to Resolution No. 76219 approved by the City Council on May 8, 2012, the Parking Authority was suspended. The Parking Authority can be reinstated through City Council action.

e. tax and revenue anticipation bonds or notes.

f. land-secured financings, such as special tax revenue bonds and limited obligation assessment bonds.

g. tax increment financings to the extent permitted under ~~State~~state law.

h. conduit financings, such as financings for affordable rental housing and qualified 501 (c)(3) organizations.

2. Debt may be publicly issued or privately placed, and may be issued on either a long-term basis ("Long-term Borrowing") or short-term basis ("Short-term Borrowing") consistent with the provisions of this Policy.

3. From time to time, a Covered Entity may find that other forms of debt would further its public purposes and may approve the issuance of such debt without an amendment of this Policy.

II. RESPONSIBILITY FOR DEBT MANAGEMENT ACTIVITIES

The Finance Department will be responsible for managing and coordinating all activities related to the issuance and administration of debt, including the implementation of internal control procedures to ensure ~~that the~~debt proceeds ~~of debt~~ will be directed to the intended use. The Director of Finance is appointed by the City Manager and ~~is~~ subject to their ~~his or her~~ direction and supervision. In accordance with the City Charter, Article VIII, Section 806, the Director of Finance is charged with the responsibility for the conduct of all Finance Department functions. Additionally, the Director of Finance serves as the Chief Financial Officer of the Successor Agency and as the Chief Financial Officer is responsible for the oversight of the Successor Agency's financial affairs, including use of the proceeds of debt issued by the Successor Agency. Furthermore, the Director of Finance serves as the Treasurer of the CSJFA and the San José-Santa Clara Clean Water Financing Authority.

Departments implementing debt-financed capital programs will work in partnership with the Finance Department to provide information and otherwise facilitate the issuance and administration of debt.

A. Debt Management Policy Review and Approval.

This Policy, adopted by resolution of each of the Covered Entities, will be reviewed annually by the Finance Department to ensure ~~that~~ the Policy remains current. It is the intention of the City Council that any modifications to this Policy will be reviewed by the assigned City Council Committee and forwarded to the City Council with the Committee's recommendation, unless otherwise directed by the

City Council. Any modifications to this Policy are subject to approval by resolution of each of the Covered Entities.

B. Comprehensive Annual Debt Report.

The Finance Department will prepare a~~n~~ Comprehensive Annual Debt Report ("CADR") for review to be heard ~~either~~ by the assigned City Council Committee and referred to the City Council. The CADR may be considered directly by the City Council ~~and forwarded by the Committee to the City Council~~ concurrently with the presentation of the Annual Comprehensive Financial Report. ~~and the boards of the other Covered Entities for their consideration.~~ The content of the ~~annual debt report~~CADR will include a summary of credit ratings, outstanding and newly-issued debt, a discussion of anticipated debt issues, refunding opportunities, a review of legislative, regulatory, and market issues, and an outline of any new or proposed changes to this ~~Debt Management~~ Policy.

C. Debt Administration Activities.

The Finance Department is responsible for debt administration activities, particularly investment of bond proceeds[2], monitoring compliance with bond covenants, implementing internal control procedures to ensure the use of proceeds of bonds or other debt will be directed to the intended use, monitoring use of facilities financed with tax-exempt debt, continuing disclosure, monitoring arbitrage compliance for tax-exempt debt, and ongoing interactions with credit rating agencies, all of which shall be centralized and managed ~~within~~ by the Finance Department.

III. PURPOSES FOR WHICH DEBT MAY BE ISSUED

A. Long-term Borrowing.

Long-term borrowing may be used to finance the acquisition or improvement of land, facilities, or equipment for which it is appropriate to spread these costs over more than one budget year and, with respect to the City, will be reflected in the Adopted Annual Capital Budget and Adopted Five-Year Capital Improvement Plan. Long-term borrowing may also be used to fund capitalized interest, costs of issuance, required reserves, and any other financing-related costs which may be legally capitalized. Long-term borrowing shall not be used to fund normal and re-occurring operating costs.

[2] City of San José Investment Policy, Policy 1-12 scope includes the investment of bond proceeds. Refer to the Investment Policy for description of the scope. https://www.sanjoseca.gov/home/showpublisheddocument/83406/637834622847370000

B. Short-term Borrowing.

In general, short-term borrowing through financing vehicles, such as commercial paper and lines of credit, will be considered as an interim source of funding for a capital improvement in anticipation of long-term borrowing or for the acquisition of equipment. Short-term debt may be issued for any purpose for which long-term debt may be issued, including capitalized interest and other financing-related costs. The final maturity of the debt issued to finance the project shall be consistent with the economic or useful life of the project and, unless the City Council determines that extraordinary circumstances exist, must not exceed seven (7) years. The City Council may also authorize the use of a short-term financing vehicle with a maturity longer than seven (7) years consistent with the useful life of the financed project if use of a short-term financing vehicle would be a beneficial component of~~to~~ the applicable debt portfolio. Additionally, short-term borrowing may be considered if available cash is insufficient to meet short-term operating needs.

C. Refunding.

Periodic reviews of outstanding debt will be undertaken to identify refunding opportunities. Refunding will be considered (within federal tax law constraints) if and when there is a net economic benefit of the refunding. Refundings which are non-economic may be undertaken to achieve objectives relating to changes in covenants, call provisions, operational flexibility, tax status, issuer, or the debt service profile.

In general, refundings which produce a net present value savings of at least three percent (3%) of the refunded debt will be considered economically viable. Refundings which produce a net present value savings of less than three percent (3%) will be considered on a case-by-case basis. Refundings with negative savings will not be considered unless there is a compelling public policy objective that is accomplished by retiring the debt.

D. Lease Financing.

1. As used in this section, the term “lease financing” means any lease or sublease made between the City and another party for the purpose of financing the acquisition, construction or improvement by the City of real property or equipment. By way of example and not limitation, the term “lease financing” includes certificates of participation, lease revenue bonds or lease revenue notes.

2. Prior to bringing a lease financing to the City Council for approval, the Finance Department will perform initial due diligence on the project to be

financed. The Finance Department's due diligence review will include the following elements:

a. Any lease financing must have an identified revenue source for repayment, which may include the general fund, eligible special funds or project revenues.

b. Prior to embarking on a lease financing in which project revenues are identified as the repayment source, a feasibility study will be performed to determine the volatility of the revenue and provide a sensitivity analysis on project revenue projections including worst/best case scenarios, including without limitation, the impact on any repayment source identified as the backstop to the project revenues as the repayment source.

c. The Finance Department will present the results of the due diligence review including any feasibility study to the City Council for review and consideration, in order to proceed with the preparation of the documents necessary for the lease financing. T~~, t~~wo-thirds majority approval by the City Council of the proposed plan of finance is required pursuant to this Policy.~~.~~

d. At the time the Finance Department brings forward the lease financing for City Council approval, the Finance Department will also provide the City Council with an update to the due diligence report and any feasibility study. Approval of the lease financing will require two-thirds majority approval by the City Council pursuant to both this Policy and San José Municipal Code Section 4.34.200.

3. The provisions of this section will not apply to a refunding of a lease financing transaction.

DEBT ISSUANCE

I. DEBT CAPACITY

The Covered Entities will keep outstanding debt within the limits of applicable law and at levels consistent with its credit worthiness objectives. Without limiting the foregoing, the City will keep outstanding debt within the limits of the City's Charter, and the Successor Agency will issue debt to refund its outstanding debt consistent with applicable law.

In particular, the City will assess the impact of new debt issuance on the long-term affordability of all outstanding and planned debt issuance. Such analysis recognizes that the City has limited capacity for debt service in its budget, and that each newly issued financing will obligate the City to a series of payments until the bonds are repaid.

II. CREDIT QUALITY

Each Covered Entity seeks to obtain and maintain from rating agencies as selected by the applicable Covered Entity the highest possible credit ratings for all categories of short-term and long-term debt. The Covered Entities will not issue bonds directly or on behalf of others that do not carry investment grade ratings. However, the City will consider the issuance of non-rated special assessment, community facilities, multifamily housing, and special facility bonds.[3]

III. STRUCTURAL FEATURES

A. Debt Repayment.

Debt will be structured for a period consistent with ~~a fair~~ an equitable allocation of costs to current and future beneficiaries of the financed capital project. ~~and,~~ ~~c~~Consideration will be given~~,~~ so ~~that~~ the maturity of the debt issue is consistent with the economic or useful life of the capital project to be financed.

B. Variable-rate Debt.

A Covered Entity 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. Such issuance must be consistent with applicable law and covenants of pre-existing bonds, and in an aggregate amount consistent with creditworthiness objectives. When making the determination to issue bonds in a variable rate mode, consideration will be given ~~in regards~~ to the useful life of the project or facility being financed or refinanced, or the term of the project requiring the funding, market conditions, and the overall debt portfolio structure when issuing variable rate debt for any purpose.

C. Derivatives.

Derivative products[4] may have application to certain borrowing programs. In certain circumstances, these products ~~can~~ may reduce borrowing costs and assist in managing interest rate risk. However, these products carry with them certain risks not faced in standard debt instruments. The Director of Finance will evaluate the use of derivative products on a case-by-case basis to determine whether the potential benefits are sufficient to offset any potential costs. The evaluation and recommendation will be presented to the appropriate Covered Entity prior to

[3] In most cases, a bond which cannot achieve an investment-grade rating will not be rated at all, because there is little value from a bond-marketing perspective in a below investment-grade rating.
[4] A derivative product is a financial instrument which "derives" its own value from the value of another instrument, usually an underlying asset such as a stock, bond, or an underlying reference such as an interest rate index.

execution of any derivative product.

IV. PROFESSIONAL ASSISTANCE

The Covered Entities will utilize the services of independent ~~financial~~municipal advisors and bond counsel on all debt financings. The Director of Finance has the authority to periodically select service providers as necessary to meet legal requirements and minimize net debt costs. Such services, depending on the type of financing, may include ~~financial~~municipal advisory, underwriting, trustee, verification agent, escrow agent, arbitrage consulting, and special tax consulting. The City Attorney's Office is responsible for selection of bond counsel and for publicly-issued debt~~,~~ disclosure counsel. Additionally, the City Attorney's Office will be responsible for the selection of disclosure counsel in those circumstances where the City Attorney's Office determines it to be necessary or desirable to retain disclosure counsel to generally advise a Covered Entity with respect to its obligations under state and federal securities laws. The goal in selecting service providers, whether through a competitive process or, when appropriate, a sole-source selection, is to achieve an appropriate balance between service and cost.

V. METHOD OF SALE

Except to the extent a competitive process is required by law, the Director of Finance shall be responsible for determining the appropriate manner in which to offer any securities to investors. The preferred method of sale is competitive bid. However, other methods such as negotiated sale and private placement may be considered on a case-by-case basis.

DISCLOSURE PRACTICES AND PROCEDURES

I. STATEMENT OF POLICY

The Covered Entities are committed to full and complete primary (prior to issuance) and secondary (post issuance) market disclosure in accordance with disclosure requirements established by the Securities and Exchange Commission and Municipal Securities Rulemaking Board, as may be amended from time to time. The Covered Entities are also committed to cooperating fully with rating agencies, institutional and individual investors, other levels of government, and the general public to share clear, timely, and accurate financial information.

II. IMPLEMENTATION OF POLICY OBJECTIVES

A. Definitions.

For purposes of this section, the following definitions apply.

"Continuing Disclosure Agreement" means the certificate or agreement entered into by the City in connection with the sale of bonds in order to satisfy the requirements of Securities and Exchange Rule 15c2-12 that requires the City or Successor Agency, as applicable, to provide specified information and annual reports while the bonds remain outstanding.

"Offering Document" means the document prepared in connection with the sale of bonds to the public.

B. Written Policies and Procedures.

In order to carry out these policies objectives, the City Manager, in consultation with the City Attorney, will implement written disclosure policies and procedures related to the provision of financial and other relevant information to investors including preparation and review of Offering Documents before submission to the City Council or Successor Agency Board for approval, compliance with Continuing Disclosure Agreements, and other related topics.

C. Review and Approval of Offering Documents.

A Covered Entity's consideration of the approval of bonds and the Offering Document related to the bonds is to be placed on the applicable meeting agenda as a new business matter and not on the Consent Calendar. Any Offering Document to be issued in connection with the sale of the bonds is to be transmitted to the Covered Entity's governing board in substantially final form for its consideration and approval to release to investors, subject to any updating required to make the Offering Document accurate and complete. The Covered Entity's review will consider whether the Offering Document includes all material information to an investor in the bonds – meaning information where there is a substantial likelihood that the information would have actual significance in the deliberations of the reasonable investor. At the Covered Entity meeting at which the proposed sale of bonds is considered, the Covered Entity will have the opportunity to address questions to staff and the professional advisors regarding the information presented in the Offering Document.

D. Responsibility for Disclosure.

The City Manager and the Director of Finance are the designated officials for communicating information concerning the finances and other information about the City and the ~~Successor Agency~~ Covered Entities that a reasonable investor would consider to be material in making a decision to purchase or sell debt issued by the City~~, the Successor Agency~~ or a Covered Entity on behalf of the City. Communications from other City ~~or Successor Agency~~ officials or employees regarding the financial condition of the City and Covered Entities ~~or Successor Agency~~will not be considered to be official communications to the investor

marketplace.

DEBT ADMINISTRATION – INVESTMENTS, USE OF PROCEEDS AND TAX COMPLIANCE

I. INVESTMENT AND USE OF PROCEEDS

Investments of proceeds of bonds or other forms of debt shall be consistent with federal tax requirements and any applicable ~~State~~ state law requirements, the City~~'s~~ Investment Policy as modified from time to time, and with requirements contained in the governing documents.

The ~~Department of~~ Finance Department will be responsible for the implementation of internal control procedures to ensure ~~that~~ the proceeds of debt, regardless of tax status, will be directed to the intended use. This responsibility is in addition to the specific requirements related to the monitoring use of tax-exempt proceeds specified below.

II. FEDERAL TAX COMPLIANCE

A. Responsible Department.

The ~~Department of~~ Finance Department will have primary responsibility for all ongoing tax compliance matters relating to tax-exempt debt issued by the City or a Covered Entity. The Director of Finance, in consultation with the City Attorney who may in turn consult with bond counsel, will be responsible for monitoring ongoing tax compliance matters relating to tax-exempt debt, including compliance with the arbitrage rebate requirements of Section 148 of the Internal Revenue Code, as set forth below. ~~It is contemplated that A~~additional policies and procedures ~~will be~~ have been implemented by ~~either or both~~ the City Manager and the Director of Finance to supplement the policies and procedures set forth in this Policy[5].

B. Arbitrage Compliance.

The ~~Department of~~ Finance Department will maintain a system of record keeping and reporting to meet the arbitrage compliance requirements of federal tax law for tax-exempt debt. In connection with this responsibility, the Department will:

1. program payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of bonds or notes, and no later than 60 days after the last bond or notes of each issue is redeemed;

2. during the construction period of each capital project financed in whole or in part by bonds or notes, monitoring the investment and expenditure of

[5] Disclosure Policies and Procedures in City's Administrative Policy Manual - CPM 7 Disclosures Policies and Procedures (sanjoseca.gov)

proceeds and consult with rebate experts as necessary to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the bonds or notes; and

3. retain copies of all arbitrage reports and account statements as described below in "Record Keeping Requirements".

C. Use of Tax-Exempt Debt and Facilities.

The Director of Finance, together with the applicable City departments, will be responsible for:

1. monitoring the use of tax-exempt proceeds and the use of tax-exempt financed or refinanced assets (e.g., facilities, furnishings or equipment) throughout the term of the respective debt to ensure compliance with covenants and restrictions set forth in the governing documents relating to the debt;

2. maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of tax-exempt debt, including a final allocation of tax-exempt proceeds as described below under "Record Keeping Requirements";

3. consulting with the City Attorney's Office and bond counsel in the review of any contracts or arrangements involving use of tax-exempt financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the governing documents relating to the tax-exempt debt;

4. maintaining records for any contracts or arrangements involving the use of tax-exempt financed or refinanced assets as described below under "Record Keeping Requirements";

5. conferring at least annually with personnel responsible for tax-exempt financed or refinanced assets to identify and discussing any existing or planned use of tax-exempt financed or refinanced assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the governing documents relating to the tax-exempt debt; and

6. to the extent that the City discovers that any applicable tax restrictions regarding use of tax-exempt proceeds and tax-exempt-financed or refinanced assets will or may be violated, consulting promptly with the City Attorney's Office and bond counsel to develop a course of action to remediate any identified violation.

D. Record Keeping Requirements.

The ~~Department of~~ Finance Department and other applicable City departments, as may be necessary, will be responsible for maintaining the following documents for the term of each issue of tax-exempt debt (including debt issued to refinance existing debt, if any) plus at least three years, as required by regulatory agencies (e.g. Internal Revenue Service, Municipal Securities Rulemaking Board, U.S. Securities and Exchange Commission, California Debt and Investment Advisory Commission, and other government agencies) or as required by the City's Records Retention Policy, whichever is longer:

1. a copy of the closing transcript(s) and other relevant documentation delivered to the City at or in connection with closing of the issue of tax-exempt, including any elections made by the City in connection therewith;

2. a copy of all material documents relating to capital expenditures financed or refinanced by tax-exempt debt proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, draw requests for tax-exempt debt proceeds and evidence as to the amount and date for each draw down of tax-exempt debt proceeds, as well as documents relating to costs paid or reimbursed with tax-exempt debt proceeds and records identifying the assets or portion of assets that are financed or refinanced with tax-exempt debt proceeds, including a final allocation of tax-exempt debt proceeds;

3. a copy of all contracts and arrangements involving the use of tax-exempt debt-financed or refinanced assets; and

4. a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements, in connection with any investment agreements, and copies of all bidding documents, if any.