

RESOLUTION NO. 2022-2274

A RESOLUTION APPROVING BOARD POLICY REVISIONS FOR B-80 AUTHORITY OVER PERSONNEL AND F-80 DEBT ISSUANCE, POST ISSUANCE COMPLIANCE AND MANAGEMENT

THE LAS GALLINAS VALLEY SANITARY DISTRICT

WHEREAS, the Board of Directors ("Board") has determined that a comprehensive list of Policies and Procedures for the Board is in the best interest of the District; and

WHEREAS, the Board has compiled a comprehensive list of Policies and Procedures to serve as the rules and regulations of the Board; and

WHEREAS, the Board did adopt such comprehensive list of Policies and Procedures on July 9, 2009; and

WHEREAS, such policies may need to be updated from time to time; and

WHEREAS, on August 4, 2022, the Board reviewed and suggested changes on Board policies B-80- Authority over Personnel and F-80 Debt Issuance, Post Issuance Compliance and Management;

NOW THEREFORE, the Board of Directors of the Las Gallinas Valley Sanitary District approves the following revised policy sections: B-80 AUTHORITY OVER PERSONNEL AND F—80 DEBT ISSUANCE, POST ISSUANCE COMPLIANCE AND MANAGEMENT. The previously approved Board Policies B-80 and F-80 are hereby revoked and declared null and void.

If any policy or portion of a policy contained within the Policies and Procedures is in conflict with rules, regulations, or legislation having authority over the Las Gallinas Valley Sanitary District, said rules, regulations or legislation shall prevail.

The Policies and Procedures shall remain in effect until amended by at least a majority vote of the Board of Directors.

\* \* \* \* \*

I hereby certify that the forgoing is a full, true, and correct copy of a resolution duly and regularly passed and adopted by the Sanitary Board of the Las Gallinas Valley Sanitary District, Marin County, California, at a meeting thereof held on the 18<sup>TH</sup> day of August 2022, by the following vote of the members thereof:

AYES, and in favor thereof Members: Clark, Ford, Murray, Schriberman, Yerman  
NOES, Members: None.  
ABSENT, Members: None.  
ABSTAIN, Members: None.

  
Teresa Lerch, District Secretary

APPROVED:

*Judy Schriebman*

Judy Schriebman, President of Board of Directors



**B-80 AUTHORITY OVER PERSONNEL****Purpose**

This policy delegates to the General Manager general authority over personnel matters and authority to administer the District.

**B-80-10 Administration.** The Board delegates to the General Manager, as Executive Officer of the District and for the Board, the authority to administer the District with exclusive management and control of the operations and works of the District, subject to approval of the Board, and to provide day-to-day leadership of the District. The General Manager also has general charge, responsibility, and control over all property of the District.

**B-80-20 Personnel Matters.** The Board delegates to the General Manager general authority over personnel matters involving District staff, including, evaluating, disciplining, and discharging employees, without conflicting with union agreements.

**B-80-30 Non-Interference.** Individual Board members shall not interfere with the General Manager in District personnel matters.

**B-80-40 Appointments.** With the exception of emergency appointments, appointments assigned outside of a standard recruitment process require the approval of the District Board.

**B-80-50 Discipline.** The General Manager may suspend, demote, reduce in pay, or discharge any regular employee for just cause, and will inform the Board after taking such actions.

**B-80-60 Wage Increases.** The General Manager shall report to the Board when delaying, or not granting a regular or special wage step increase.

**B-80-70 Employee Evaluations.** Individual employee performance evaluations are privileged and confidential.

**B-80-80 Other Duties.** The General Manager shall have authority to carry out other duties specified in the District's official job description for the position.

<b>Resolution No. 2022-2274</b>	Date Approved: August 18, 2022
President of the Board	Last Reviewed: August 18, 2022



**F-80 DEBT ISSUANCE, POST ISSUANCE COMPLIANCE AND MANAGEMENT****Purpose**

This policy establishes procedures for the use of debt for financing the District's capital improvements.

**F-80-10 Use of Long-term Debt.** The District shall have a preference to finance capital improvements using pay-as-you-go financing and shall issue long-term debt only to finance capital improvements that cannot be readily financed from current revenues. Some exceptions to this may be made on a case-by-case basis for no-interest and extremely-low-interest loan programs for capital projects.

Debt financing shall be used only for major, non-recurring items or improvements with a minimum of five years of useful life; assets with a shorter useful life shall be financed using pay-as-you-go financing. The intended use of debt shall be described in and integrated into the District's Capital Improvement Plan and any long range financial forecasts.

**F-80-20 Types of Debt.** The District, either on its own or through a public benefit corporation, may issue general obligation bonds, certificates of participation, revenue bonds, borrow from a bank, borrow from the State of California through the use of state revolving fund loans, borrow from the Federal Government, or issue any other long or short-term instrument approved by and deemed appropriate by the Board of Directors to meet the capital financing needs of the District. Debt may be fixed rate or variable rate.

**F-80-30 Length of Debt Obligations.** The District shall repay all debt issued within a period not to exceed the expected useful life of the improvements financed by the debt.

**F-80-40 Debt Service Limitations.** The District shall not issue debt where the debt service amounts exceed its ability to pay current obligations from current revenues. This shall be calculated as follows: current operating revenues, less current operating expenditures, shall be at least 125% of anticipated total annual debt service for all outstanding long-term debt.

**F-80-50 Use of Credit Enhancements.** When issuing long-term debt, credit enhancements (such as letters of credit, bond insurance) may be used, but only when net debt service on the debt is reduced by more than the cost of the enhancement, or the enhancement is a requirement for the loan or debt issuance.

**F-80-60 Bond rating.** The District shall seek to maintain and, if possible, improve its current bond rating in order to minimize borrowing costs and preserve access to credit.

**F-80-70 Financial disclosure.** The District shall fully disclose financial and pertinent credit information as it relates to the District's outstanding securities.

**F-80-80 Post Issuance Compliance with Federal Law.** State and local governmental entities that borrow money on a tax-exempt basis are now required to report to the Internal Revenue Service whether they have established written procedures to comply with applicable requirements of federal tax law for all issues of bonds, certificates of participation, bond anticipation notes, tax anticipation notes, revenue anticipation notes, financing leases, energy performance contract financings, and any other instruments evidencing the borrowing of money (collectively the "Obligations"). The procedures set forth herein will assist the Las Gallinas Valley Sanitary District (collectively, the "Issuer"), in meeting the post-issuance requirements of federal tax law necessary to preserve the tax-exempt status of interest on tax-exempt Obligations issued by the Issuer.

These procedures address Obligations issued for physical facilities, property and equipment for the Issuer (the "Capital Obligations") and Obligations issued to finance cash-flow operating requirements of the Issuer (the "Cash-Flow Obligations").

#### **F-80-80-1 General Procedures.**

**F-80-80-1a Responsible Official.** The General Manager of the Issuer (herein referred to as the "Responsible Official") will identify such officers and employee(s) who will be responsible for each of the procedures listed below, and will notify such officers and employee(s) of the responsibilities, and provide those persons with a copy of these procedures. Upon employee transitions, the Responsible Official will advise the new personnel of their responsibilities under these procedures and will ensure they understand the importance of these procedures. If employee positions are restructured or eliminated, the Chief Financial Officer of the Issuer will reassign responsibilities as necessary.

#### **F-80-80-1b Issuance of Obligations.**

**F-80-80-1b.1 Bond Counsel.** The Issuer will retain a firm of nationally-recognized bond counsel ("Bond Counsel") to deliver a legal opinion in connection with the issuance of all Obligations. The Responsible Official will consult with Bond Counsel and other legal counsel and advisors, as needed, following the issuance of Obligations to ensure that applicable post-issuance requirements are met, so that interest on each issue of Obligations will be excluded from gross income for federal income tax purposes.

**F-80-80-1b.2 Documentation of Tax Requirements.** The federal tax requirements relating to each issue of Obligations will be set forth in a Tax Certificate (the "Tax Certificate") executed in connection with each issue of Obligations, which will be included in the closing transcript for each issue of Obligations. The Tax Certificate will contain certifications, representations, expectations and factual statements relating to the restriction on use of the assets and facilities financed or refinanced with Obligations by persons or entities other than the Issuer, changes in use of the assets and facilities financed or refinanced with the proceeds of Obligations, restrictions applicable to the investment of the proceeds of any Obligations and other moneys relating to the Obligations, and arbitrage rebate requirements. The Responsible Official will review the Tax Certificate prior to the date of issue of each issue of Obligations.



**F-80-80-1b.3 Information Reporting.** In connection with each issue of tax-exempt Obligations, the Issuer is required to file, or shall cause to be filed by Bond Counsel, an IRS Form 8038-G (or, if applicable, IRS Form 8038-GC). Any such IRS Form filed with the IRS, together with a proof of filing, will be included as part of the closing transcript for each issue of Obligations, or kept in the records maintained by Bond Counsel related to the appropriate issue of Obligations. The Responsible Official shall ascertain that such form has been filed in connection with each issue of Obligations.

**F-80-80-1b.4 Record Retention.**

**General.** Copies of all relevant documents and records sufficient to support that the tax requirements relating to all Obligations have been satisfied, including the following documents and records, should be maintained by the Issuer:

- (a) Closing transcript;
- (b) All records of investments, arbitrage reports, returns filed with the IRS and underlying documents;
- (c) Construction contracts, purchase orders, invoices and expenditure and payment records;
- (d) Documents relating to costs reimbursed with the proceeds of Capital Obligations;
- (e) All contracts and arrangements involving Private Use of the property financed with Capital Obligations;
- (f) All reports relating to the allocation of the proceeds of Obligations and Private Use of property financed with Capital Obligations;
- (g) Itemization of property financed with the proceeds of Capital Obligations; and
- (h) In connection with Cash-Flow Obligations, information regarding the Issuer's revenue, expenditures and available balances sufficient to support the Issuer's prospective and actual maximum cumulative cash.

**F-80-80-1b.5 Duration of Record Retention.** All of the foregoing documents and records should be retained for the term of the Obligations, plus three (3) years, or if the Obligations are refunded with the proceeds of a subsequent Obligation, the date three (3) years after the last of such refunding Obligations are refunded. List of foregoing documents to be destroyed will be provided to the Board prior to destruction.

**F-80-80-1c Capital Obligations.**

**F-80-80-1c.1 Timely Expenditure of Proceeds of Capital Obligations.** At the time of issuance of Capital Obligations issued to fund original expenditures, the Issuer must reasonably expect to spend at least 85% of all proceeds within three (3) years of the date of issuance of the Obligations. In addition, for Capital Obligations, the Issuer must have incurred or expect to incur within six months after issuance original expenditures of not less than 5% of the amount of such proceeds, and must expect to complete the project financed with Capital Obligations (the "**Project**") and expend the proceeds of such Capital Obligations to pay Project costs with due diligence. Satisfaction of these requirements allows the proceeds of Capital Obligations issued for the Project to be

invested at an unrestricted yield for three (3) years. Failure to satisfy these requirements could subject the Issuer to rebate of investment income, and other penalties. The Responsible Official will monitor the appropriate capital project accounts to ensure that the proceeds of Capital Obligations are spent within the time period(s) required under federal tax law.

Capital Obligations issued to refinance outstanding Capital Obligations are subject to separate expenditure requirements, which shall be outlined in the Tax Certificate relating to such Obligations. In connection with the issuance of any Capital Obligations issued to refinance outstanding Capital Obligations, the Responsible Official will confirm that any rebate obligation due with respect to the original issue and any subsequent refinancing thereof has been met.

**F-80-80-1c.2 Use of Proceeds of Capital Obligations.** In general, proceeds (including investment income on original sale proceeds) of Capital Obligations, other than proceeds used to pay costs of issuance, should be spent on capital expenditures. For this purpose, capital expenditures generally mean costs to acquire, construct, or improve property (land, buildings and equipment). Capital Expenditures include design and planning costs related to the Project, and include architectural, engineering, surveying, soil testing, environmental, and other similar costs incurred in the process of acquiring, constructing, improving or adapting the property. Capital Expenditures do not include operating expenses of the Project.

**F-80-80-1c.3 Use of Facilities Financed with Capital Obligations.** For the life of all Capital Obligations, the Project must be owned and operated by the Issuer. At all times while Capital Obligations issued for a Project are outstanding, no more than 10% of the proceeds of such Capital Obligations may be used, directly or indirectly, in a trade or business carried on by a person other than a state or local governmental unit ("**Private Use**"). Generally, Private Use consists of any contract or other arrangement, including leases, management contracts (for example, contracts relating to the management or operation of a parking facility, food service operation or municipal utility system), operating agreements and guarantee contracts which provides for use of the facilities financed with Capital Obligations by a person who is not a state or local government on a basis different than the general public. The Project may be used by any person or entity, including any person or entity carrying on any trade or business, if such use constitutes "General Public Use". General Public Use is any arrangement providing for use that is available to the general public at either no charge or on the basis of rates that are generally applicable and uniformly applied.

**F-80-80-1c.4 Management or Operating Agreements for Facilities Financed with Capital Obligations.** Any management, operating or service contracts whereby a non-exempt entity is using facilities financed or refinanced with the proceeds of Capital Obligations must relate to portions of the Project that fit within the above-mentioned 10% allowable Private Use, or the contracts must meet the IRS safe harbor for management contracts (Revenue Procedure 97-13, as amended, or Revenue Procedure 2017-13, as applicable). Any renewals of or changes to such contracts should be reviewed by Bond



---

Counsel. The Responsible Official shall contact Bond Counsel if there may be a lease, sale, disposition or other change in use of facilities financed or refinanced with the proceeds of Capital Obligations.

#### **F-80-80-1d Cash-Flow Obligations.**

##### **F-80-80-1d.1. Proper Sizing of Cash-Flow Obligations.**

(a) The Issuer must reasonably anticipate that it will incur an actual maximum cumulative cash-flow deficit on a date on or before the close of the six-month period commencing on the issue date of the Cash-Flow Obligations equal to at least 100% of the issue price of the Cash-Flow Obligations (taking into account the Issuer's "reasonable working capital reserve" amount).<sup>1</sup>

(b) The Responsible Official will determine the appropriate amount of Cash-Flow Obligations to issue.

(c) The Responsible Official shall determine whether or not the Issuer has met its requisite maximum cumulative cash-flow deficit within six months following the date of issuance of the Cash-Flow Obligations, and shall, to the extent necessary, obtain assistance from the Arbitrage Rebate Consultant, referred to below.

#### **F-80-80-1e Investment Restrictions; Arbitrage Yield Calculation; Rebate.**

**F-80-80-1e.a Investment Restrictions.** Investment restrictions relating to the proceeds of Obligations and other moneys relating to the Obligations are set forth in the Tax Certificate. The Responsible Official will monitor the investment of the proceeds of Obligations to ensure compliance with yield restriction rules.

**F-80-80-1e.2 Arbitrage Yield Calculation.** Investment earnings on the proceeds of Obligations should be tracked and monitored to comply with applicable yield restrictions and/or rebate requirements. The Issuer is responsible for calculating (or causing the calculation of) rebate liability for each issue of Obligations, and for making any required rebate payments. Any funds of the Issuer set aside or otherwise pledged or earmarked to pay debt service on the Obligations should be analyzed to assure compliance with the tax law rules on arbitrage, invested sinking funds and pledged funds (including gifts or donations linked to facilities financed with Capital Obligations). The Responsible Official will consult with Bond Counsel to confirm that all relevant arbitrage yield requirements are met.

---

<sup>1</sup> Alternatively, under the statutory safe harbor exception to rebate, at the time of issuance of Cash-Flow Obligations the Issuer may reasonably anticipate that it will incur an actual maximum cumulative cash-flow deficit on a date on or before the close of the six-month period commencing on the issue date of the Cash-Flow Obligations equal to at least 90% of the issue price of the Cash-Flow Obligations.



**F-80-80-1e.3 Rebate.** On or before the date of any required rebate payment (see below), the Issuer will retain a nationally recognized arbitrage rebate consultant (the “**Arbitrage Rebate Consultant**”) to perform rebate calculations that may be required to be made from time to time with respect to any issue of Obligations. The Responsible Official shall provide the Arbitrage Rebate Consultant with requested documents and information on a prompt basis, reviewing applicable rebate reports and other calculations and generally interacting with the Arbitrage Rebate Consultant to ensure the timely preparation of rebate reports and payment of any rebate.

The reports and calculations provided by the Arbitrage Rebate Consultant will assure compliance with rebate requirements, which require the Issuer to make rebate payments, if any, no later than the fifth (5<sup>th</sup>) anniversary date and each fifth (5<sup>th</sup>) anniversary date thereafter through the final maturity or redemption date of a Capital Obligation. A final rebate payment, if due, must be made within sixty (60) days of the final maturity or redemption date of all Obligations.

Rebate spending exceptions for Capital Obligations are available for periods of 6 months, 18 months and 2 years. The Responsible Official will confer and consult with the Arbitrage Rebate Consultant to determine whether any rebate spending exception may be met.

In the case of Cash-Flow Obligations, within 60 days of the maturity date of such Cash-Flow Obligations, if there is concern as to whether the Issuer has met its requisite maximum cumulative cash-flow deficit, a rebate analyst should be promptly engaged to determine whether either the six-month spending exception or the statutory safe harbor exception to the rebate rules was met (in which case no rebate would be owed) or whether the investment income derived from the proceeds of the Cash-Flow Obligations is subject, in whole or in part, to rebate.

Copies of all arbitrage rebate reports, related return filings with the IRS (*i.e.*, IRS Form 8038-T), copies of cancelled checks with respect to any rebate payments, and information statements must be retained as described above. The Responsible Official will follow the procedures set forth in the Tax Certificate that relate to compliance with the rebate requirements with respect to any Obligations.

#### **F-80-80-2 Additional Procedures.**

**F-80-80-2a. Periodic Monitoring.** The Responsible Official will conduct periodic reviews of compliance with the foregoing procedures to determine whether any violations have occurred so that such violations can be remedied through the “remedial action” regulations (Treasury Regulations Section 1.141-12) or the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance). If any changes to the terms or provisions of any Obligations are contemplated, the Responsible Official will consult with Bond Counsel, because such modifications could jeopardize the tax-exempt status of interest on the Obligations after they are modified.

**F-80-80-2b. Use of Facilities.** The Responsible Official will maintain records identifying any Private Use of the facilities or portion of facilities that are financed or refinanced with proceeds of Capital Obligations. Such records may be kept in any combination of paper or electronic form. In the event the use of the proceeds of Capital Obligations of the facilities financed or refinanced with the proceeds of Capital Obligations differs from the representations or factual statements in the Tax Certificate, the Responsible Official will promptly contact and consult with Bond Counsel to ensure that there is no adverse effect on the tax-exempt status of the Capital Obligations and, where appropriate, will remedy any violations through the “remedial action” regulations (Treas. Reg. Section 1.141-12), the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance), or as otherwise prescribed by Bond Counsel.

**F-80-90 Internal controls.** To ensure debt proceeds are used as intended, the District shall implement internal control procedures that include at least the following:

- Debt proceeds shall be deposited in an account separate from other District accounts, with only revenues and expenditures directly associated with the debt proceeds included in the account.
- At least two approvals from different reviewers will be required on all expenditures of debt proceeds, to review and ensure the expenditure is appropriate to be paid from debt proceeds.
- District accounting staff shall prepare periodic reports on the use of debt proceeds for management review.

<b>Resolution No. 2022-2274</b>	Date Approved: August 18, 2022
President of the Board	Last Reviewed: August 18, 2022