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Approved by: Percy E. Dingfield Date: 11/29/2023
Approval Signature
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Form and Legal Sufficiency Review, Office of Attorney General

Debt Management

Purpose

The purpose of this Policy is to establish guidelines for the process by which the Maryland Transportation Authority (MDTA) issues and manages debt, and provides guidance to the MDTA Board and staff to ensure that a sound debt position and strong credit quality are maintained.

References

- Title 4 of the Transportation Article, Annotated Code of Maryland (Repl. Vol. 2008, as amended)
- §5-7B-02 of the State Finance and Procurement Article, Annotated Code of Maryland (Repl. Vol. 2009, as amended)
- Second Amended and Restated Trust Agreement between the Maryland Transportation Authority and The Bank of New York Mellon, as Trustee, dated as of September 1, 2007, as amended (2007 Trust Agreement)
- Code of Maryland Regulations (COMAR 11.07.09.09, Vehicle Parking Facilities)
- Governor's Executive Order 01.01.1998.07
- Budget Committee Narrative Fiscal 2023
- Securities and Exchange Commission (SEC)
- Municipal Securities Rulemaking Board (MSRB)
- Federal Tax Code and Regulations
- MDTA Board Policy: Investment Management
- MDTA Board Policy: Preparation of Financial Forecasts

Scope:

This Policy is applicable to MDTA Finance Division staff.

Responsible Party:

Implementation of the procedures is the responsibility of the CFO and MDTA Division of Finance staff. Any deviation from the procedures must be promptly reported to the MDTA Finance Committee and the MDTA Board.

Division of Finance to approve document change.

Debt Management

I. Purpose and Uses of Debt

- Policy Statement 1.** In accordance with Title 4 of the Transportation Article of

the Annotated Code of Maryland, MDTA may issue revenue bonds, notes, or other evidences of obligation to finance the cost of:

- i. Transportation facilities projects as defined in said Article;
 - ii. A vehicle parking facility located in a priority funding area as defined in §5-7B-02 of the State Finance and Procurement Article;
 - iii. Any other project for transportation facilities that the MDTA Board authorizes to be acquired or constructed; and
 - iv. Any additions, improvements, or enlargements to any of these projects, whenever authorized by the MDTA Board.
- b. **Policy Statement 2.** Debt will be used only to finance capital projects (including land) and capital equipment that are reasonably necessary for governmental purposes.
- c. **Policy Statement 3.** The MDTA will finance its projects with a prudent issuance of debt through the sale of revenue bonds, notes, or other evidences of indebtedness within the constraints of the MDTA Financial Forecast Policy.
- d. **Policy Statement 4.** Capital financing proposals received by MDTA that involve a pledge or extension of credit through sale of securities, loans or leases, shall be referred to the Division of Finance for review.
- e. **Policy Statement 5.** The MDTA Consolidated Transportation Program (CTP) will be funded through a combination of cash reserves, revenues and appropriate levels of debt in accordance with affordability guidelines.
- i. To provide adequate liquidity, MDTA will maintain unrestricted cash balances at the end of each fiscal year of at least \$400 million.
 - ii. Unrestricted cash shall include funds on deposit in the following MDTA trust accounts: Operating (reserve portion), Capital (cash funded), General, and the Maintenance and Operating (M&O) Reserve.
- f. **Policy Statement 6.** The Chief Financial Officer (CFO), under the direction of the Executive Director, has the responsibility to oversee and coordinate the sale and issuance of MDTA debt.
- i. The CFO shall make recommendations to the Executive Director and MDTA Board regarding necessary actions related thereto.
 - ii. The CFO and Executive Director shall obtain MDTA Board approval thereof as evidenced by authorizing MDTA Board Resolutions.
- g. **Policy Statement 7.** The MDTA shall endeavor to finance a portion of the CTP on a "pay-as-you-go" basis.
- h. **Policy Statement 8.** Debt financings will be limited to capital projects included in the CTP.

II. Limitations on Indebtedness

- a. **Policy Statement 9.** The statutory ceiling on the level of outstanding toll revenue bond debt shall not exceed \$3,000,000,000 on June 30 of any year.
- b. **Policy Statement 10.** The amount of planned MDTA debt will be limited by affordability guidelines relating to debt service coverage, the rate covenant set forth below, and as further determined by the Executive Director and CFO in consultation with the municipal advisors. The amount of planned toll revenue-backed debt will be shown in the Financial Forecasts that are prepared at least twice per year.

 - i. The 2007 Trust Agreement requires that in each Bond Year (July 1 – June 30, as defined in the Trust Agreement) net revenues (revenues less operating expenditures) must cover 120% of debt service requirements

- and 100% of the amount annually budgeted for deposit to the M&O Reserve Account.
- ii. The MDTA will maintain a minimum annual debt service coverage level of 200% of debt service for planning purposes.
 - iii. The MDTA will allow at least \$100 million in programmed bonding capacity in reserve for contingencies during Years 3 through 6 of the Financial Forecast planning period.
 - iv. Planned debt issuances will be based on reasonable estimates of future toll adjustments and capital funding requirements.
 - v. The period of planned debt issuances will coincide with the 6-year CTP, and may be done for additional (e.g., 10 years) for longer range strategic planning.
- c. **Policy Statement 11.** Debt service coverage for non-recourse debt (not backed by MDTA toll revenue) will be determined on a case by case basis for projects where MDTA is a non-recourse debt issuer.
- i. Non-recourse financings shall generally have minimum debt service coverage requirements of 120% of debt service.
 - ii. An exception to this minimum for non-recourse financings may occur if there is a debt service "guarantee" from a rated municipality, authority, or entity with investment grade ratings.
 - iii. Non-recourse financings shall not pledge MDTA's toll revenues.
 - iv. The MDTA has a self-imposed outstanding debt limit on non-recourse financings of \$700 million, excluding GARVEE bonds (hereinafter defined).
- d. **Policy Statement 12.** Pursuant to §4-320 of the Transportation Article, and the statutory limits set forth therein, the aggregate principal amount of debt issued and secured by a pledge of future federal aid known as Grant and Revenue Anticipation (GARVEE) bonds will not exceed \$750 million, and the maturity date for such debt may not be later than 12 years after the date of issuance.
- e. **Policy Statement 13.** The MDTA must adhere to the Governor's Executive Order 01.01.1998.07 (Executive Order) which requires annual review and approval of planned State agency debt by the Department of Budget and Management (DBM) and the Governor. The Budget Committee Narrative of fiscal 2023 also requests that any rating agency reports associated with a financing be forwarded to the State Treasurer's Office in advance of the sale or concurrently. For clarification, credit ratings are not required for all financings.
- i. Notice must be given to DBM at least 30 days in advance of any bond issuance of \$25 million or greater.
 - ii. The MDTA will comply with the annual reporting requirements as set forth in the Executive Order and the Budget Committee Narrative for rating reports if applicable/available as part of a financing.

III. Debt Structural Features

- a. **Policy Statement 14.** The weighted average maturity (WAM) of the tax-exempt debt issued by MDTA cannot exceed the weighted average life of the improvements for any project.
 - i. The MDTA debt must not exceed a term of 40 years per Maryland law, §4-302(b) of the Transportation Article.
- b. **Policy Statement 15.** Debt will generally be structured to achieve the lowest possible net financing costs pursuant to MDTA's policies and objectives.

- i. Whenever feasible, structuring debt with level debt service costs over the life of the issue is preferred.
 - ii. Backloading will be considered in order to match debt service requirements with project revenues during the early years of the project's operation.
 - iii. At the CFO's discretion, certain issuance costs and fees (e.g. underwriter's discount, bond counsel, municipal advisors, rating agencies, feasibility consultants, Trustees, printers, auditors, etc.) may be paid from unrestricted cash instead of bond proceeds.
 - iv. In accordance with the Code of Maryland Regulations 11.07.09.09, MDTA may charge an application fee or other fees reasonably related to the expenses it incurs in processing a financing proposal or issuing debt in connection with a Vehicle Parking Facility.
 - v. As a non-recourse issuer, MDTA may charge the obligor an annual administrative fee to recapture its costs incurred over the life of the bonds.
 1. Examples of such costs include, but are not limited to, arbitrage rebate calculations, trustee fees and auditor expenses.
- c. **Policy Statement 16.** Optional redemption provisions will generally be included in MDTA bond issues upon the recommendation of the Executive Director, CFO and municipal advisors.
- i. Depending upon market conditions, call provisions will be evaluated for each bond issue.
- d. **Policy Statement 17.** Capitalization of interest (borrowing funds to pay interest on a debt obligation) will generally be limited to the interest due on debt during construction of the facilities.
- i. When deemed appropriate by the Executive Director, CFO and municipal advisors, capitalized interest may extend beyond the construction period, but in no event, will it extend beyond one year after project completion in accordance with Maryland law, §4-101(c) of the Transportation Article.
- e. **Policy Statement 18.** MDTA may issue variable rate securities with interest rates tied to an index according to a predetermined formula or based upon the results from a periodic remarketing of securities for toll revenue-backed or non-recourse debt.
- i. The decision to issue variable rate debt must be approved by the MDTA Board upon the recommendation of the Executive Director, CFO and municipal advisors.
 - ii. MDTA has a self-imposed limit that at time of issuance, no more than 15% of its toll revenue-backed debt will be in variable rate mode.
 - iii. Limits on variable rate non-recourse debt will be determined on a case by case basis taking into consideration debt service coverage and obligor cash reserves.
- f. **Policy Statement 19.** Upon the approval of the MDTA Board, MDTA may enter into financing agreements involving interest rate swaps, floating/fixed rate auction securities, or other forms of debt bearing synthetically determined interest rates.
- i. MDTA will consider the use of such financing agreements on a case by case basis and any use shall be consistent with the Trust Agreement, State policy and financial prudence.
- g. **Policy Statement 20.** When it is determined to be prudent by the Executive Director, CFO and municipal advisors, and subject to approval of the MDTA

Board, MDTA may issue bond anticipation notes or other short-term indebtedness, in accordance with applicable statutory law and trust agreements, as a source of interim construction financing.

IV. Method of Sale

- a. **Policy Statement 21.** The MDTA shall sell and issue debt, subject to MDTA Board approval, either through a competitive bidding process or by a negotiated sale (including a direct bank loan). A competitive bond sale is the preferred method unless it is determined by the Executive Director, CFO, the municipal advisors and legal counsel that this method is unlikely to produce the best sale results. Factors to consider in selecting the sale method include, but are not limited to, bond issue size and related issuance costs, repayment terms, market conditions, credit history and the timing of the need for funds.
 - i. Competitive sales will be awarded to qualified bidder(s) based upon the lowest true interest cost method, with additional consideration of the probable call of the premium coupon securities through the lowest call option adjusted True Interest Cost Plus (TIC Plus) methodology.
 - ii. In the event of a negotiated sale, the underwriting team for the negotiated sale will be selected through a competitive solicitation process and approved by the MDTA Board.
 - iii. In the event of a direct bank loan, a competitive solicitation will be conducted and the bonds will be awarded based upon lowest true interest cost or TIC Plus unless the Executive Director and CFO determine that it is in the best interest of the MDTA to accept an alternative bid with more favorable terms and conditions.
- b. **Policy Statement 22.** Documentation of MDTA bond sales and closings will be prepared by bond counsel, municipal advisors, the MDTA Office of the Attorney General, the MDTA Division of Finance, and other applicable parties for approval by the MDTA Board, and in the case of non-recourse debt, the State Board of Public Works or other appropriate officials, as required.

V. Refundings

- a. **Policy Statement 23.** The CFO and municipal advisors will periodically review MDTA outstanding debt to identify refunding opportunities. Refunding will be considered when there is net economic benefit or the refunding is advisable to modernize bond trust covenants essential to operations and management. The CFO, the Executive Director and staff from MDTA's Division of Finance shall consider additional factors that they deem appropriate in determining specific bonds that shall be refunded.
 - i. In general, refunding for economic savings will be considered when net present value (NPV) savings may be achieved. Projected NPV savings shall be discounted at the All-In True Interest Cost. Alternately, NPV savings may be calculated using discount factors from the funding yield curve for each individual maturity.
 - ii. In concert with NPV savings analysis, Refunding Efficiency shall be calculated for each individual maturity. Refunding Efficiency measures the percentage of the call option value captured through present value cash flow savings. Maturity refundings that are projected to capture more than 85% of the option value may be viewed favorably and worthy of

consideration, though a calculated efficiency below 95% suggests that greater savings may be achieved by delaying the financing.

- iii. A refunding is subject to MDTA Board approval, either for economic reasons or when existing bond trust covenants or other factors impinge on prudent and sound financial management, and such a restructuring is in MDTA's overall best financial interests.

VI. Disclosure/Arbitrage Compliance

- a. **Policy Statement 24.** The MDTA is committed to full and complete financial disclosure, and will abide by the provisions of SEC Rule 15c2-12 concerning primary and secondary market disclosure.
 - i. The MDTA Division of Finance, with the MDTA Office of the Attorney General and bond counsel, will determine the appropriate primary market disclosure that is required in connection with the offer and sale of bonds.
 - ii. The CFO and the MDTA Division of Finance shall establish and maintain written procedures to follow for the collection, review and public dissemination of secondary market disclosure.
 - iii. At a minimum, such disclosure procedures shall address responsibility for:
 - 1. Maintaining a record of all Continuing Disclosure Agreements and the requirements set forth therein;
 - 2. Assigning staff to collect information and determine the method of disclosure, i.e. inclusion in the MDTA Financial Statements or by a separate posting to disseminate information, using the Electronic Municipal Market Access System (EMMA), or to such other approved national repository; and
 - 3. Setting guidelines to determine when a voluntary or significant event has occurred that warrants posting to EMMA, or to such other approved national repository.
- b. **Policy Statement 25.** The MDTA is committed to compliance with Federal arbitrage tax law and regulations which govern the issuance and management of tax exempt debt.
 - i. The MDTA Division of Finance is responsible for the system of record keeping and reporting necessary to meet the arbitrage rebate compliance requirements of the Federal tax code.

VII. Investment of Bond Proceeds

- a. **Policy Statement 26.** Bond proceeds shall be invested in accordance with provisions of the applicable Trust Agreement and MDTA's Investment Management Policy.

VIII. Consultant Selection

- a. **Policy Statement 27.** The MDTA will retain municipal advisors who are registered with the SEC, to be selected for a term of up to six years through a competitive process administered by the MDTA Division of Finance and the Division of Procurement.
 - i. The Executive Director and CFO shall determine on a case by case basis, and pursuant to an applicable municipal advisory services contract, when to use the services of the municipal advisors for bond sales or other

- financial matters and related advice.
- ii. To ensure independence and to avoid any potential conflicts of interest, when the MDTA engages the services of the municipal advisors for bond sales, it shall be with the understanding that neither the municipal advisors, their firms, or affiliates, will bid on or underwrite any MDTA debt issue, or perform any other services relating to the sale or issuance of such debt, unless specifically disclosed to the MDTA and authorized by the Executive Director and CFO upon approval by the MDTA Board.
 - iii. When the MDTA engages with services of the municipal advisors for general advice and work, including but not limited to, investments, cash modeling, forecasts, rating agency surveillance, legislative and regulatory updates and analyses, it shall be with the understanding that the municipal advisors, their firms or affiliates will provide the MDTA with written confirmation of their compliance with, and disclosure relating to, the fiduciary duties and standards imposed by the Dodd-Frank Act, and specifically the Municipal Advisor Rule (Release No. 34-70462) issued by the SEC and Rule G-42 issued by the MSRB.
- b. **Policy Statement 28.** The MDTA and the Maryland Attorney General will retain qualified bond counsel as required for debt issues. Bond counsel will issue an opinion as to the legality of the debt issuance and the tax-exempt status of any such obligations.
- i. The Principal Counsel of the MDTA Office of the Attorney General (MDTA Principal Counsel) shall act as procurement officer on behalf of the Maryland Office of the Attorney General and procure competitive proposals from outside law firms.
 - ii. If necessary, the MDTA Principal Counsel shall form a review committee to evaluate written proposals and to conduct oral interviews of the proposers.
 - iii. After the review committee completes its evaluation, the MDTA Principal Counsel shall make recommendations to the Maryland Attorney General regarding the selection of one of more firms to serve as bond counsel.
 - iv. The solicitation and selection process for such services will be accomplished according to the legally appropriate procurement process utilized by the Maryland Attorney General. The Maryland Attorney General's Office shall make such selection, and the MDTA Principal Counsel shall notify the MDTA Board of the selection. The contract(s) shall be awarded, subject to available funding for the contract(s).
- c. **Policy Statement 29.** The MDTA Division of Finance shall be responsible for qualifying underwriting firms to provide services for debt issued in a negotiated sale.
- i. Underwriters will be required to demonstrate sufficient capitalization, experience, and competitive pricing in order to qualify to underwrite debt.
 - ii. A review committee will be formed to evaluate written proposals and to conduct oral interviews if necessary.
 - iii. The formal selection of the qualified underwriting firms for all negotiated bond sales (except direct bank loans) will be presented to the MDTA Board for approval upon recommendation by the review committee.
- d. **Policy Statement 30.** The MDTA Division of Finance, in conjunction with the MDTA Office of the Attorney General, will approve the selection of the underwriter's counsel, in the event of a negotiated bond sale. The cost of the

underwriter's counsel will be payable from bond proceeds of each specific issue and allocated to underwriter's costs.

- e. **Policy Statement 31.** The CFO shall have the authority to periodically select other service providers (e.g., trustees, arbitrage consultants, etc.) as necessary to meet legal requirements and to minimize net debt costs.
- f. **Policy Statement 32.** Compensation for bond counsel, underwriter's counsel, municipal advisors, and other financial services will be as low as possible (through the competitive and any legally required procurement process), given desired qualification levels, and consistent with industry standards.

IX. Credit Ratings

- a. **Policy Statement 33.** The MDTA seeks to maintain the highest possible investment grade credit ratings for revenue bonds, notes and other evidences of indebtedness issued under the provisions of Title 4 of the Transportation Article, consistent with this policy and other Department guidelines.
 - i. For issues secured by toll revenues, MDTA will request ratings prior to the sale of securities from at least two of the three major rating agencies for municipal bond issues: Moody's Investors Service, S&P Global, and Fitch Ratings.
 - ii. For non-recourse financing issues, the decision to request underlying credit ratings will be on a case by case basis as determined by the Executive Director, CFO, the municipal advisors, the obligor and the underwriter for the bonds in the case of a negotiated sale.
 - iii. The MDTA may provide written and/or oral presentations to the rating agencies to assist the agency credit analysts.
- b. **Policy Statement 34.** MDTA shall consider the use of credit enhancements such as debt service reserves, bond insurance, letters of credit, and surety bonds when such credit enhancement proves cost-effective.
 - i. The net debt service on the bonds should be reduced by more than the net carrying costs of the enhancement. A credit enhancement should result in lower net financing costs and may result in higher credit ratings.
- c. **Policy Statement 35.** The Executive Director, CFO and the municipal advisors are responsible for maintaining relationships with the rating agencies. This effort includes providing periodic updates on MDTA's general financial condition along with meetings and presentations in conjunction with a new debt issuance.

X. Annual Review

- a. **Policy Statement 36.** This Debt Policy is to be reviewed by the MDTA Finance Committee at least annually.

XI. Definitions

- a. None

XII. Authorized/Supporting Documents

XIII. Policy History

- a. Approved 8.16. 2005
- b. Reviewed 8.10. 2006
- c. Amended 8.9.2007 as of 9.20.2007

- d. Amended 9.11.2008
- e. Amended 8.25.2009
- f. Amended 11.24.2010
- g. Reviewed 9.22.2011
- h. Amended 9.27.2012
- i. Amended 8.22.2013
- j. Amended 8.28.2014
- k. Amended 8.27.2015
- l. Amended 8.25.2016
- m. Amended 9.7.2017
- n. Amended 8.30.2018
- o. Amended 8.29.2019
- p. Amended 8.27.20
- q. Amended 8.26.21
- r. Amended 8.25.22
- s. Amended 8.31.23
- t. Amended 11.29.23