COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2009, Legislative Day No. 15
Resolution No. 68-09

Mr. Joseph Bartenfelder, Chairman
By Request of County Executive

By the County Council, September 21, 2009

A RESOLUTION to adopt a Debt Policy to establish parameters for issuing and managing debt, providing guidelines regarding the timing and purposes for which debt may be issued, and presenting the types of permissible debt, the methods of sale that may be used and the limits on the amounts to be borrowed.

WHEREAS, Chapter 693 of the Laws of Maryland of 2009 required each local government unit to adopt a local debt policy by resolution, motion or ordinance that is consistent with provisions of the state constitution and certain laws and that meets the needs of the local government unit; and

WHEREAS, Chapter 693 required the local government unit to adopt the local debt policy by September 1, 2009; and

WHEREAS, Chapter 693 will not go in effect until October 1, 2009; and

WHEREAS, the Director of Debt Management for the State Treasurer informed each local government unit that its debt policy must be adopted by October 1, 2009; now therefore

BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the following is the debt policy of Baltimore County:

STATEMENT OF DEBT POLICY

I. Introduction

Baltimore County (the County) recognizes that one of the keys to sound financial management is a debt policy. A debt policy establishes the parameters for issuing and managing debt. It provides guidelines regarding the timing and purposes for which debt may be issued, presents the types of permissible debt, the methods of sale that may be used and, perhaps most important, the limits on the amounts to be borrowed. The debt policy should recognize an obligation to fully and timely repay all debt as an essential requirement for entry into the capital markets. Adherence to a debt policy helps to ensure that a government maintains a sound financial position and that credit quality is protected.

The debt policy is to be used in conjunction with the operating and capital budgets, the Capital Improvement Program (CIP), and other financial policies. The advantages of a debt policy are:

- Improving the quality of decisions;
- Protecting and perhaps enhancing the credit position;
- Documenting the decision-making process;
- Identifying objectives for staff to implement; and
- Demonstrating a commitment to long-term financial planning objectives.

II. Debt Instruments

The County utilizes the following debt instruments:

- General Obligation Bonds are secured by a promise to levy taxes in an amount necessary to pay debt service, principal and interest, coming due each fiscal year. General Obligation Bonds are comprised of Consolidated Public Improvement Bonds and Metropolitan District Bonds, issued for the Baltimore County Metropolitan District, which is responsible for the provision of retail water and wastewater to residents of the County. The principal source of repayment for the Metropolitan District Bonds is special assessments and charges levied against all property in the Metropolitan District.

  Before Consolidated Public Improvement Bonds may be appropriated, a borrowing referendum must be voted upon and approved. Every two years at each general election, a borrowing referendum is placed on the ballot. The funding authorized through voter approval of the borrowing referendum is appropriated to capital projects beginning in the ensuing fiscal year after approval of the referendum. Metropolitan District Bonds do not require voter approval.

  - In lieu of issuing certain Consolidated Public Improvement Bonds authorized for the purpose of funding the purchase of development rights relating to agricultural land, the County may incur indebtedness by executing and delivering Installment Purchase Agreements (IPA) in exchange for the development rights. Through these Agreements, the purchase price is paid in a lump sum at the end of the pre-established time period not to exceed 30 years. During that period, the seller receives interest at a pre-established rate. These Agricultural IPAs constitute a pledge of the County's full faith and credit.

  - Tax Advantaged Bonds. The American Recovery and Reinvestment Act of 2009 (ARRA) and other recent federal tax law changes provide significant new financing methods for state and local governments that have customarily financed on a tax-exempt basis, creating several new categories of tax-exempt, tax-credit and direct subsidy bonds. The County may issue such bonds in 2009 and 2010, based on a cost-effectiveness analysis.

- Conditional Purchase Agreements are installment purchase contracts in which the equipment or facility is acquired. The County's obligation to make purchase installments in any fiscal year is contingent upon the County Council making an appropriation for such purpose in such year. Without funding, the equipment is returned to the seller without any additional financial liability. The conditional purchase agreements may be financed through Certificates of Participation (COPs). COPs do not constitute a pledge of full faith and credit or of the taxing powers of the County. The issuance of COPs does not require voter approval.

- The County's Board of Education enters into capital leases to finance the purchase of school buses, other vehicles and certain copying equipment over five year periods.

- Tax Increment Financings (TIFs) are special obligation bonds issued for financing public infrastructure improvements in a designated special development district. The County must secure TIFs with a pledge of incremental increases in real property tax revenues, and may also pledge special tax or assessment revenues collected from the special district or other assets.

The County's net tax-supported debt, which reflects the debt service payments made directly from tax revenues, includes Consolidated Public Improvement debt and does not include Metropolitan District debt as it is viewed as self-supporting. The County has no overlapping debt. The County has, however, variable rate debt in the form of a Commercial Paper Program for both Consolidated Public Improvement and Metropolitan District programs. The variable rate debt as a percent of the total County debt outstanding is maintained below the 20% ratio that many financial analysts suggest as a prudent level.

III. Debt Limits, Purposes and Practices

Legal Debt Limits

General obligation indebtedness of the County, issued pursuant to “full faith and credit” authority granted under Article VII, Section 717 of the Baltimore County Charter may not exceed 10% of the assessed value of all real and personal property subject to assessment for unlimited taxation by the County. This limit does not include indebtedness having a maturity not in excess of twelve months or indebtedness payable primarily from revenues of a special taxing district or from proceeds of assessments for special benefits. Due to a change in Maryland law resulting in an increase in real property assessment valuations, the Baltimore County Code Section, 2003 10-3-111 lowered the ceiling from 10% to 4%, beginning in Fiscal Year 2007.

The total of Metropolitan District Bonds outstanding for any purpose under former Title 35, Article III, Section 35-252 of the Baltimore County Code (1988 Edition, as amended) was limited to 8% of the total assessable basis for County taxation purposes, within the Metropolitan District. Like General Obligation Indebtedness, the limit, now set forth in Baltimore County Code, 2003 Section 20-4-103, was lowered, from 8% to 3.2%, beginning in Fiscal Year 2007.

Public Purpose Limits

Purposes for Debt Issuance

The County may issue debt for the purpose of acquiring or constructing capital assets including land, buildings, machinery, equipment, furniture and fixtures.

Capital Planning and Issuance of Debt

Annually, the County prepares and adopts a Capital Improvement Program (CIP) to identify and establish an orderly plan to meet the County's infrastructure needs. General Obligation Bonds are one of the primary sources of the CIP funding.

The Director of Budget and Finance determines the scheduling and amount of bond sales and installment purchase transactions. These decisions will be based upon the identified cash flow requirements for each project to be financed, market conditions and other relevant factors particularly debt ratios. If the cash requirements for capital projects are minimal in any given year, the County may choose not to issue debt. Instead, the County may fund up-front project costs and reimburse these costs when financing is arranged.

Financial Limits

Debt Ratios

The County’s debt ratios are calculated for its net tax-supported debt. In addition, the County’s debt ratios are examined with pension funding bonds excluded as these bonds contractually eliminate a large unfunded pension obligation and reduce current expenses for pension payments by a greater amount than the increase in debt service due to the issuance of such bonds.

The County shall abide by the following debt ratios:

- Debt as a Percentage of Assessed Valuation. This ratio measures debt levels against the property tax base, which generates the tax revenues that are the main source of debt repayment.

- Debt per Capita. This ratio measures the burden of debt placed on the size of the population supporting the debt and is widely used by rating analysts as a measure of an issuers' ability to repay debt.

- Debt to Personal Income. The ratio of debt to personal income is perhaps the most comprehensive indicator because it takes into account all earnings of the County’s taxpayers that could be taxed to pay debt service.

- Debt Service as a percentage of Revenues. This ratio reflects the County's budgetary flexibility to adopt spending levels and respond to economic condition changes.

The ceiling and target levels for these ratios are reported each year in the Updated Debt Capacity and Control Analysis.

Financial Practices and Guidelines

- The County does not intend to issue tax or revenue anticipation notes to fund governmental operations. Baltimore County intends to manage its cash in a fashion that will prevent any borrowing to meet working capital needs. The County has never issued tax or revenue anticipation notes.

- The County does not intend to have any fixed rate bond anticipation notes outstanding for a period of longer than two years. If the County issues a fixed rate bond anticipation note for a capital project, the BAN will be converted to a long-term bond or redeemed as it expires.

- The County will manage its Variable Rate Commercial Paper bond anticipation note program so that upon each issuance of tax-exempt fixed rate bonds the County will retire outstanding Commercial Paper.

- The County will update its Debt Capacity and Control Analysis study each year in conjunction with its annual budget process. This study will help the County monitor its debt position and ensure that its debt ratio policies are met. This study was first prepared in January 1989 and was updated in each succeeding year.

- The County will budget contributions to Pay-As-You-Go financing in each fiscal year. In order to reduce the County's future debt service burden, each budget will include a contribution to Pay-As-You-Go financing and, when possible, increase the contribution.

- The County will ensure that the ratio of unreserved General Fund Balance (including Revenue Stabilization Reserve Account balance) to General Fund revenues does not fall to the floor level for two consecutive years. The County will try to meet its goal of a 5% ratio of unreserved General Fund Balance to General Fund revenues and will allow that ratio to fall to the floor of 3% only on an intermittent basis.

- The County will ensure that the rapidity of debt repayment on new net tax-supported debt does not fall below 25% retired in 5 years and 50% retired in 10 years. The County will monitor the projected rapidity of debt repayment in future years and ensure that the rapidity of repayment on new debt does not fall below the rule-of-thumb used by credit analysts of 25% retired in 5 years and 50% in 10 years.

Derivatives: Interest Rate Exchange Agreements

Interest Rate Exchange Agreement means a written contract entered into in connection with the issuance of County debt or in connection with County debt already outstanding with a counterparty to provide for an exchange of payments based upon fixed and/or variable interest rates. At this time, the County has not entered into any Interest Rate Exchange Agreements and it does not plan to do so in the near future. If the County decides to enter into Interest Rate Exchange Agreements, it will develop a Swap Policy to govern such transactions.

Debt Structuring Practices

- Maximum Term: Debt will be paid off in a timeframe that is less than or meets the weighted useful life of the asset or project acquired through the financing. All bonds shall be payable, under an annual installment plan which shall commence payments not more than two years from the date of issue. No bonds shall mature and be payable more than forty years after their date of issue except bonds issued under the authority of the Metropolitan District.

- Debt Service Pattern: Generally, level principal for General Obligation Bonds and COPs.
- Optional Redemption Provisions: Generally, 10-year par call for General Obligation Bonds and COPs. Other redemption provisions will be considered to reflect market conditions and/or needs of the County.

- Financing Techniques: The County will consider various financing techniques including fixed versus variable interest rate debt, credit enhancements, and shortterm debt in order to minimize the interest costs over the life of the issue. The use of these techniques will be evaluated based on market conditions and the maximum benefit to the County while minimizing the County's risk.

Debt Issuance Practices

- Method of Sale: Fixed rate tax-exempt general obligation bonds are conducted on a competitive basis. COPs will generally be sold on a competitive basis. Variable rate bonds, TIFs and special obligation bonds will generally be sold on a negotiated basis. The investor market for tax advantaged municipal bonds is evolving and the County may determine to sell such bonds on a negotiated basis upon the recommendation of the financial advisor. In negotiated financings, the underwriter selection will be determined through a competitive process. Underwriters will be selected for each issue based on the particular experience and expertise necessary for that issue.

- Refundings: The County will monitor its outstanding debt in relation to existing conditions in the debt market and will refund any outstanding debt when sufficient cost savings can be realized (minimum 3% present value savings on the refunding issue; minimum positive present value savings on each refunded maturity).

- Credit Ratings: The County's General Obligation Bonds are rated triple-A by each of the three rating agencies, Fitch Ratings, Moody's Investors Service and Standard & Poor's. The highest level ratings translate into low cost of borrowing and the County will make every effort to maintain its ratings.

Debt Management Practices

- The County will invest bond proceeds in accordance with its Investment Policy.

- The County must receive an opinion acceptable to the market from a nationally recognized law firm that each financing transaction complies with applicable law and all agreements in connection with any financing are legal, valid and binding obligations of the County.

- The County will provide on-going disclosure information to established national information repositories and maintain compliance with disclosure standards promulgated by state and national regulatory agencies.

- The County will maintain good communications with bond rating agencies to inform them about the County's financial position by providing them the County's Comprehensive Annual Financial Report (CAFR) and Operating and Capital Budgets.

- The County will comply with all arbitrage rebate requirements as established by the Internal Revenue Service and all disclosure requirements established by the Securities and Exchange Commission. This effort includes tracking investment earnings on bond proceeds, calculating rebate payments in compliance with the tax law and remitting rebatable earnings to the federal government in a timely manner in order to preserve the tax exempt status of the County's outstanding debt issues.

- The County will ensure that adequate systems of internal control exist so as to provide reasonable assurance as to compliance with applicable laws, regulations, and covenants associated with outstanding debt.

- The County will retain the services of a financial advisor that provides ideas on how Baltimore County should approach financing issues such as bond structures, credit rating strategies, pricing negotiated sales, and executing competitive sales.

IV. Administration and Implementation

The Office of Budget and Finance is responsible for the administration and issuance of debt including the completion of specific tasks and responsibilities included in this policy. The County will evaluate the debt policy at least every five years.

BE IT FURTHER RESOLVED that this Resolution shall take effect from the date of its enactment on.

r06809.wpd