



# Gaston County

Gaston County  
Board of Commissioners  
www.gastongov.com

## Financial and Management Services - Finance Board Action

File #: 25-088

Commissioner Hovis - Financial and Management Services - Finance - To Approve the Continuing Disclosure Compliance and Tax-Exempt Post-Issuance Compliance Policies and Procedures

### STAFF CONTACT

Kyle Sutherland - Finance - 704-866-3130

### BUDGET IMPACT

N/A

### BACKGROUND

In an effort to continue to enhance The County's fiscal responsibility related to debt issuance and debt management, the attached policies have been drafted in consultation with the County Manager's Office, County Attorney, Bond Counsel, and our debt consultants, DEC Associates. The following details the purpose of each policy.

#### **Continuing Disclosure Compliance Policy:**

The purpose of the Disclosure Policy is to formally confirm and enhance existing policies and procedures regarding compliance with such obligations and federal securities law in order to, among other things: (a) facilitate compliance with applicable law and existing contracts when preparing and distributing Disclosure Documents in connection with Securities offerings and Continuing Disclosure Documents; (b) reduce exposure of the County, its officials and employees to liability for damages and enforcement actions based on misstatements and omissions in Disclosure Documents; and (c) avoid damage to residents of the County and other third parties from misstatements or omissions in Disclosure Documents.

#### **Tax-Exempt Post-Issuance Compliance Policy:**

Gaston County has issued or incurred one or more tax-exempt obligations (hereinafter referred to as "bonds") that are outstanding. As used herein, the term "bonds" includes general obligation bonds, revenue bonds, installment financing contracts entered into by the County pursuant Section 160A-20 of the North Carolina General Statutes, and any other obligation lawfully incurred by the County that constitutes "debt" for federal income tax purposes. The purpose of this policy is to ensure the post-issuance compliance of the County's tax-exempt bonds.

(Continued on Page 2)

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	JBailey	CBrown	CCloninger	AFrale	BHovis	TKeigher	SShehan	Vote
2025-048	02/25/2025	BH	TK	A	A	A	A	A	A	A	U

### **DISTRIBUTION:**

Laserfiche Users

A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

---

**File #: 25-088**

---

Commissioner Hovis - Financial and Management Services - Finance - To Approve the Continuing Disclosure Compliance and Tax-Exempt Post-Issuance Compliance Policies and Procedures  
Page 2

**POLICY IMPACT**

See attached for full details of proposed policies.

**ATTACHMENTS**

Continuing Disclosure Compliance Policy; Tax-Exempt Post-Issuance Compliance Policy

**GASTON COUNTY, NORTH CAROLINA  
CONTINUING DISCLOSURE COMPLIANCE POLICIES AND PROCEDURES**

**FEBRUARY 25, 2025**

This statement of Policies and Procedures Concerning Compliance with Federal Securities Laws Relating to Disclosure (the “Disclosure Policy”) is promulgated to establish a framework for compliance by Gaston County, North Carolina (the “County”) with its disclosure and/or contractual obligations with respect to securities it issues or that are issued on its behalf, pursuant to the requirements of the Securities Exchange Act of 1934 and the Securities Act of 1933, including, in particular Rule 15c2-12, promulgated under the 1934 act (“Rule 15c2-12”), and other applicable rules, regulations and orders.

Section 1.     **Definitions.** Unless otherwise defined herein, certain terms used in this Disclosure Policy have the meanings described in Appendix A attached hereto.

Section 2.     **Purposes.** The purpose of this Disclosure Policy are to formally confirm and enhance existing policies and procedures regarding compliance with such obligations and federal securities law in order to, among other things: (a) facilitate compliance with applicable law and existing contracts when preparing and distributing Disclosure Documents in connection with Securities offerings and Continuing Disclosure Documents; (b) reduce exposure of the County, its officials and employees to liability for damages and enforcement actions based on misstatements and omissions in Disclosure Documents; and (c) avoid damage to residents of the County and other third parties from misstatements or omissions in Disclosure Documents.

Section 3.     **Policy.** It is the policy of the County to comply fully with applicable securities law regarding disclosure in connection with the issuance of Securities and with the terms of its Disclosure Agreements.

Section 4.     **Procedures.** The following officials and employees of the County shall implement the following procedures in preparing, checking, or issuing the following Disclosure Documents.

(a)     **Official Statements.**

(1)     Working Group. The Disclosure Working Group for preliminary and final official statements (collectively, “Official Statement”) issued in primary offerings shall consist of the following officers and employees of the County: **Finance Director, County Manager, County Attorney**, and any additional member as delegated by one of the aforementioned officers of the County.

(2)     Establishing Scope and Process. At the beginning of the disclosure process, the Disclosure Working Group will (i) determine (with input from the County’s underwriters, in the case of a negotiated offering) what information should be disclosed in the Official Statement to present fairly a description of the source of repayment and security for the securities being offered, including related financial and operating information (which may include a discussion of material risks related to investment in the securities), (ii) assign responsibilities for assembling and verifying the information, and

(iii) establish a schedule for producing the information and the Official Statement that will afford sufficient time for final review by the Disclosure Working Group and the Disclosure Officers (consisting of the **Assistant Finance Director, Financial Analyst, Chief Accountant**) and the approvals required by this Disclosure Policy. While the information included in the last offering document may be used as a starting point, the Disclosure Working Group should be encouraged to provide suggestions for improvement and not assume it represents a complete list of what is currently required.

(3) Assembling Current Information. The Disclosure Officers shall (i) identify officers or employees of the County who are likely to know or be able to obtain and verify required information; (ii) request that they assemble, verify, and forward the information and also notify the Disclosure Officers of any other fact that they believe to be important to investors; and (iii) establish a reasonable but sufficient deadline for producing the information. The Disclosure Officers should produce (or cause to be produced) a draft of the Official Statement based on the information that they receive. The Disclosure Officers shall assure that employees within their areas devote sufficient time and care to produce timely and accurate information, when requested. The Disclosure Officers shall distribute drafts of the Official Statement to the Disclosure Working Group for review together with a description of the process used to compile it and a list of facts, if any, that employees forwarded as important but are not included in the draft.

(4) Review of Process, Accuracy, and Completeness. The members of the Disclosure Working Group shall review the Official Statement drafts and Disclosure Officers' process description to determine (and shall report to the Disclosure Officers as to) whether, based on information known or reported to them, (i) this Disclosure Policy was followed, (ii) the material facts in the Public Statement appear to be consistent with those known to the members of the Disclosure Working Group, and (iii) the Official Statement omits any material fact that is necessary to be included to prevent the Official Statement from being misleading to investors. The Disclosure Officers shall take such action as may be necessary, based on feedback from the Disclosure Working Group, to enable the Disclosure Working Group to conclude that this Disclosure Policy was followed and that the Official Statement is accurate and complete in all material respects.

(5) Final Approval. The Disclosure Working Group shall approve the final draft of the Official Statement. The approval of the Disclosure Working Group, together with the Official Statement and the Disclosure Officers' description of the process used to prepare and check the Official Statement, shall be sent to the **Chair of the Board of Commissioners**. The Official Statement shall not be issued until approved by these officers.

(6) Documentation of Procedures. The Disclosure Officers shall compile and retain a file of the actions taken to prepare, check, and approve the Official Statement, including the sources of the information included, the comments and actions of the Disclosure Working Group, the description of the process followed by the Disclosure Officers, and the approval of the **Chair of the Board of Commissioners**.

(b) **Annual Financial Information and Operating Data.**

(1) Working Group. The Disclosure Working Group for annual financial information and operating data to be filed with the MSRB pursuant to Disclosure Agreements (the “Annual Filing”) shall consist of the following officers and employees of the County: **Finance Director, County Manager, and County Attorney**

(2) Assembling Current Information. The Disclosure Officers shall (i) compile and maintain (and update after every issuance or defeasance of Securities) a list of all financial information and operating data required to be filed with the MSRB pursuant to each of the Disclosure Agreements, the form of which is contained in Appendix B hereto; (ii) assign responsibilities to officers and employees for periodically assembling and verifying the data; (iii) request that they assemble, verify, and forward the data to the Disclosure Officers and notify the Disclosure Officers if they have learned of any other fact that they consider to be material with respect to the information provided; and (iv) establish a schedule for producing the data (and the Annual Filing document) that will afford sufficient time for final review by the Disclosure Working Group and the Disclosure Officers and the approvals required by this Disclosure Policy. The Disclosure Officers shall distribute drafts of the Annual Filing to the Disclosure Working Group for review together with a description of the process used to compile it.

(3) Review for Process, Accuracy, and Completeness. The members of the Disclosure Working Group shall review the Annual Filing drafts and Disclosure Officers’ process description to determine (and shall report to the Disclosure Officers as to) whether, based on information known or reported to them, (i) this Disclosure Policy was followed, (ii) the material facts in the Annual Filing appear to be consistent with those known to the members of the Disclosure Working Group, and (iii) the Annual Filing omits any material fact that is necessary to be included to prevent the Annual Filing from being misleading to investors. The Disclosure Officers shall take such action as may be necessary, based on feedback from the Disclosure Working Group, to enable the Disclosure Working Group to conclude that this Disclosure Policy was followed and that the Annual Filing is accurate and complete in all material respects.

(4) Final Approval. The Disclosure Working Group shall approve the final draft of the Annual Filing. Its action, together with the Annual Filing and the Disclosure Officers’ report regarding the process used to prepare and check the Annual Filing, shall be sent to the **Chair of the Board of Commissioners** for review. The Public Statement shall not be issued until approved by the Disclosure Working Group.

(5) Posting. The Disclosure Officers shall file the Annual Filing with the MSRB through EMMA by the deadline established by the Disclosure Agreements. The Disclosure Officers shall exercise reasonable care to file the Annual Filing in the format and with the identifying information required by the Disclosure Agreements, including applicable CUSIP numbers for the County’s Securities.

(6) Documentation of Procedures. The Disclosure Officers shall compile and retain a file of the actions taken to prepare, check, and approve the Annual Filing, including

the sources of the information included, the comments and actions of the Disclosure Working Group, the Disclosure Officers' report regarding the process used to prepare and check the Annual Filing, and approvals of the Disclosure Working Group.

(c) **Event Notices**

(1) Identification of Reportable Events. The Disclosure Officers shall maintain a list of events of which the County is required to provide notice to the MSRB pursuant to the Disclosure Agreements, the form of which is contained in Appendix C hereto. The Disclosure Officers (with the assistance of Members of the Disclosure Working Group for Official Statements) shall (i) identify the officers and employees of the County who are most likely to first obtain knowledge of the occurrence of such events and (ii) request in writing that they notify the Disclosure Officers immediately after learning of any such event, regardless of materiality, and repeat such request in a quarterly reminder.

(2) Preparation of Event Notice. The Disclosure Officers shall (i) assess the materiality of any reported event with the assistance of legal counsel (reportable under the Disclosure Agreements only if material) and, if notice of the event must be given (or if no materiality standard applies to that particular event); (ii) prepare an Event Notice giving notice of the event; and (iii) except for notices of a rating change, bond call, or defeasance, forward the draft Event Notice to **Chair of the Board of Commissioners and the County Manager** for their review.

(3) Review and Approval of Event Notice. The **Finance Director and County Attorney** shall promptly review and approve or comment on the Event Notice. The Disclosure Officers shall incorporate such comments into the Event Notice to be filed with EMMA. The Disclosure Officers shall not file the Event Notice Statement until it is approved by the **Finance Director and County Attorney**, unless the Event Notice (i) gives notice of a rating change, bond call, or defeasance or (ii) such approval has not been received by the applicable Disclosure Agreement filing deadline.

(4) Posting. The Disclosure Officers shall file the Event Notice with the MSRB through EMMA by the deadline established by the Disclosure Agreements or, if the facts cannot be correctly and fairly described by the deadline, then as soon thereafter as possible. The Disclosure Officers shall exercise reasonable care to file the Event Notice in the format and with the identifying information required by the Disclosure Agreements, including CUSIP numbers for the applicable Securities.

(5) Documentation of Procedures. The Disclosure Officers shall compile and retain a file of the actions taken to report each event and prepare, check, and approve the notice of the event, including the approvals of the **Finance Director and County Attorney**, if obtained.

Section 5. **Training.**

(a) **Personnel to be Trained**. Each member of a Disclosure Working Group, the Disclosure Officers, the Public Information Officer, and each officer or employee designated as a source of data or an Event Notice pursuant to this Disclosure Policy shall undergo periodic training.

(b) **Training Content.** The training program and materials shall be prepared by or with the assistance of the issuer's outside bond counsel and approved by the County Attorney. The training program shall impart the requirements of federal and state securities laws and the Disclosure Agreements, the meaning of "material," and the duties of such officers and employees under this Disclosure Policy.

(c) **Training Frequency.** Each affected officer and employee shall undergo training (i) promptly after being appointed to a position described in (a) and (ii) annually as necessary to address any changes in law or this Disclosure Policy.

#### Section 6. **Updates to Policies and Procedures.**

(a) **Periodic Review.** The Disclosure Policy shall be reviewed annually by the Disclosure Policy Working Groups. In addition, at any time all officers and employees of the County are invited and encouraged to make recommendations for changes to this Disclosure Policy so that it fosters better compliance with applicable law, results in better information to investors, or makes the procedures required by this Disclosure Policy more efficient.

(b) **Recommendations for Change.** Following receipt of any such recommendation, the Disclosure Officers shall give their advice regarding the recommendation to the Disclosure Working Groups. The Disclosure Working Groups shall consider the recommendation and advice, determine whether to propose a change to this Disclosure Policy.

(c) **Changes to Disclosure Policy.** The County Manager, with advice from the Finance Director, the County Attorney, and bond counsel, shall approve and implement any change to this Disclosure Policy that is proposed by the Disclosure Working Groups, does not change the fundamental policies or procedures established by this Disclosure Policy, and is determined by the County Manager to be advisable.

#### Section 7. **Miscellaneous.**

(a) **Internal Use Only.** This Disclosure Policy is intended for the internal use of the County only and is not intended to establish any duties in favor of or rights of any person other than the County.

(b) **Waiver of Procedures.** The officers and employees charged by this Disclosure Policy with performing or refraining from any action may depart from this Disclosure Policy when they and the Disclosure Officers in good faith determine that such departure is in the best interests of the County and consistent with the duties of the County under federal and state securities laws. If either Disclosure Officer is charged by this Disclosure Policy with taking or refraining from such action, any such departure shall require approval of the County Attorney.

**DEFINITIONS**

For purposes of this Disclosure Policy:

**“Annual Filing”** has the meaning given in Section 4(b)a.

**“Continuing Disclosure Documents”** means financial and operating data and event notices filed with the MSRB through EMMA pursuant to Disclosure Agreements.

**“Disclosure Agreement”** means the provisions of each ordinance, order, resolution, or other agreement of the County by which the County undertakes to provide financial and operating data periodically, and timely notices of certain events, to the MSRB, whether expressly or as the only nationally recognized municipal securities information repository under SEC Rule 15c2-12.

**“Disclosure Documents”** means the Offering Documents, the Continuing Disclosure Documents and other information filed with the MSRB through EMMA.

**“Disclosure Officers”** means the officers or employees of the County charged with exercising the responsibilities of a Disclosure Officer under this Disclosure Policy, i.e., **[Finance Director and the County Attorney]**.

**“Disclosure Working Group”** for any Public Statement means the officers or employees of the County charged with exercising the responsibilities of the Disclosure Working Group in preparing or checking the Public Statement under this Disclosure Policy, as described in Section 4.

**“EMMA”** means the Electronic Municipal Market Access System maintained by the MSRB.

**“Material”** when used with respect to a fact included in a disclosure document means, generally, that a reasonable investor likely would attach significance to it in making a decision to buy, hold, or sell Securities of the County. When questions of materiality arise, counsel should be consulted.

**“MSRB”** means the Municipal Securities Rulemaking Board.

**“Offering Documents”** means preliminary and final Official Statements and other documents by which Securities are offered to the public by the County as well as solicitation statements by which the County offers to purchase its Securities or requests consents or waivers regarding Securities.

**“Public Statement”** means any statement or other communication that is intended (or reasonably can be expected) to be accessible to and relied upon by investors in the County’s Securities, including, as applicable: the Offering Documents, Continuing Disclosure Documents, other information filed with the MSRB through EMMA, information uploaded or linked or posted to the website of the County, press releases and any other formal statements of the County.

**“SEC”** means the United States Securities and Exchange Commission.



**“Securities”** means bonds, notes, certificates of obligation, certificates of participation, and other debt obligations or securities of the [Entity], or the payment of which the [Entity] is obligated to support by a lease, contract, or other arrangement, that are sold to or otherwise held or traded in by the public.

## **APPENDIX B**

### **ANNUAL DISCLOSURE REQUIREMENTS**

The County undertakes to provide to the Municipal Securities Rulemaking Board (the “MSRB”):

(a) by not later than seven months from the end of each fiscal year of the County, audited financial statements of the County for such fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the County are not available by seven months from the end of such fiscal year, unaudited financial statements of the County for such fiscal year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution; and

(b) by not later than seven months from the end of each fiscal year of the County, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under the headings “Debt Information” and “Tax Information” in Appendix A to the official statement relating to the bonds (excluding any information on overlapping or underlying units) and (ii) the combined budget of the County for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above.

**EVENT NOTICES**

The County undertakes to provide to the Municipal Securities Rulemaking Board (the “MSRB”):

(a) in a timely manner, not in excess of ten business days after the occurrence of the event, notice of any of the following events with respect to the Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (5) substitution of any credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modification to the rights of the beneficial owners of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution or sale of any property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the County;
- (13) the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of a trustee, if material;

(15) incurrence of a financial obligation (as defined below) of the County, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the County, any of which affect beneficial owners of the Bonds, if material; and

(16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the County, any of which reflect financial difficulties.

(b) in a timely manner, notice of a failure of the County to provide required annual financial information described in Appendix B on or before the date specified.

**GASTON COUNTY, NORTH CAROLINA  
TAX-EXEMPT BOND  
POST-ISSUANCE COMPLIANCE POLICIES AND PROCEDURES  
FEBRUARY 25, 2025**

**INTRODUCTION**

Gaston County (the “County”) has issued or incurred one or more tax-exempt obligations (hereinafter referred to as “bonds”) that are outstanding. As used herein, the term “bonds” includes general obligation bonds, revenue bonds, installment financing contracts entered into by the County pursuant Section 160A-20 of the North Carolina General Statutes, and any other obligation lawfully incurred by the County that constitutes “debt” for federal income tax purposes.

Set forth below are the policies and procedures that the County has adopted as of the date set forth above to ensure the post-issuance compliance of its tax-exempt bonds.

**BOND COMPLIANCE OFFICER**

***Identification***

The **Finance Director** for the County will have day-to-day responsibility for implementation of these policies and procedures and is referred to as the “Bond Compliance Officer.” The **County Manager** for the County will have ultimate responsibility for the implementation of these policies and procedures and will supervise the Bond Compliance Officer.

In the event of a change in the Bond Compliance Officer, the outgoing Bond Compliance Officer and the **County Manager** for the County will be responsible for transferring responsibility for these policies and procedures and records to be retained to the new Bond Compliance Officer.

***Training***

Promptly after becoming the Bond Compliance Officer, and periodically thereafter, the Bond Compliance Officer will consult with bond counsel regarding, and obtain training necessary to implement, these policies and procedures and monitor compliance.

**REVISION OF THESE POLICIES AND PROCEDURES**

The Bond Compliance Officer will review these policies and procedures and consult with bond counsel regarding any revisions that are necessary and appropriate:

- Annually, in connection with the preparation of the County’s annual continuing disclosure filing; and
- Promptly, after
  - the issuance of any additional bonds by the County, or
  - the retirement of bonds of the County.

The Bond Compliance Officer will propose any such revisions to the **County Manager** for the County for review and approval. If these policies and procedures are revised, the Bond

Compliance Officer will distribute the revised version of these policies and procedures to all relevant officers, employees and counsel.

## **OUTSTANDING BOND ISSUES**

For federal income tax purposes, two or more series of bonds of the County may be treated as a single issue (hereinafter referred to as a “bond issue”). These policies and procedures will be applied to each bond issue (e.g., the limitation on private business use applies separately to each bond issue).

Appendix A describes all bond issues of the County outstanding as of the date of these policies and procedures. Appendix A will be revised by the Bond Compliance Officer from time to time to reflect the issuance of any additional bonds of the County or the retirement of any bonds of the County. The Bond Compliance Officer will consult with bond counsel as needed in preparing Appendix A (e.g., to confirm whether two or more series of bonds are treated as a single bond issue for federal income tax purposes).

## **EXPENDITURE/ALLOCATION OF PROCEEDS**

### ***Definition of “Proceeds”***

For the purpose of applying these policies and procedures, proceeds of a bond issue generally means the sales proceeds of the bond issue and investment proceeds from investments that accrue during the project period (net of any rebate amounts attributable to the project period).

### ***Review of Expenditures and Requisitions***

Until all proceeds (except sales proceeds deposited into a reasonably required reserve or replacement fund, i.e., a debt service reserve fund)<sup>1</sup> of each of the County’s outstanding bond issues have been expended, the Bond Compliance Officer will review each expenditure or requisition for disbursement of bond proceeds prior to its payment or submission for payment to confirm:

- All expenditures are capital expenditures or issuance costs (unless working capital expenditures were expected to be financed)<sup>2</sup>;
- Any expenditures paid by the County prior to the issuance of the bonds are eligible for reimbursement under the reimbursement regulations.

---

<sup>1</sup> If any proceeds of a prior issue that become transferred proceeds of a refunding issue are intended to finance a project, the Bond Compliance Officer will review each expenditure or requisition for disbursement of the transferred proceeds in the manner described above and retain a copy of all documentation supporting such expenditure or requisition.

<sup>2</sup> Unless working capital expenditures were expected to be financed, working capital expenditures should not be financed with bond proceeds. If working capital expenditures were expected to be financed, the Bond Compliance Officer should confirm the working capital expenditures to be financed are directly related to capital expenditures financed by the bond issue (e.g., initial operating expenses for a new capital project) and that the aggregate working capital expenditures to be financed do not exceed 5% of the sale proceeds of the bond issue.

The Bond Compliance Officer will retain a copy of all documentation supporting an expenditure or requisition.

### ***Allocations of Proceeds***

The Bond Compliance Officer will cause all allocations of the proceeds of each bond issue to be made within 18 months after the later of the date the expenditure is made or the date the project is placed in service, but not later than the earlier of five years after the bonds were issued or 60 days after the issue is retired. Allocations will be made using any reasonable, consistently applied method and generally will not be considered final until the expiration of the dates described in the preceding sentence.

### ***Summary of Use of Proceeds***

The Bond Compliance Officer will prepare and retain a summary of the use of the proceeds of each outstanding bond issue (and each bond issue refunded with an outstanding bond issue). Until all proceeds (except sales proceeds deposited into a debt service reserve fund) of each outstanding bond issue have been expended, the Bond Compliance Officer will update the summary for each such bond issue promptly after each expenditure or submission of requisition for disbursement of bond proceeds.

The summary of the use of the proceeds of each outstanding bond issue (and each bond issue refunded with an outstanding bond issue) will include the following:

- Total proceeds of the bond issue, including the issue price of the bond issue and investment proceeds
- Proceeds used for issuance costs
- Proceeds used for credit enhancement (e.g., letters of credit, liquidity facilities or bond insurance)
- Proceeds allocated to reasonably required reserve or replacement fund (e.g., debt service reserve fund)<sup>3</sup>
- Proceeds used to currently refund prior issue
- Proceeds used for capital expenditures (except capitalized interest), categorized as follows for the project (or, if the bond issue financed multiple projects, each project):
  - Land
  - Land improvements
  - Buildings
  - Equipment
- Proceeds used for capitalized interest (i.e., construction period interest)
- Proceeds used for working capital expenditures

---

<sup>3</sup> In addition to sales proceeds deposited in a debt service reserve fund, the summary should also specify the amount of any proceeds of a prior issue that are deposited in a debt service reserve for a refunding issue and become transferred proceeds of the refunding issue.

- Year of substantial completion<sup>4</sup> (of each project, if more than one)

The summary will be accompanied by a description of the bond-financed property. County-owned assets that have been paid for with bond proceeds will be indicated within the County's financial system of record. For assets purchased with bond proceeds that are school related, once the asset is placed in service, Gaston County Schools will notify the County and identify which funding source was used for the purchase, and include the identifying asset number, serial number, or other unique number to the asset.

## **PRIVATE BUSINESS USE**

### ***Brief Summary of Private Business Use Test***

The property financed by each bond issue must not be subject to excessive private business use while the bond issue is outstanding. Generally, no more than ten percent<sup>5</sup> of the net proceeds<sup>6</sup> of the bond issue may be used for any private business use.

### ***Examples of Transactions that Could Result in Violations of the Private Business Use Test***

Use of bond-financed property by a qualified user does not result in private business use. "Qualified user" means the County or a state or local government unit (or instrumentality) thereof. Private business use of bond-financed property can arise for a number of different reasons, including:

- Use by a non-governmental entity (e.g., a 501(c)(3) organization or a for-profit entity);
- Use by the federal government;
- Sale or lease to a non-qualified user (e.g., a non-governmental entity or the federal government); or
- A management contract<sup>7</sup> that does not meet one of the safe harbors for private business use described in Revenue Procedure 2017-13.

---

<sup>4</sup> A project can be treated as substantially completed when, based upon all the facts and circumstances, the project has reached a degree of completion which would permit its operation at substantially its design level and it is, in fact, in operation at such level.

<sup>5</sup> The limitation is reduced to 5% if the private business use is unrelated or disproportionate to the governmental use of the proceeds. Also, when proceeds of a bond issue exceed \$150 million, a \$15 million limitation on private use becomes relevant. Under the \$15 million limitation, the bonds may be private activity bonds if the "nonqualified amount" exceeds \$15 million. The nonqualified amount is the lesser of (i) the portion of the bond proceeds to be used for private business use or (ii) the portion of the bonds that are secured by or payments derived from property used in private business use.

<sup>6</sup> "Net proceeds" means the proceeds of the bond issue reduced by amounts in a debt service reserve fund.

<sup>7</sup> "Management contract" means a management, service, or incentive payment contract between a qualified user and a service provider under which the service provider provides services involving all, a portion of, or any function of, a bond-financed facility. A management contract includes not only a contract that provides for the actual management of a facility (such as an operator of a cafeteria) but also one that provides services.



### ***Policy Regarding Private Business Use***

The County's policy is to avoid private business use of its bond-financed property to the extent possible and to track such use to ensure the applicable limits are not exceeded.

### ***Compliance Procedures Regarding Private Business Use***

The Bond Compliance Officer will:

- Make other relevant officers and employees of the County aware of the limitations on private business use;
- Identify for such officers and employees the bond-financed property subject to the private business use limitations; and
- Require such other officers and employees to notify the Bond Compliance Officer of:
  - Any proposed sale or lease of bond-financed property;
  - Any proposed use by a non-governmental entity (e.g., a 501(c)(3) organization or a for-profit entity) of bond-financed property;
  - Any proposed use by the federal government of bond-financed property; and
  - Any proposed management contract with respect to bond-financed property.

The Bond Compliance Officer will cause any proposed management contract to be reviewed by bond counsel for compliance with the safe harbors in Revenue Procedure 2017-13.

### ***Remedial Action; Tax-Exempt Bonds Voluntary Closing Agreement Program***

If there is a compelling business reason for the County to permit any use of bond-financed property by (i) the federal government or (ii) any other non-qualified user (pursuant to a sale, lease or otherwise), or to enter into a management contract that does not meet a safe harbor for private business use, the Bond Compliance Officer will consult with bond counsel to compute the amount of private business use expected to result from such use or contract and confirm whether such private business use, together with all other expected private business use, will result in excess private business use. If such use or contract will result in excess private business use, the Bond Compliance Officer will consult with bond counsel regarding the availability of remedial action and, if remedial action is available, cause the County to take such remedial action ***before*** such use begins or the County enters into such management contract.

If remedial action is not available, the County will request that the IRS enter into a closing agreement pursuant to its Tax-Exempt Bond Voluntary Compliance Agreement Program.

### ***Annual Summary of Private Business Use***

In connection with the preparation of the County's annual continuing disclosure filing, the Bond Compliance Officer will prepare and retain for the related fiscal year of the County:

- A summary for each outstanding bond issue of the amount of private business use of the property financed by such bond issue;
- A summary of each sale or lease of bond-financed property reviewed during such fiscal year, including a brief description of the sale agreement or lease, who performed the review and the conclusions of the reviewer;
- A summary of each management contract reviewed during such fiscal year for safe harbor compliance, including a brief description of the contract, who performed the review and the conclusions of the reviewer;
- Copies of all sale agreements, leases and management contracts relating to bond-financed property reviewed during such fiscal year; and
- Copies of all documents relating to all remedial action taken (or VCAP closing agreements obtained) during such fiscal year.

### **ARBITRAGE/REBATE**

#### ***Rebate Computations/Exceptions***

With respect to each of the County's outstanding bond issues, the Bond Compliance Officer will annually, in connection with the preparation of the County's annual continuing disclosure filing, confirm whether it is appropriate to perform a rebate computation with respect to such bond issue during that year. If a computation is appropriate, the Bond Compliance Officer will cause the computation to be performed by retaining a rebate analyst. If the rebate computation reflects that a payment is required, the Bond Compliance Officer will cause the County to file Form 8038-T and the County will pay any rebate when due.

Until all proceeds of a bond issue have been expended, the Bond Compliance Officer will monitor expenditures prior to semi-annual target dates for the six-month, 18-month and 24-month rebate exceptions.

#### ***Yield Restriction of Gross Proceeds Invested Beyond an Available Temporary Period***

If any gross proceeds of a bond issue must be invested beyond an available temporary period (e.g., proceeds of a new money bond issue deposited in a construction/project fund are not expended within three years after the issue date), the Bond Compliance Officer will cause such gross proceeds to be yield restricted.<sup>8</sup>

---

<sup>8</sup> The Bond Compliance Officer will consult with bond counsel as appropriate regarding alternatives to yield restriction, including investing in tax-exempt obligations and yield reduction payments.

### ***Purchase of Rollover Securities (Zero SLGs) for Defeasance Escrows***

With respect to each outstanding bond issue that has been defeased, the Bond Compliance Officer will annually, in connection with the preparation of the County's annual continuing disclosure filing, confirm whether any escrow securities are required to be rolled over into zero SLGs during that year. If a rollover is required, the Bond Compliance Officer will contact the escrow agent at least 30 days prior to the rollover date to confirm that the escrow agent has taken or will take the action necessary to complete the rollover.

### ***Qualified Hedges (e.g., Interest Rate Swaps)***

Prior to entering into a hedge with respect to any outstanding bond issue, the Bond Compliance Officer will consult with bond counsel about treating the hedge as a qualified hedge.

### ***Guaranteed Investment Contracts***

Prior to entering into a guaranteed investment contract for investment of any gross proceeds of any outstanding bond issue, the Bond Compliance Officer will consult with bond counsel regarding compliance with the regulatory safe harbor for establishing the fair market value of the GIC.

### ***Avoiding Creation of Replacement Proceeds; Yield Restriction of Replacement Proceeds***

To avoid the creation of replacement proceeds whenever possible, the Bond Compliance Officer will consult with bond counsel before the County pledges cash or securities to the bondholders, the bond trustee or a guarantor (e.g., a credit or liquidity provider), agrees to a negative pledge (e.g., a liquidity covenant such as a day's cash on hand covenant or a covenant to maintain a specified amount of deposits) or establishes or designates any amount it expects to be used to pay debt service as to any issues.

Within 30 days after any replacement proceeds (e.g., a sinking fund, a pledged fund) with respect to any outstanding bond issue come into existence, the Bond Compliance Officer will cause such replacement proceeds to be yield-restricted.<sup>9</sup>

## **RECORD RETENTION**

The Bond Compliance Officer will maintain general records relating to each of the County's outstanding bond issues (and any bond issue refunded with proceeds of any outstanding bond issue) for the life of such bond issue plus six years. These general records will include:

- The transcript for the initial issuance and delivery of the bond issue, including proof of filing of Form 8038-G for the bond issue.
- Any supplemental transcripts relating to the bond issue.
- Records to support the final allocation of proceeds, including:
  - The summary of the use of the proceeds described above;

---

<sup>9</sup> See footnote 8.

- The description of the bond-financed property; and
- Copies of documentation supporting expenditures and requisitions.
- Records to support the computation of private business use, including:
  - A summary of the amount of private business use of the property financed by such bond issue;
  - Each annual summary of sales or leases of bond-financed property reviewed during such fiscal year, including a brief description of the sale agreement or lease, who performed the review and the conclusions of the reviewer;
  - Each annual summary of management contracts reviewed during each fiscal year for safe harbor compliance, including a brief description of the contract, who performed the review and the conclusions of the reviewer;
  - Copies of all sale agreements, leases and management contracts relating to bond-financed property reviewed during each fiscal year; and
  - Copies of all documents relating to all remedial action taken (or VCAP closing agreements obtained).
- All rebate computations and Forms 8038-T relating to the bond issue.
- With respect to guaranteed investment contracts, if any, and investments purchased for a yield restricted defeasance escrow which satisfied the regulatory safe harbor requirements for establishing their fair market value, the records required to be maintained pursuant to Treas. Reg. § 1.148-5(d)(6)(iii)(E).
- With respect to each qualified hedge, if any, evidence of the identification of such hedge on the County's books and records.
- All reports, summaries and other documents prepared by the Bond Compliance Officer in implementing these policies and procedures.

### **REISSUANCE**

A modification to the terms of an outstanding bond issue may result in a reissuance (i.e., a deemed current refunding) of such bond issue. Examples of such changes include a change in the principal payment schedule, a change in the interest rate (including a change in the interest rate mode) and a change in the credit or liquidity support for the bond issue. Before the County consents to any modification to the terms of an outstanding bond issue, the Bond Compliance Officer will consult with bond counsel to determine whether such change will result in a reissuance of the bond issue. If a reissuance occurs as a result of such change, the Bond Compliance Officer will cause the County to take all action required by bond counsel to maintain the tax-exempt status of the bond issue upon reissuance (e.g., filing of Form 8038-G and a final rebate computation) and will revise these policies and procedures as necessary to reflect such reissuance.

### **CORRECTIVE ACTION**

These policies and procedures are intended to ensure violations of federal tax requirements for the County's outstanding bond issues are timely identified. The Bond Compliance Officer will consult with bond counsel promptly if any violation is identified. If remedial action is not available for any violation that is identified, the County will attempt to correct such violation in a timely manner through the IRS Tax-Exempt Bonds Voluntary Closing Agreement Program.

## **APPENDIX A**

### **Outstanding Tax-Exempt Bond Issues**

As of the date of these policies and procedures, the following tax-exempt bond issues<sup>i</sup> of the County are outstanding<sup>ii</sup>:

	<u>Name of Issue</u>	<u>CUSIP #<sup>iii</sup></u>	<u>Issue Date<sup>iv</sup></u>	<u>Issue Price<sup>v</sup></u>	<u>Description of Purpose<sup>vi</sup></u>	<u>Collateral</u>
1.	General Obligation Refunding Bonds, Series 2013	367298XF8	4/16/2013	\$69,328,661.90	Refund a portion of the County's General Obligation School Bonds, Series 2004 dated March 1, 2004, General Obligation Public Improvement Bonds, Series 2006 dated March 1, 2006, General Obligation School Bonds, Series 2006 dated October 1, 2006, and General Obligation Community College Bonds Series 2007 dated August 30, 2007	Full faith and credit and taxing power of the County
2.	General Obligation School Bonds, Series 2016 and General Obligation Refunding Bonds, Series 2016	367298YB6	5/24/2016	\$60,682,188.70	(a) acquire, construct and equip public school facilities and (b) refund a portion of the County's General Obligation School Bonds, Series 2006 dated October 1, 2006, and General Obligation Community College Bonds, Series 2007 dated August 30, 2007.	Full faith and credit and taxing power of the County

3.	General Obligation School Bonds, Series 2018	367298ZA7	11/15/2018	\$65,749,590.00	Erecting additional school buildings and other school plant facilities, enlarging, reconstructing, renovating and replacing existing school buildings and other plant facilities and acquiring any necessary land, furnishings, equipment and appurtenant facilities therefore	Full faith and credit and taxing power of the County
4.	Limited Obligation Bonds (Gaston County, North Carolina) Series 2019A	36730WAU4	4/24/2019	\$21,232,047.55	(a) prepay obligations pursuant to the Equipment Lease-Purchase Agreement dated November 15, 2018, and (b) renovate, expand, equip and improve the existing Gaston County Sheriff's Office and jail facility	Gaston County Jail
4.	General Obligation Refunding Bonds, Series 2020	367298ZK5	10/28/2020	\$60,516,875.10	Refund the outstanding principal amount of the General Obligation Refunding Bonds, Series 2017 and the General Obligation School Bonds, Series 2017	Full faith and credit and taxing power of the County
5.	Schedule of Property No. 8 to Master Equipment Financing Agreement	N/A	11/23/2021	\$7,836,620.00	Acquiring vehicles and equipment	Vehicles and equipment purchased
6.	Schedule of Property No. 9 to Master Equipment Financing Agreement	N/A	6/21/2023	\$8,180,820.71	Acquiring vehicles and equipment	Vehicles and equipment purchased

7.	General Obligation School Bond Anticipation Notes, Series 2023	367298ZL3	7/11/2023	\$81,144,800.00	Acquire, construct and equip school facilities	Full faith and credit and taxing power of the County
8.	Schedule of Property No. 10 to Master Equipment Financing Agreement	N/A	1/25/2024	\$4,634,989.65	Acquiring vehicles and equipment	Vehicles and equipment purchased

<sup>i</sup> A tax-exempt bond includes any obligation issued by or on behalf of a governmental issuer on which the interest paid is excluded from the holder's gross income under Section 103 of the Code. For this purpose, a bond can be in any form of indebtedness under federal tax law, including a bond, note, loan or lease-purchase agreement. A bond issue may be an issue of two or more series of bonds which are sold at substantially the same time; sold pursuant to the same plan of financing; and payable from the same source of funds. See Treas. Reg. § 1.150-1(c). As a result, two or more series of bonds issued by the County can be treated as a single bond issue for federal income tax purposes.

<sup>ii</sup> For federal income tax purposes, bonds that have been defeased remain outstanding until they are redeemed or paid at maturity, and continued compliance with federal tax law requirements is still required with respect to such defeased obligations.

<sup>iii</sup> Enter the CUSIP number for the bond with the latest maturity. This should be the same CUSIP number listed on Form 8038-G. If no CUSIP number was assigned to the bond issue, write "None."

<sup>iv</sup> Should be identical to the issue date listed on Form 8038-G.

<sup>v</sup> Should be generally identical to the issue price listed on Form 8038-G. If the issue price listed on Form 8038-G was described as preliminary, e.g., the bond issue was a draw-down loan or commercial paper for which the aggregate issue price was not known on the issue date, the issue price could be different.

<sup>vi</sup> Describe the purpose of the bond issue, such as to construct schools or provide funds to refund a prior issue. If any of the bond proceeds were used to refund a prior issue, enter the date of issue for each of the refunded issues. If the issue has multiple purposes, state each purpose. If the issue financed various projects or activities corresponding to a related purpose, only state the purpose once. For example, if proceeds are used to acquire various items of office equipment, the amount of such expenditures should be aggregated and identified with the stated purpose of "office equipment." Alternatively, if proceeds are used to construct and equip a single facility, the expenditures should be aggregated and identified with stated purpose of "construct & equip facility" where the identification of the facility is distinguishable from other bond-financed facilities, if any.