

**RESOLUTION NO. 2013-0819-1**

A Resolution of the Board of Directors of the West Central Conservancy District approving a Post-Issuance Compliance Policy for Tax-Exempt Obligations and related matters

**WHEREAS**, the Board of Directors (the “Board”) of the West Central Conservancy District (the “District”) has heretofore established, acquired and financed its sewage works, and now owns and operates said sewage works pursuant to Indiana Code 14-33, as supplemented and amended (collectively, the “Act”); and

**WHEREAS**, pursuant to the Act, the Board may issue, from time to time, obligations (a) which provide that the interest thereon be excluded from gross income for federal income tax purposes (“tax-exempt obligations”) pursuant to the Internal Revenue Code of 1986, as amended, and regulations there under (collectively, the “Code”) or (b) which are otherwise required by federal law to abide by the requirements of the Code applicable to tax-exempt obligations (collectively, the “Obligations”); and

**WHEREAS**, to ensure compliance with the Code, the District must undertake certain monitoring and disclosure activities with respect to the Obligations; and

**WHEREAS**, the District, to guide its compliance activities, has previously instituted post-issuance compliance policies for Obligations, in conformance with the Code; and

**WHEREAS**, a form of Post-Issuance Compliance Policy for Tax-Exempt Obligations has been presented to the Board, a copy of which has been attached hereto as Appendix I and incorporated herein by reference (the “Compliance Policy”); and

**WHEREAS**, the Board desires to formally adopt the Compliance Policy to further guide the District’s compliance activities under the Code;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE WEST CENTRAL CONSERVANCY DISTRICT, THAT:**

**Section 1. Policy Approval.** The Board hereby approves and adopts the Compliance Policy in the form presented to the Board and attached thereto as Appendix I to guide the District's compliance activities for any outstanding or future Obligations issued by the District.

**Section 2. Conflicting Resolutions.** All resolutions and parts of resolutions in conflict herewith are hereby repealed; provided, however, that this Resolution shall not be construed as modifying, amending or repealing any resolution issuing an Obligation or any covenants or agreements related to the prior or future issuance of Obligations.

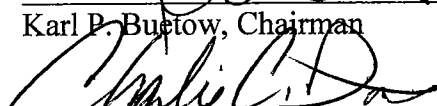
**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its passage and approval by the Board.

Adopted this 19th day of August, 2013.

WEST CENTRAL CONSERVANCY DISTRICT

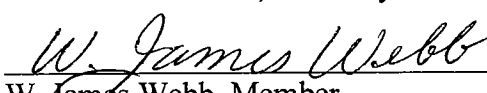
BOARD OF DIRECTORS:

  
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Karl P. Buelow, Chairman

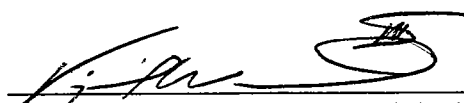
  
\_\_\_\_\_  
Charlie C. Dorton, Vice Chairman

  
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Virgil Underwood, III, Financial Clerk

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William E. Holland, Secretary

  
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W. James Webb, Member

ATTEST:

  
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Virgil Underwood, III, Financial Clerk

## APPENDIX I

### **Post-Issuance Compliance Policy for Tax-Exempt Obligations**

#### **Statement of Purpose**

This Post-Issuance Compliance Policy (the “Policy”) sets forth specific policies of the West Central Conservancy District (the “Issuer”) designed to monitor post-issuance compliance of tax-exempt obligations<sup>1</sup> (the “Obligations”) issued by the Issuer with applicable provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and regulations promulgated there under (the “Treasury Regulations”). The Policy documents existing practices and describes various procedures and systems designed to identify on a timely basis facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations be, or continue to be, or would be but for certain provisions of the Code, excludable from gross income for federal income tax purposes. The Issuer recognizes that compliance with applicable provisions of the Code and Treasury Regulations is an on-going process, necessary during the entire term of the Obligations, and is an integral component of the Issuer’s debt management. Accordingly, the analysis of those facts and implementation of the Policy will require on-going monitoring and consultation with bond counsel.

This Policy also sets forth certain procedures in respect of assuring continued compliance by the Issuer with continuing disclosure obligations in respect of its outstanding Obligations under Rule 15c2-12 (17 CFR Part 240, §240.15c2-12) (“Rule 15c2-12”) promulgated by the Securities and Exchange Commission (the “SEC”) pursuant to the Securities and Exchange Act of 1934, as amended, together with all interpretive guidance or other official interpretations or explanations thereof that are promulgated by the SEC.

#### **Policy Components**

The District Manager of the Issuer (the “Compliance Officer”) reviews the terms and structure of Obligations executed by the Issuer, which Obligations are ultimately subject to the approval of the legislative or governing body of the Issuer. Such Obligations are issued in

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<sup>1</sup> For purposes of the Policy, tax-exempt obligations shall include (a) obligations the interest on which is excludable from gross income for federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended, and regulations there under (collectively, the “Code”) (“tax-exempt obligations”), and (b) obligations the interest on which is not excludable from gross income for federal income tax purposes, but federal law otherwise requires such obligations to satisfy requirements of the Code applicable to tax-exempt obligations. For example, Section 54AA of the Code, added by the American Recovery and Reinvestment Act of 2009, authorizes the issuance of “Build America Bonds,” the interest on which is includible in gross income for federal income tax purposes, provided that (a) the interest on the bonds would, but for such Section 54AA, be excludable from gross income for federal tax purposes under Section 103 of the Code, (b) such bonds are issued before a specified date (currently January 1, 2011), and (c) the Issuer makes an irrevocable election to have Section 54AA apply. Accordingly, the Policy will apply to any Build America Bonds issued by the Issuer.

accordance with the provisions of the Code and the applicable State of Indiana law. Specific post-issuance compliance procedures address the relevant areas described below. The following list is not intended to be exhaustive and further areas may be identified from time to time by the Compliance Officer in consultation with bond counsel.

### **General Policies and Procedures**

The following policies relate to procedures and systems for monitoring post-issuance compliance generally.

- A. The Compliance Officer shall be primarily responsible for monitoring post-issuance compliance issues.
- B. The Compliance Officer will coordinate procedures for record retention and review of such records.
- C. The Compliance Officer will review post-issuance compliance procedures and systems on a periodic basis, but not less than annually.
- D. Electronic media will be the preferred method for storage of all documents and other records maintained by the Issuer. In maintaining such electronic storage, the Compliance Officer will comply with applicable Internal Revenue Service (the "IRS") requirements, such as those contained in Revenue Procedure 97-22.
- E. The Compliance Officer may delegate any such responsibility to any officer, employee, attorney or agent of the Issuer, if such officer's, employee's, attorney's or agent's discharge of such responsibility is under the supervision of the Compliance Officer.
- F. The Compliance Officer and any such officers, employees, attorneys or agents shall be provided training and educational resources necessary to ensure compliance with the Code and the Treasury Regulations.

### **Issuance of Obligations**

The following policies relate to the issuance of a specific issue of Obligations.

The Compliance Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents.
- B. Confirm that bond counsel has filed the applicable information report (e.g., Form 8038-G, Form 8038-CP) for such issue with the IRS on a timely basis.

- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations with other applicable Issuer staff.

### **Arbitrage**

The following policies relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will:

- A. Coordinate the tracking of expenditures, including the expenditure of any investment earnings, with other applicable Issuer staff.
- B. Obtain a computation of the yield on such issue from the Issuer's financial advisor for such issuance or other outside arbitrage rebate specialist) and maintain a system for tracking investment earnings.
- C. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- D. Coordinate with Issuer staff to monitor compliance by departments with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.
- E. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.
- F. Coordinate to avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.
- G. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions.
- H. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.
- I. Monitor compliance of the Issuer with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.

- J. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.
- K. Arrange for timely computation and payment of “yield reduction payments” (as such term is defined in the Code and Treasury Regulations), if applicable.
- L. In the case of any issue of refunding Obligations, coordinate with the Issuer’s financial advisor and any escrow agent to arrange for the purchase of the refunding escrow securities, obtain a computation of the yield on such escrow securities from Treasury’s external source and monitor compliance with applicable yield restrictions.

### **Private Activity Concerns**

The following polices relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Compliance Officer will:

- A. Coordinate with staff to maintain records determining and tracking facilities financed with specific Obligations and in what amounts.
- B. Coordinate with applicable staff to maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- C. Coordinate with applicable staff to maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.
- D. Coordinate with staff to monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.
- E. Coordinate with applicable staff to monitor private use of financed facilities to ensure compliance with applicable percentage limitations on such use. Such monitoring should include the following:
  - 1. Procedures to review the amount of existing private use on a periodic basis; and
  - 2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license,

management contract, research arrangement or other arrangement for review by bond counsel.

- F. Consult with bond counsel as to any possible private use of financed facilities.

## **Reissuance**

The following policies relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Compliance Officer will:

- A. Identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.
- B. Confirm with bond counsel whether any “remedial action” in connection with a “change in use” (as such terms are defined in the Code and Treasury Regulations) would be treated as a reissuance for tax purposes and, if so, confirm the filing of any new Form 8038-G.

## **Record Retention**

The following policies relate to retention of records relating to the Obligations issued.

The Compliance Officer will:

- A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.
- B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.
- C. Coordinate with staff to generally maintain the following:
  - 1. Basic records relating to the transaction (e.g., any non-arbitrage certificate, net revenue estimates and the bond counsel opinion);
  - 2. Documentation evidencing expenditure of proceeds of the issue;
  - 3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation;

4. Documentation evidencing use of financed property by public and private entities (e.g., copies of management contracts and research agreements);
5. Documentation evidencing all sources of payment or security for the issue; and
6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).
7. The foregoing includes, if applicable, by way of example but is not limited to:
  - Tax Certificate
  - Information Return
  - Audited Financial statements
  - Transcripts, official statements and other offering documents
  - Minutes and resolutions authorizing the issuance of the Obligations
  - Certifications of the issue price of the Obligations
  - Any formal elections for the Obligations (*i.e.*, election to employ an accounting methodology other than specific tracing)
  - Appraisals, demand surveys or feasibility studies for Obligation-financed property
  - Documents related to government grants associated with construction, renovation or purchase of Obligation-financed facilities
  - Publications, brochures and newspaper articles related to the Obligations
  - Trustee statements for the Obligations
  - Correspondence (letters, e-mails, faxes, etc.) for the Obligations
  - Reports of any IRS examinations of the Issuer or the Obligations
  - Documentation of allocations of investments and investment earnings to the Obligations
  - Documentation for investments of the Obligation proceeds related to:
    - Investment contracts (*e.g.*, guaranteed investment contracts)
    - Credit enhancement transactions (*e.g.*, bond insurance contracts)
    - Financial derivatives (swaps, caps, etc.)
    - Bidding of financial products



- The following arbitrage-related documents for the Obligations:
  - Computations of Obligation yield
  - Computation of rebate and yield reduction payments
  - Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate
  - Form 8038-R, Request for Recovery of Overpayments Under Arbitrage Rebate Provisions
- Documentation of allocations of Obligation proceeds to expenditures (*e.g.*, allocation of Obligation proceeds to expenditures for the construction, renovation or purchase of facilities)
- Documentation of allocations of Obligation proceeds to issuance costs
- Copies of requisitions, draw schedules, draw requests, invoices, bills and cancelled checks related to Obligation proceeds spent during the construction period
- Copies of all contracts entered into for the construction, renovation or purchase of Obligation-financed facilities
- Records of expenditure reimbursements incurred prior to issuing the Obligations for facilities financed with Obligation proceeds
- A list or schedule of all Obligation-financed facilities or equipment
- Depreciation schedules for Obligation-financed depreciable property
- Documentation that tracks the purchase and sale of Obligation-financed assets
- Records of all unrelated trade or business activities allocated to Obligation-financed facilities
- Records of trade or business activities by third parties allocated to Obligation-financed facilities
- Copies of the following agreements when entered into with respect to Obligation-financed property:
  - Management and other service agreements
  - Research contracts
  - Naming rights contracts
  - Ownership documentation (*e.g.*, deeds, mortgages)
  - Leases
  - Subleases
  - Leasehold improvement contracts
  - Joint venture arrangements
  - Limited liability corporation arrangements
  - Partnership arrangements
  - Take contracts, take or pay contracts, or requirements contracts

- D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS. While this may be accomplished through the maintenance of hard copies, records may be kept in electronic format so long as applicable requirements, such as Revenue Procedure 97-22, are satisfied.
- E. Keep all material records for so long as the issue is outstanding (including any refunding), plus eleven years.

### **Continuing Disclosure**

The Compliance Officer shall determine with respect to each outstanding Obligation the applicability of Rule 15c2-12 to such Obligation. The Compliance Officer shall periodically determine whether all required filings under any continuing disclosure agreements for Obligations covered by Rule 15c2-12 have been filed with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System (“EMMA”) and, if applicable, the State Information Depository, but in any event no less than semiannually. The Compliance Officer shall assure that timely filings are made to the EMMA and, if applicable the SID, of all required filings including, specifically, annual financial information and disclosure of certain events in respect of Obligations subject to Rule 15c2-12, all in accordance with the applicable continuing disclosure agreement for such Obligations.

### **Remediation of any potential violations of the Code or this Post-Issuance Compliance Policy for Tax-Exempt Obligations**

In the event any possible violations of Federal tax requirements applicable to the Obligations are identified (whether pursuant to this Post-Issuance Compliance Policy for Tax-Exempt Obligations or otherwise), the Compliance Officer shall cause the Issuer to engage Bond Counsel to assist in determining:

1. Whether a violation has occurred; and
2. What, if any remedial actions (including any described in applicable Treasury Regulations (including Treasury Regulations 1.141-12) or any available through the Tax Exempt Bonds Voluntary Closing Agreement Program described under Notice 2008-31) are appropriate and in the interests of the Issuer.

When so determined to be appropriate and in the interests of the Issuer, the Compliance Officer shall cause the Issuer to undertake such actions.

### **Amendments and Supplements to this Post-Issuance Compliance Policy for Tax-Exempt Obligations**

The Issuer retains the right and obligation to amend, supplement and/or replace this Post-Issuance Compliance Policy for Tax-Exempt Obligations from time to time when and if it is determined to be appropriate and in the interests of the Issuer, which the Compliance Officer shall cause to be done, consistent with the purposes herein described.