



Policy 4.23

EFFECTIVE 24 JAN 23

SUPERSEDES 27 NOV 18

INTEREST RATE SWAP POLICY

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Use swaps, caps, floors, collars, options and other derivative financial products (collectively referred to herein as “swaps”) in conjunction with the District’s management of its assets and liabilities. This policy is intended to serve as a source of information and guidance on the implementation and ongoing monitoring of swaps for the District and the rating agencies, as well as the general public and financial institutions wishing to do business with the District.

Scope

This policy describes the circumstances and methods by which swaps will be used, the guidelines to be employed when swaps are used, and the responsibilities of the Finance Director in carrying out these policies. This policy applies to swaps entered into after April 10, 2007.

Authority

The District’s legal authority for using swaps is based on Section 12875 of the Municipal Utility District Act of the State of California and the California Government Code Section 5922. Under this authority, the District may enter into swaps in connection with, or incidental to, the issuance or carrying of bonds or the acquisition or carrying of any investment or program of investment. In order to enter into swaps, the Board of Directors must determine that the swaps are designed to reduce the amount or duration of payment, currency, rate, spread, or similar risk, result in a lower cost of borrowing, or that the swaps enhance the relationship between risk and return of the District’s investments.

Upon entering into any swap transaction, the District shall receive an opinion acceptable to it from counsel to the effect that the District has the power and authority to execute the agreements relative to the swap, that the agreements are legal, valid and binding obligations of the District, and that they and their execution and delivery are not inconsistent with applicable laws.

Considerations

The District shall consider entering into swaps based on the following analysis:

- (i) The appropriateness of the transaction for the District based on the balance of risks and rewards presented by the proposed transaction, including a detailed description of the transactional structure, a description of the risks it presents, and risk mitigation measures, where applicable;
- (ii) The legal framework for the transaction within the context of California statutes, Board authorization, and relevant indenture and contractual requirements (including those contained in credit agreements), as well as any implications of the transaction under federal tax regulations;
- (iii) The potential effects that the transaction may have on the credit ratings of any District obligations assigned by the rating agencies;
- (iv) The potential impact of the transaction on any areas where the District’s capacity may be constrained, now or in the future, including the availability of credit facilities such as bank liquidity facilities, letters of credit, and bond insurance;

- (v) The impact on the District’s policy limitation on variable rate exposure, taking into account the degree of variability in the District’s net debt service payments that may be caused by basis risk, and specifically, by the form of basis risk known as tax risk (i.e., when a taxable index like the Secured Overnight Financing Rate (SOFR) is used to hedge underlying tax-exempt floating rate debt);
- (vi) The ability of the District and its professional staff to handle any administrative burden that may be imposed by the transaction, including accounting and financial reporting requirements; and
- (vii) Other implications of the proposed transaction as warranted.

Approval to enter into a swap will be subject to appropriate legal authorization from the Board of Directors. The swap authorization will authorize the swap and its provisions, and establish authorized parameters for notional amount, swap maturity, source of payments, minimum or maximum rate as applicable and other relevant provisions. The swap authorization will specify the District officials, to whom authority is delegated to enter into, monitor and administer the swap, and the parameters within which their delegated authority may function. In the event of a conflict between a swap authorization and this Interest Rate Swap Policy, the terms and conditions of the swap authorization will govern.

Authority

Adopted by Resolution 33591-07, April 10, 2007
As amended by Resolution 33841-11, September 27, 2011
As amended Resolution 33925-13, April 23, 2013
As amended Resolution 33965-14, January 28, 2014
As amended Resolution 35120-18, November 27, 2018
As amended Resolution 35335-23, January 24, 2023

Reference

Procedure 468 – Interest Rate Swap Procedure
