

 DEBT MANAGEMENT POLICY	Citywide Policy Manual
	Attachments: N/A
Effective Date: September 15, 2020	Responsible Department: [Administrative Services]
Related Policies & Notes: N/A	

Goals and Objective of the Policy

The goals and objective of this Debt Management Policy (this “policy” or “debt policy”), designed in accordance with guidelines of the Government Finance Officers Association (GFOA) and in accordance with California Government Code Section 8855 (i) and 8855(k), are as follows:

- To establish guidelines for the effective issuance and management of the City’s debt
- To maintain cost-effective access to the capital markets for the issuance of debt
- To support the City’s strategic and capital plan objectives through the most cost effective means of debt issuance
- To maintain the highest practical credit ratings and the lowest possible interest and issuance costs

The Administrative Services Department recognizes that changes in the capital markets and other unforeseen circumstances may require action that may deviate from this Debt Management Policy. In cases that require exceptions to this Debt Management Policy, approval from the City Council will be necessary for implementation. This debt policy is applicable to all entities for which the City Council acts as legislative body, and the term “City” shall refer to each of such entities. When used in this debt policy, “debt” shall be interpreted broadly to mean bonds, notes, certificates of participation, financing leases, or other financing obligations, but the use of such term in this debt policy shall be solely for convenience and shall not be interpreted to characterize any such obligation as an indebtedness or debt within the meaning of any statutory or constitutional debt limitation where the substance and terms of the obligation comport with exceptions thereto.

An analysis will be conducted for each proposed long-term financing (i.e. more than one year) to analyze the impacts of the estimated annual debt service costs. As part of this analysis, an external municipal advisor and bond counsel will be consulted regarding each proposed bond issue. The general obligation debt ratio will not exceed the maximum allowed under State law, or 15% of the City's net assessed value (Gov. Code §43406).

Purposes for Which Debt Proceeds Can Be Issued

The City's Investment Policy and the bond indentures govern objectives and criteria for investment of bond proceeds. Proceeds will be invested in a manner to avoid, when possible, and minimize any potential negative arbitrage over the life of the bond issuance, while complying with arbitrage and tax provisions.

Purposes for Which Debt Proceeds Can Be Issued

All proposed City debt to be issued must be submitted to and approved by City Council. Debt shall only be used for the following purposes: i) to finance capital improvement projects, including the acquisition, construction, major repair, or enhancement of City facilities; ii) to finance the purchase of capital assets and equipment; iii) to refinance previously issued debt; iv) to finance short-term cash flow needs, as described in this debt policy; and v) to finance other large and extraordinary costs as determined by the City Council. Debt financing shall be used for capital expenditures when the project's useful life meets or exceeds the financing term, and dedicated revenues are adequate to pay debt service. The City shall use proceeds of debt issues in a manner that is consistent with the then applicable City ordinances and Federal tax laws with respect to such debt. Whenever feasible, the City will use tax-exempt debt. Tax-exempt private activity bonds (which are usually subject to alternative minimum tax) shall be used for qualified exempt facility private activity projects. Federally taxable bonds shall be used for other authorized uses that are not otherwise permitted to be financed with tax-exempt bonds.

Types of Debt That Can Be Issued

Fixed interest rate debt is preferred to maintain a predictable debt service burden. Variable rate debt is discouraged but can be utilized on a very limited basis when the potential advantages of capturing the lowest interest rates available in the current market that outweigh forecasted risks. Short-term debt for less than one year, such as Tax and Revenue Anticipation Notes, may be considered to manage cash and/or to realize net investment income. The following are the types of debt the City can issue:

General Obligation (GO) Bonds - In California, GO Bonds require a supermajority voter approval. Most GO bonds are backed by the issuer's ability to level ad valorem tax in amounts sufficient to meet debt service requirements.

Lease Financing - May take a variety of forms, including the following:

- **Certificate of Participation (COP)** – When a City finances a public facility through a lease-leaseback transaction, the interest in that City's lease payment may be securitized in the form of certificates of participation. The certificates represent a share of the lease payment to be paid by the City.
- **Lease Revenue Bonds** – As an alternative to COPS, the City may obtain financing through the issuance of bonds by a joint exercise of powers agency with such bonds payable from the City's lease payments.
- **Equipment Lease Financing** – Lease obligations are also an appropriate means of financing capital equipment. A capital lease often is used to finance equipment.

Tax Revenue Anticipation Notes (TRANs) and Bond Anticipation Notes (BANs) – Tax and revenue anticipation notes (TRANs) are one-year, interest-bearing notes that are issued to manage cash flow variability. BANs are short-term interest-bearing bonds issued in the anticipation of long-term future bond issuances. Voter approval is not required on BANs and TRANs.

Revenue Bonds and COPs – Revenue bonds and revenue COPs are generally issued by City with respect to its enterprise funds that are financially self-sustaining without the reliance on the City's general fund and rely on the revenues collected by the enterprise fund to repay the debt.

Refunding Bonds – Bonds issued to refinance previously issued outstanding debt. The City may issue refunding bonds to refinance the principal of and interest on outstanding bonds or other debt to achieve debt service savings, restructure scheduled debt service, convert from or to a variable or fixed interest rate, change or modify the source(s) of payment and security for the refunded debt, or modify covenants otherwise binding upon the City. Refunding bonds may be issued either on a current or an advance basis.

A current refunding is one in which the refunding bonds are issued less than 90 days before the date upon which the refunded bonds will be redeemed. An advance refunding is one in which the refunding bonds are issued more than 90 days prior to the date upon which the refunded bonds will be redeemed. Proceeds of the advance refunding bonds are placed into an escrow account with a fiduciary and used to pay interest and principal on the refunded bonds and then used to redeem the refunded bonds at their maturity or call date. Internal Revenue Code §149(d)(3) provides that governmental bonds issued after 1985 may only be advanced refunded once over the life of a bond. Refinancings for economic savings will meet a minimum threshold of net present value savings of at least three percent (3%) of the outstanding principal of the refunded debt can be achieved.

State Revolving Funds – This is a low interest loan program for the construction of eligible infrastructure projects.

Variable Rate Demand Obligation (VRDOs) – Bonds where predetermined intervals are set for when the rate is reset to current market conditions. VRDOs with a long maturity can be priced as short-term instruments, making it potentially a less costly option in a normal upward sloping yield curve environment. Variable rate bonds are typically issued using a letter of credit, which assures the liquidity needed for such debt, and also typically enhances the credit quality of the debt. Variable rate debt can be issued to reduce an issuer’s overall borrowing costs because, over the long term, variable rate debt has been historically cheaper than fixed rate debt. However, the decision to use VRDOs also must include an evaluation of the risk associated with the variability of the cost of variable rate debt. Variable rate debt shall be limited to a prudent amount of the City’s overall debt portfolio, as determined in accordance with current rating criteria and other factors.

Land-Secured Financing – The City may issue debt using community facilities districts (“CFDs”) under the Mello-Roos Community Facilities Act of 1982 and assessment districts (“Assessment Districts”) under various assessment district laws. Land-secured financing may be extended to a developer/builder subject to City’s adopted related policies (see Resolution 92-190, Mello-Roos District Policy Resolution 96-246), Resolution 16-237 (City’s Amended and Restated Statement of Goals and Policies Concerning Use of the Mello-Roos Community Facilities Act of 1982, as amended) and the City’s Economic Development Strategy. Subject to voter approval, once a district is formed special taxes or assessments may be levied upon properties within the district to pay for facilities and services directly, or to repay bonds issued to finance public improvements. The minimum value to debt ratio for any debt issue should generally be at least 4:1. This means the value of the property in the district that is subject to the special tax or assessment should be at least four times the amount of the assessment or special tax debt.

Conduit Bonds – The City may sponsor conduit financings in the form of revenue bonds for those activities (i.e. economic development, housing, health facilities, etc.) that have a general public purpose and are consistent with the City’s overall service and policy objectives as determined by City Council. All conduit financings must insulate the City completely from any credit risk or exposure and must be approved by the City Council.

Other Debt – Derivative Products such as Interest Rate Swaps, Inverse Floaters, and other hybrid securities, are prohibited in this policy.

Internal Control Procedures Over the Use of Bond Proceeds

This section is intended to set forth the internal controls needed to ensure the appropriate use of bond proceeds. These controls procedures are designed to prevent the inappropriate use of these proceeds. When disbursing bond funds, adequate documentation must be submitted before making payments. Depending on the circumstances this could include:

- Contracts, purchase orders, invoices, canceled checks (time and/or materials)
- Deliverables, special studies/progress reports

- Contractor/subcontractor agreements and payments, with a description/volume of activities or services provided
- Certifications e.g., review/approval of progress or completion by internal or external oversight parties

Invoices should be reviewed and approved by the responsible program or department within the agency and submitted to finance for processing. The documentation should be reviewed by the Finance Division prior to payment, including verifying that sufficient budget and reserves exist for payment of the claim. Disbursements are then posted to appropriate bond proceed accounts in the accounting system. This also involves the management of multiple funding sources, to avoiding spending funds on closely-related purposes/activities that fall outside the allowable uses of bond proceeds. Financial reports will be made available to show year to date spending on the bond proceeds. The bond reserve accounts will be incorporated into the City's annual financial statements which is subject to an annual audit.

Whenever reasonably possible, proceeds of debt will be held by a third-party trustee and the City will submit written requisitions for such proceeds. The City will submit a requisition only after obtaining the signature of the Director of Administrative Services or authorized designee. In those cases where it is not reasonably possible for the proceeds of debt to be held by a third-party trustee, the Finance division shall retain records of all expenditures of proceeds through the final payment date for the debt.

Debt Affordability/Operating Reserve Targets/Prefunding of Debt

The City will maintain the required debt service coverage ratios as specified in the covenants of each outstanding bond and/or debt issue of the City. Any net General Fund revenues available at year-end may be applied to meet unfunded obligations or liabilities accounted for in the City's Capital Project Fund, Internal Service Funds and Public Facilities Corporation Debt Service Fund as identified in any studies or other analyses.

Methods of Sales of Bonds

There are a number of market factors that will affect the success of a bond offering, and each should be carefully considered before selecting a method of sale. These factors include, but are not limited to, the following: 1) market perception of the City's credit quality, 2) interest rate volatility, 3) size of the proposed issue, 4) complexity of the issue, and 5) competition with other issuers for investor interest (bond supply). The Administrative Services Director, with the assistance of the City's independent financial advisor and bond counsel, will examine and evaluate all available alternatives for new issues and make a recommendation to the City Manager and subsequently to City Council.

Competitive Sales of Bonds – The terms of the bonds will be established by the City and the underwriter of the bonds will be that firm who proposes to purchase the bonds at the lowest borrowing cost through a competitive bidding process. The issue is awarded to the underwriter judged to have submitted the best bid that offers the lowest interest cost, taking into account underwriting spread, interest rates and any discounts or premiums.

The competitive sale of the City's debt generally will be considered under the following circumstances:

- The Bonds are traditional long-term fixed-rate new money bonds;
- The Bonds are senior lien obligations of the City;
- The Bonds do not include any unusual call provisions or other terms;
- The Bonds are or will be rated no lower than the "A" category or equivalent by two of the three major credit rating agencies
- Conditions in the municipal bond market are relatively stable; and/or
- Market timing is not critical to the pricing of the Bonds.

Negotiated Sale of Bonds – A method of sale for bonds, notes, or other financing vehicles in which the City selects in advance, based on the criteria described below, one or more underwriters to work with it in structuring, marketing and finally offering an issue to investors. Bond financial advisors are not allowed to participate as the underwriter.

The negotiated sale of the City's debt generally will be considered under the following circumstances:

- The Bonds are not traditional long-term fixed-rate new money bonds;
- The Bonds are not senior lien obligations of the City;
- The Bonds include unusual call provisions or other terms;
- The Bonds are or will be rated below an "A" category by at least two of the three rating agencies;
- Conditions in the municipal bond market are relatively volatile;
- Market timing is important to the pricing of the Bonds;
- Volume in the municipal bond market is unusually heavy or unusually light;
- The structure of the financing is complex or unusual;
- Demand for the Bonds is expected to be weak, as a result of credit issues, market perceptions, unusual structures or other factors; and/or

The underwriter or underwriters for a negotiated sale of Bonds (the "Underwriters") may be selected from a pre-qualified pool of underwriters with experience and expertise in connection with the particular type of Bonds being offered for sale. Finance staff, with the assistance of its financial advisor, shall evaluate the proposed pricing and other terms offered by the Underwriters in relationship to prevailing market prices on the date of sale and prevailing practices in the municipal bond market, in each case with respect to comparable issuers. The senior managing underwriter shall provide the City with a pricing analysis, summary of all orders, allocations and underwriting activities.

Private Placement – A private placement is a variation of a negotiated sale in which the City will attempt to place the entire new issue directly with an investor. The investor will negotiate the specific terms and conditions of the financing before agreeing to purchase the issue. Private placements are generally undertaken because the transaction is complex or unique, requiring direct negotiations with the investor, or because the issue is small and a direct offering provides economies of scale. City's financial advisor(s) is prohibited in participating as the private placement investor.

Structure and Terms of Debt Financing

The City will generally issue debt with a weighted average maturity that is not greater than 120% of the average expected useful life of the financed improvement(s). Unless specific compelling reasons exist, there shall be no "balloon" bond repayment schedules, including those involving capital appreciation bonds, which consist of low annual payments and one large payment of the balance due at the end of the term. Subject to other policy interests, call provisions for bond issues shall be made as short as possible consistent with the lowest interest cost to the City. Unless specific compelling reasons exist, all bonds shall be callable only at par.

Debt Structuring – The City will typically seek to amortize bonds with level principal and interest costs over the life of the issue. Debt can be issued at par, discount or premium. Factors to be considered in structuring include serial and term bonds and the year to year differential in interest rates.

Credit Ratings

The City's goal is to maintain investment grade credit ratings of A- or greater. Non-rated financing may be used whenever it is cost-effective. City will seek when feasible to improve its investment grade ratings through cost-effective credit enhancement.

Rating agencies consider various factors in issuing a credit rating which typically include, depending upon the nature of the debt and its repayment source, the City's fiscal status, general management capabilities, economic conditions that may impact the stability and reliability of debt repayment sources, operating reserves and ability to increase related fees and/or taxes, debt history and current debt structure, the capital improvement project that is being funded and covenants and conditions in the governing legal documents.

Bond Insurance

The City shall have the authority to purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest on insured bonds versus uninsured bonds.

Provider Selection: the Treasurer or designee will solicit quotes for bond insurance from interested providers, or in the case of a competitive sale, submit an application for prequalification of insurance. In a negotiated sale, the City Manager or designee and/or the Treasurer or designee shall have the authority to select a provider whose bid is most cost effective and whose terms and conditions governing the guarantee are satisfactory to the City. The winning bidder in a competitive sale will determine whether it chooses to purchase bond insurance for the issue.

Arbitrage and Other Reporting Requirements

The Finance staff will ensure that the City's annual financial statements and associated reports are posted on the City's web site, and that the City complies with its disclosure policies and procedures, as detailed in a separate section below.

The City, working with its bond counsel, will file any reports required by the California Debt and Investment Advisory Commission (CDIAC). The City will comply with all applicable U.S. Internal Revenue Service and U.S. Treasury arbitrage requirements for tax-exempt indebtedness in order to preserve the tax-exempt status of such debt. Existing regulations require that issuers calculate rebate liabilities related to any bond issues, with rebates paid to the Federal Government every five years and as otherwise required by applicable provisions of the Internal Revenue Code and regulations. The Administrative Services Director shall contract with a specialist to ensure that proceeds and investments are tracked in a manner that facilitates accurate, complete calculations, and if necessary, timely rebate payments.

In order to comply with Government Code Section 8855(i), the City shall provide to CDIAC, no later than 30 days prior to the sale of any debt issue, a report of the proposed issuance. CDIAC provides issuers the ability to submit this Report of Proposed Debt Issuance electronically. Effective January 1, 2017, issuers must certify on the Report of Proposed Debt issuance that they have adopted local debt policies concerning the use of debt and that the proposed debt issuance is consistent with those policies. The issuer's local debt policies must include the following:

- (i) The purposes for which the debt proceeds may be used
- (ii) The types of debt that may be issued
- (iii) The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable
- (iv) Policy goals related to the issuer's planning goals and objectives
- (v) The internal control procedures that the issuer has implemented or will implement, to ensure that the proceeds of the propose debt issuance will be directed to the intended use

The City shall submit an annual report for any issue of debt for which it has submitted a report of final sale on or after January 21, 2017. The annual report shall cover a reporting period from July 1 to June 30, inclusive, and shall be submitted no later than seven months after the end of the reporting period. The annual report shall consist of the information required by Government Code Section 8855(k) and the California Debt and Investment Commission as follows:

- (i) Debt authorized during the reporting period:
 - a. Debt authorized at the beginning of the reporting period
 - b. Debt authorized and issued during the reporting period
 - c. Debt authorized but not issued at the end of the reporting period
 - d. Debt authority that has lapsed during the report period
- (ii) Debt outstanding during the reporting period, which shall include the following:
 - a. Principal balance at the beginning of the reporting period
 - b. Principal paid during the reporting period
 - c. Principal outstanding at the end of the reporting period
- (iii) The use of proceeds of issued debt during the reporting period, which shall include the following:
 - a. Debt proceeds available at the beginning of the reporting period
 - b. Proceeds spent during the reporting and the purposes for which it was spent
 - c. Debt proceeds remaining at the end of the reporting period

Debt Financing Team for City

1. Municipal Advisor

- Coordinates the financing and debt issuance process
- Helps evaluate underwriter proposals and provides financial analysis and recommendations
- Assists with the securing of other professional services and other members of the financing team
- Monitors and evaluates market conditions for opportunities to issue debt at low interest rates
- Works with the City and Underwriter to develop investor outreach and market approach
- Manages competitive bid process and ensures prices are “fair” and reasonable in the marketplace
- Assist the City in presenting information to bond rating organizations and credit enhancement providers relating to the City’s financial condition, credit characteristics, and the bond structure and security
- Provide post-issuance advice for bond covenant compliance, when requested

2. Bond Counsel

- Provide legal advice and deliver an approving legal opinion related to State law and federal tax law
- Prepare and review documents necessary to authorize, issue, sell and deliver the debt, as well as coordination of the authorization and execution of closing documents
- Review legal issues relating to the structure of the bond issue
- Prepare election proceedings or pursue validation proceedings if necessary
- Review or prepare those sections of the official statement that relate to the Bonds, financing documents, bond counsel opinion, and tax exemption
- Review or prepare the Notice of Sale or Bond Purchase Contract for the debt and review of draft the continuing disclosure undertaking of the City
- Provide Post-issuance advice for bond covenant compliance, when requested

3. Disclosure Counsel

- Prepare the disclosure document (both preliminary and final) or other disclosure documents in connection with the offering of the debt
- Provide Post-issuance advice for bond covenant compliance

4. Underwriter

- Provide the City with market knowledge
- Assist with credit analysis and preparation
- Oversee premarketing, pricing, sales and trading of the Bonds

5. Trustee/Fiscal Agent

- Establishes and holds the funds and accounts relating to the bond issue
- Maintains the list of names and addresses of all registered owners of the bonds and recordings of transfers and exchanges of the bonds
- Acts as the authenticating agent and the paying agent
- Protects the interests of the bondholders by monitoring compliance with covenants and acts on behalf of the bondholders in the event of default
- As the escrow agent in the event of a refunding, holds the investments acquired with the proceeds of an advance refunding and uses those funds for payments on those investments to pay debt service on the refunding bonds

Disclosure Procedures

Purpose and Background

The purpose of this Policy for Disclosure Procedures (the “Policy”) is to memorialize and communicate the policies and procedures in connection with obligations, including notes, bonds and certificates of participation, issued by the City of Cupertino (the “City”) so as to ensure that the City continues to comply with all applicable disclosure obligations and requirements under the federal securities laws.

The City from time to time issues certificates of participation, assessment bonds, notes or other obligations, (collectively, “Obligations”) in order to fund or refund capital investments, or other long-term programs. In offering Obligations to the public, and at other times when the City makes certain reports, the City must comply with the “anti-fraud rules” of federal securities laws. (“Anti-fraud rules” includes Section 17 of the Securities Act of 1933 and Section 10(b) of the Securities and Exchange Act of 1934, and regulations adopted by the Securities and Exchange Commission under those Acts, particularly “Rule 10b-5” under the 1934 Act.)

The core requirement of these rules is that potential investors in Obligations must be provided with all “material” information relating to the offered Obligations. The information provided to investors must not contain any material misstatements, and the City must not omit material information which would be necessary to provide to investors a complete and transparent description of the Obligations and the City’s financial condition.

When the City issues Obligations, the two central disclosure documents which are prepared are a preliminary official statement (“POS”) and a final official statement (“OS”, and collectively with the POS, “Official Statement”). The Official Statement generally consists of (i) a description of

the specific transaction including maturity dates, interest rates, redemption provisions, the specific type of financing, the leased premises (in certificate of participation financings) and other matters particular to the financing, (ii) information on the source of payment for the Obligations (discussed in the next paragraph) and (iii) various other appendices, including the City's audited financial report, form of the proposed legal opinion, and form of continuing disclosure undertaking. Investors use the Official Statement as one of their primary resources for making informed investment decisions regarding the City's Obligations.

The City issues Obligations payments from different sources, including the City's General Fund, as well as assessment imposed on specific districts within the City. The Official Statement for a given transaction must reflect the particular source of payment. In General Fund-backed financings, the Official Statement will include a section which provides information on the financial condition of the City's General Fund and other relevant City financial data (the "City Section").

Engagement of Outside Disclosure Counsel

The City engages outside legal counsel with expertise in securities laws for advice with respect to the City's disclosure obligations and requirements under the federal securities laws ("Disclosure Counsel"). Disclosure Counsel assists the City in preparing the Official Statement, and reviews all new data and updates to the Official Statement. Throughout the process of receiving and incorporating material, Disclosure Counsel provides advice as to standards of materiality and other securities law issues. Disclosure Counsel has a confidential, attorney-client relationship with officials and staff of the City.

Disclosure Counsel provides a negative assurance letter to the underwriters as to the disclosure set forth in the Official Statement for each Obligation. The letter advises the underwriters of the underwriters that as a matter of fact and not opinion that no information came to the attention of the attorneys working on the transaction which caused them to believe that Official Statement as of its date and as of the date of their letter (except for any financial, statistical, economic or demographic data or forecasts, charts, tables, graphs, estimates, projections, assumptions or expressions of opinion, and other customary exclusions), contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

Disclosure Process

When the City determines to issue Obligations, the Administrative Services Director requests involved City staff to commence preparation of the portions of the Official Statement for which they are responsible. While the general format and content of the Official Statement secured by a particular revenue source does not normally change substantially from offering to offering, except as necessary to reflect major events, the respective staff of the City Manager, Administrative Services Director, and City Attorney are separately responsible for reviewing and preparing or updating certain portions of the Official Statement which are within their particular area of knowledge. Additionally, all participants in the disclosure process are separately responsible for reviewing the entire Official Statement.

Disclosure Counsel, Finance Manager, and the City's Municipal Advisor assists the Administrative Services Director's office and City Manager's office in determining the materiality of any particular item, and in the development of specific language in the Official Statement. Disclosure Counsel also assists the City in the development of a "big picture" overview of the financial condition of the General Fund or particular enterprise included in the Official Statement. This overview highlights particular areas of concern. Disclosure Counsel has a confidential, attorney-client relationship with officials and staff of the City.

The Administrative Services Director schedules one or more meetings or conference calls of the financing team working group (which includes City officials, the City's municipal advisor, Bond and Disclosure Counsel, the underwriter of the Obligations, and its counsel), and new drafts of the Official Statement are circulated and discussed. During this part of the process, there is substantial contact among City staff, other members of the financing team and Disclosure Counsel, to discuss issues which may arise, determine the materiality of particular items and ascertain the prominence in which the items should be disclosed.

Prior to distributing a POS to potential investors, there is a formal meeting which includes City officials involved in the preparation of the POS and the underwriters and their counsel, during which the Official Statement is reviewed in its entirety, page by page or section by section, to obtain final comments and to allow the underwriters to ask questions of the City's senior officials. This is referred to as a "due diligence" meeting.

A substantially final form of the POS is provided to the City Council and, if applicable, the Board of Directors of the Cupertino Public Facilities Corporation (the "Corporation") in advance of approval to afford the City Council an opportunity to review the POS, ask questions and make comments. The substantially final form of the POS is approved by the City Council which generally authorizes certain senior staff to make additional corrections, changes and updates to the POS in consultation with the City Attorney and Disclosure Counsel.

At the time the POS is posted for review by potential investors, senior City officials execute certificates deeming certain portions of the POS complete (except for certain pricing terms) as required by SEC Rule 15c2-12.

Between the posting of the POS for review by potential investors and delivery of the final OS to the underwriter for redelivery to actual investors in the Obligations, any changes and developments will have been incorporated into the POS, including particularly the City Section, if required. If necessary to reflect developments following publication of the POS or OS, as applicable, supplements will be prepared and published.

In connection with the closing of the transaction, one or more senior City officials execute certificates stating that certain portions of the OS, as of the date of each OS and as of the date of closing, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements contained in the OS in light of the circumstances under which they were made, not misleading. The City Attorney also provides an opinion letter advising the

underwriters that information contained in the section of the OS relating to the City and its operations (or specified portions thereof) as of its date did not, and as of the date of the closing, does not contain any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The City Attorney does not approve to any financial, statistical, economic or demographic data or forecasts, charts, tables, graphs, estimates, projections, assumptions or expressions of opinion, and certain other customary matters.

Development of Information for the Obligations

The information contained in the City Section is developed by personnel under the direction of the Administrative Services Director, with the assistance of the financing team. In certain circumstances, additional officials will be involved, as necessary. The following principles govern the work of the respective staffs that contribute information to the City Section:

- City staff members involved in the disclosure process are responsible for being familiar with federal securities laws as they relate to disclosure.
- City staff members involved in the disclosure process should be instructed to err on the side of raising issues when preparing or reviewing information for disclosure. Officials and staff are encouraged to consult with Disclosure Counsel if there are questions regarding whether an issue is material or not.
- Care should be taken not to shortcut or eliminate any steps outlined in the Policy on an ad hoc basis. However, the Policy is not necessarily intended to be a rigid list of procedural requirements, but instead to provide guidelines for disclosure review. If warranted, based on experience during financings or because of additional SEC pronouncements or other reasons, the City should consider revisions to the Procedures.
- The process of updating Official Statements from transaction to transaction should not be viewed as being limited to updating tables and numerical information. While it is not anticipated that there will be major changes in the form and content of the Official Statements secured by a particular revenue source at the time of each update, everyone involved in the process should consider the need for revisions in the form, content and tone of the sections for which they are responsible at the time of each update.
- The City must make sure that the particular officials involved in the disclosure process are of sufficient seniority such that it is reasonable to believe that, collectively, they are in possession of material information relating to the City and its finances.

Distribution of Procedures; Training

The Procedures shall be provided to all members of senior staff and any other member of the City staff that is involved in the City's disclosure obligations and shall also be provided to the members of the City Council and the members of the Board of Directors of the Corporation.

Periodic training for the staff involved in the preparation of the Official Statement is coordinated by the Administrative Services Director's office, with the assistance of Disclosure Counsel. These

training sessions are provided to assist staff members involved in identifying relevant disclosure information to be included in Official Statements. The training sessions also provide an overview of federal laws relating to disclosure, situations in which disclosure rules apply, the purpose of the Official Statement, a description of previous SEC enforcement actions and a discussion of recent developments in the area of municipal disclosure. Attendees at the training sessions are provided the opportunity to ask questions of Disclosure Counsel concerning disclosure obligations and are encouraged to contact Disclosure Counsel at any time if they have questions.

Annual Continuing Disclosure Requirements

In connection with the issuance of Obligations, the City has entered into a number of contractual agreements (“Continuing Disclosure Certificates”) to provide annual reports related to its financial condition (including its audited financial statements) as well as notice of certain events relating to the Obligations specified in the Continuing Disclosure Certificates. The City must comply with the specific requirements of each Continuing Disclosure Agreement. The City’s Continuing Disclosure Certificates generally require that the annual reports be filed within 9 months after the end of the City’s fiscal year, and event notices are generally required to be filed within 10 days of their occurrence.

Specific events which require “enumerated event” notices are set forth in each particular Continuing Disclosure Certificate.

The Administrative Services Director shall be responsible for preparing and filing the annual reports and enumerated event notices required pursuant to the Continuing Disclosure Certificates and for other secondary market disclosures as described under the caption “Secondary Market Disclosure.” Particular care shall be paid to the timely filing of any changes in credit ratings on Obligations (including changes resulting from changes in the credit ratings of insurers of particular Obligations).

The City Attorney or Administrative Services Director will provide written notice to the City Council and the Board of Directors of the Corporation of any receipt by the City or the Corporation of any default, event of acceleration, termination event, modification of terms (only if material or may reflect financial difficulties), or other similar events (collectively, a “Potentially Reportable Event”) under any agreement or obligation to which the City is a party and which may be a “financial obligation” as discussed below. Such written notice should be provided by the City Attorney or Administrative Services Director to the City Council and the Board of Directors of the Corporation as soon as the City Attorney or Administrative Services Director is provided written notice or otherwise informed by City staff, consultants, or external parties of such event. The Administrative Services Director, with the assistance of Bond and Disclosure Counsel, will determine whether notice of such Potentially Reportable Event is required to be filed on the Electronic Municipal Market Access (“EMMA”) pursuant to the disclosure requirements of SEC Rule 15c2-12 (the “Rule”). If filing on EMMA is required, the filing is due within 10 business days of such Potentially Reportable Event to comply with the continuing disclosure undertaking for the various debt obligations of the City. The Administrative Services Director will notify the City Council and the Board of Directors of the Corporation of such events.

The City Attorney or Administrative Services Director will report to the City Council and the Board of Directors of the Corporation regarding the execution by the City of any agreement or other obligation which might constitute a “financial obligation” for purposes of Rule 15c2-12. Amendments to existing City agreements or obligations with “financial obligation,” which relate to covenants, events of default, remedies, priority rights, or other similar terms, should be reported to the City Council and the Board of Directors of the Corporation as soon as the City Attorney or Administrative Services Director is provided written notice or otherwise notified by City staff, consultants, or external parties of such event. The Administrative Services Director will determine, in consultation with the City Attorney and with the assistance of Bond and Disclosure Counsel, whether such agreement or other obligation constitutes a material “financial obligation” for purposes of Rule 15c2-12. If such agreement or other obligation is determined to be a material “financial obligation” or a material amendment to a “financial obligation” described above, notice thereof would be required to be filed on EMMA within 10 business days of execution or incurrence. The types of agreements or other obligations that could constitute “financial obligations” and would need to be reported on EMMA include:

1. Bank loans or other obligations which are privately placed;
2. State or federal loans;
3. Commercial paper or other short-term indebtedness for which no offering document has been filed on EMMA;
4. Letters of credit, surety policies or other credit enhancement with respect to the City’s publicly offered debt;
5. Letters of credit, including letters of credit which are provided to third parties to secure the City’s obligation to pay or perform (an example of this is a standby letter of credit delivered to secure the City’s obligations for performance under a mitigation agreement);
6. Capital leases for property, facilities, fleet or equipment; and
7. Agreements which guarantee the payment or performance obligations of a third party (regardless of whether the agreements constitute guarantees under California law).

Types of agreements that could be a “financial obligation” under the Rule include:

1. Payment agreements which obligate the City to pay a share of another public agency’s debt service (for example, an agreement with a joint powers agency whereby the City agrees to pay a share of the joint powers agency’s bonds, notes or other obligations); and

2. Service contracts with a public agency or a private party pursuant to which the City is obligated to pay a share of such public agency or private party's debt service obligation (for example, certain types of Public-Private Partnership arrangements).

Types of agreements that may be a "financial obligation" subject to the Rule include:

1. Any agreement the payments under which are not characterized as an operation and maintenance expenses for accounting purposes if such agreement could be characterized as the borrowing of money;

The Administrative Services Director will continue to work with the City Attorney and Bond and Disclosure Counsel to refine the definition of financial obligation going forward based on future SEC guidance.

Secondary Market Disclosure

On February 7, 2020, the SEC released a staff legal bulletin (the "Bulletin") concerning secondary market disclosure in the municipal bond market. The Bulletin included SEC staff views on a variety of matters, including but not limited to, the applicability of the federal securities law to public agency websites, reports delivered to governmental and institutional bodies and statements made by public officials including elected board members. Documents, reports and other written statements of the City which contain current financial and operational conditions of the City will be included in a section of the City's website appropriately identified. The City and its Bond and Disclosure Counsel have reviewed the Bulletin and have incorporated certain SEC staff recommendations into this Policy and into disclosure training for staff and City Council members. The City and its Bond and Disclosure Counsel will be cognizant of those reviews and will consider whether those reviews require the City to make secondary market disclosures.

City Manager's signature: _____

Date: _____

Revisions:

September 15, 2020