

CITY OF ATASCADERO AND THE ATASCADERO FINANCING AUTHORITY POLICY FOR DISCLOSURE PROCEDURES

PURPOSE

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 Atascadero (the “City”) to ensure that the City continues to comply with all applicable disclosure obligations and requirements under the federal securities laws.

BACKGROUND

The City occasionally 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 (the “anti-fraud rules” includes Section 17 of the Securities Act of 1933 [15 U.S.C. § 77a, *et seq.*] and Section 10(b) of the Securities and Exchange Act of 1934 [15 U.S.C.A. § 78j], and regulations promulgated by the Securities and Exchange Commission under those Acts (particularly “Rule 10b-5” under the 1934 Act at 17 C.F.R. § 240.10b-5).

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”; 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 payable from different sources, including the City’s General Fund. 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 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 that, as a matter of fact and not opinion, no information came to the attention of the attorneys working on the transaction which caused them to believe that the 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 Director of Administrative Services requests involved City Department Directors 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 City Manager, Director of Administrative Services, and City Attorney (or their designees) 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 and the City’s Municipal Advisor assist the Director of Administrative Services and City Manager in determining the materiality of any particular item, and 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 the City.

The Director of Administrative Services 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 Department Directors (or their designees), 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.

Before 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 Atascadero Financing Authority (the "Authority") 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 Securities and Exchange Commission ("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 for underwriters. Generally, that opinion letter will inform underwriters that information contained in the section of the OS relating to the City and its operations (or specified portions thereof) as of the date of the opinion letter did not, and as of the date of the closing, does not, contain any untrue statement of a known material fact or omitted or omits to state any known material fact necessary to make the statements within the OS, in light of the circumstances under which they were made, not misleading. The City Attorney does not opine 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 City personnel under the direction of the Director of Administrative Services, with the assistance of the financing team. In certain circumstances, additional City officials will be involved, as necessary. The following principles govern the work of the respective City personnel that contribute information to the City Section:

- City employees involved in the disclosure process are responsible for being familiar with federal securities laws as they relate to disclosure.
- City employees 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 other personnel 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 must be provided to all senior City officials and any other member of the City staff that is involved in the City's disclosure obligations and must also be provided to the members of the City Council and the members of the Board of Directors of the Authority.

Periodic training for the personnel involved in the preparation of the Official Statement is coordinated by the office of the Director of Administrative Services, 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 issuing of Obligations, the City entered into a number of 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 Certificate. The City's Continuing Disclosure Certificates generally require that the annual reports be filed within nine 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 Director of Administrative Services is 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 must 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 Director of Administrative Services will provide written notice to the City Council and the Board of Directors of the Authority of any receipt by the City or the Authority 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 Director of Administrative Services to the City Council and the Board of Directors of the Authority as soon as the City Attorney or Director of Administrative Services is provided written notice or otherwise informed by knowledgeable City personnel, consultants, or external parties of such event. The Director of Administrative Services, 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 Director of Administrative Services will notify the City Council and the Board of Directors of the Authority of such events.

The City Attorney or Director of Administrative Services will report to the City Council and the Board of Directors of the Authority regarding the execution by the City of any agreement or other obligation which might constitute a “financial obligation” for purposes of the Rule. 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 Authority as soon as the City Attorney or Director of Administrative Services is provided written notice or otherwise notified by knowledgeable City personnel, consultants, or external parties of such event. The Director of Administrative Services 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 the Rule. 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 Director of Administrative Services 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 views on a variety of matters including, without limitation, 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.

CERTIFICATION AND RECEIPT OF UNDERSTANDING

I certify that I have received a copy of the City of Atascadero Policy for Disclosure Procedures. I have reviewed and understand its contents and agree to abide by the principles and requirements in the Disclosure Procedures.

Name: _____

Date: _____

APPROVED BY:

James R. Lewis, City Manager

APPROVED AS TO FORM:

David Fleishman, City Attorney