

SECTION 7

Disclosure Policies and Procedures

FOR

MUNICIPAL DEBT

Disclosure Policies and Procedures	Section 7
---	------------------

CHAPTER 7.1 1

GENERAL AND DEFINITIONS..... 1

Section 7.1.1. Purpose..... 1

Section 7.1.2. Definitions. 1

Section 7.1.3. Validity of Securities..... 5

Section 7.1.4. Supplementary or Alternative Administrative Procedures. 5

Section 7.1.5. Application of Policies and Procedures. 5

Section 7.1.6. Material Information. 5

CHAPTER 7.2..... 5

CORE DISCLOSURE WORKING GROUP AND DISCLOSURE WORKING GROUP ... 5

Section 7.2.1. Establishment of Core Disclosure Working Group and Disclosure Working Group. 5

Section 7.2.2. Responsibilities of the Core Disclosure Working Group and the Disclosure Working Group. 6

Section 7.2.3. Meetings of the Core Disclosure Working Group and the Disclosure Working Group. 7

Section 7.2.4. Determination of Disclosure Document Status. 7

Section 7.2.5. Review of Private Placements. 7

CHAPTER 7.3..... 8

REVIEW AND APPROVAL OF OFFICIAL STATEMENTS..... 8

Section 7.3.1. Application. 8

Section 7.3.2 Financing Group. 8

Section 7.3.3. Preparation of Official Statement. 9

Section 7.3.4. Responsibilities of Contributors Generally and Particular Contributors..... 11

Section 7.3.5. Review by Disclosure Working Group. 12

Section 7.3.6. Approval by Disclosure Working Group. 12

Section 7.3.7. Submission of Official Statements for Approval..... 12

CHAPTER 7.4.....	12
DISCLOSURE DOCUMENTS OTHER THAN OFFICIAL STATEMENTS.....	12
Section 7.4.1. Application of Chapter.....	12
Section 7.4.2. Determination of Disclosure Document.	13
Section 7.4.3. Responsibilities of Finance Director when acting as the Disclosure Coordinator ..	13
Section 7.4.4. Responsibilities of Preparer and Contributors.	14
Section 7.4.5. Review and Approval by Core Disclosure Working Group.	14
Section 7.4.6. Requirements Specific to Budget Documents.	14
Section 7.4.7. Additional Requirements for Annual Financial Statements.	14
Section 7.4.8. Requirements for Annual Continuing Disclosure Reports.	15
Section 7.4.9. Requirements for Rating Agency Surveillance Reviews.	16
Section 7.4.10. Investor Information on the Covered Entity’s Website.....	16
Section 7.4.11. Investor Inquiries.....	17
CHAPTER 7.5.....	18
CONTINUING DISCLOSURE POLICIES AND PROCEDURES.....	18
Section 7.5.1. General Principles.....	18
Section 7.5.2. Supplementary Procedures Related to Continuing Disclosure.....	18
Section 7.5.3. Roles and Responsibilities.....	18
Section 7.5.4. Continuing Disclosure Responsibilities of Debt Administrator.....	19
Section 7.5.5. Specific Policies and Procedures Regarding Disclosure of Listed Events.	20
Section 7.5.6. Policies and Procedures Regarding Voluntary Disclosure.	21
CHAPTER 7.6.....	22
TRAINING POLICY.....	22
Section 7.6.1. Training – Content.	22
Section 7.6.2. Training for City Staff.	22

Disclosure Policies and Procedures	Section 7
---	------------------

Section 7.6.3. Training for Governing Board..... 22

CHAPTER 7.723

DOCUMENT RETENTION23

Section 7.7.1. Document Retention Generally; Budget Documents. 23

Section 7.7.2. Materials Related to Official Statements..... 23

Section 7.7.3. Materials Related to Private Placements..... 23

Section 7.7.4. Materials Related to Continuing Disclosure Obligations..... 24

Section 7.7.5. Materials Related to Investor Inquiries and Voluntary Disclosure. 24

Section 7.7.6. Materials Related to Rating Agency Surveillance Review..... 24

CHAPTER 7.825

CONFIDENTIAL SUBMISSIONS TO THE CITY ATTORNEY25

EXHIBIT A..... 26

EXHIBIT B..... 28

EXHIBIT C..... 29

EXHIBIT D..... 30

EXHIBIT E..... 31

EXHIBIT F..... 32

APPENDIX 1..... 33

APPENDIX 2..... 34

APPENDIX 3..... 45

**CHAPTER 7.1
General and Definitions****Section 7.1.1. Purpose.**

The purpose of these Disclosure Policies and Procedures for Municipal Debt (these “**Policies and Procedures**”) is to establish processes and controls, consistent with the policy direction set forth in the City Council Policy 1-15, “Debt Management Policy” to:

- (A) promote compliance by the City of San José (“City”), the City of San José Financing Authority, the Successor Agency to the Redevelopment Agency of the City of San José and the City of San José Parking Authority (collectively “Covered Entities”) with all applicable federal and state securities laws related to the sale of securities and ongoing disclosure obligations for outstanding securities; and
- (B) foster best practices regarding disclosure relating to the securities issued by the City and Covered Entities. These Policies and Procedures are intended to be flexible in order for the Covered Entities to address disclosure issues as they arise and not to establish any duties in favor of or rights of any person other than a Covered Entity.

The Disclosure Policies and Procedures are not applicable when the City is acting as a conduit issuer, such as the issuance of Multifamily Bonds and notes.

Any activities assigned or reserved for the City Manager and the Finance Director that speak to the market under this Policy, such as, but not limited to, executing the 15c2-12 Certificate deeming the Preliminary Official Statement final except for permitted omissions, executing the Official Statement or approval of EMMA filings, cannot be delegated.

Section 7.1.2. Definitions.

Capitalized terms used in these Policies and Procedures will have the meanings set forth below:

“*Airport*” means the San José Mineta International Airport, a department of the City.

“*ACFR*” means the City’s Annual Comprehensive Financial Report and includes the separately published Annual Comprehensive Financial Report of the Airport.

“*Adopted Capital Budget*” means the annual budget for the current fiscal year for the City’s capital projects and the five-year capital improvement program.

“*Adopted Operating Budget*” means the annual operating budget for the current fiscal year.

“*Annual Continuing Disclosure Report*” means any annual report to be posted to EMMA by the City or Covered Entities in connection with its obligations under any Continuing Disclosure Agreement.

“*Annual Financial Statements*” means the fiscal year audited financial statements of the City, Covered Entity or any City enterprise program including the external auditor’s report, the Management Discussion and Analysis (if provided), and the notes to the financial statements.

“*Annual Report*” means the report of the City Manager issued pursuant to San José City Charter Section 701(f) that reports on the financial status of the City as of the end of the prior fiscal year on an unaudited basis.

“*Assistant Director*” means the Assistant Director of the City Department of Finance.

“*Authority*” means the City of San José Financing Authority.

“*Bonds*” mean any bonds, certificates of participation, notes or any other evidence of indebtedness issued by or for the benefit of the City or Covered Entity which are subject to Rule 15c2-12. The term “Bonds” excludes conduit bonds,

“*Bi-Monthly Financial Reports*” means the reports prepared jointly by the City Manager’s Budget Office and the Finance Department and issued on a bi-monthly basis during the fiscal year that present actual revenues and revenues for the period reported as compared to the Adopted Operating Budget and the Adopted Capital Budget.

“*Budget Documents*” means the Proposed and Adopted Budgets (Operating and Capital), Five-Year Forecast and Revenue Projections, the Bi-Monthly Financial Reports, the Mid-Year Budget Review Report, and the Annual Report.

“*CED*” means San José Community Energy Department.

“*City*” means the City of San José, California.

“*Continuing Disclosure Agreement*” means the certificate or agreement issued or entered into by the City, or and Covered Entity in connection with the issuance of Bonds to satisfy the requirements of Rule 15c2-12.

“*Continuing Disclosure Obligations*” mean the obligations specified in the Continuing Disclosure Agreement that generally include the obligation to file or cause to be filed an Annual Continuing Disclosure Report and notice of certain Listed Events on EMMA.

“*Contributors*” means those persons assigned to assist with the review or preparation of an Official Statement or another Disclosure Document pursuant to Sections 7.3.3, 7.3.4, 7.4.3 and 7.4.5.

“*Core Disclosure Working Group*” means the Core Disclosure Working Group established in Chapter 7.2 below.

“*Covered Entity*” or “*Covered Entities*” means the City, the Authority, the Successor Agency, the Parking Authority, and those independent agencies, joint power authorities, special districts, component units, or other entities created by the City Council or by State law for which the City Council serves as the governing or legislative body, or for which at least one City officer serves as a member of the governing or legislative body in their official capacity, or for which the

City has agreed to provide initial or continuing disclosure in connection with the issuance of securities.

“Debt Administrator” means the Debt Administrator in the City Department of Finance.

“Deputy Director” means the Deputy Director in the City Department of Finance, Debt and Treasury Management.

“Director of Finance” or *“Finance Director”* means the Director of the City Department of Finance as provided in Section 806 of the Charter of the City of San José.

“Disclosure Coordinator” means the Finance Director or the Finance Director’s designee. The Finance Director may designate multiple staff to serve as the Disclosure Coordinator at any one time. For example, in the event multiple Financing Groups are assembled for purposes of different financings during the same time period, the Finance Director may designate a different staff person to serve as Disclosure Coordinator for each of the overlapping financings.

“Disclosure Documents” mean the following:

- (A) preliminary and final official statements, and remarketing memoranda relating to the sale of Bonds, together with any supplements;
- (B) rating agency presentations, and information provided to a rating agency in connection with surveillance review;
- (C) offering documents prepared by Covered Entities for the issuance of Bonds if such documents are subject to the approval of the City Council, Authority Board or Successor Agency Board;
- (D) Budget Documents;
- (E) the ACFR which includes the Annual Financial Statements of the City and the Airport;
- (F) the Annual Financial Statements of the Covered Entity, as applicable;
- (G) any filing made by the City or Covered Entity on EMMA, whether made pursuant to a Continuing Disclosure Agreement or otherwise;
- (H) postings on the investor information web pages of the City’s website in the event that the City determines to establish an investor webpage;
- (I) private placement memoranda related to the sale of securities by the City and any Covered Entities;
- (J) any other communications of the City or Covered Entity that are reasonably expected, in the determination of the Core Disclosure Working Group pursuant to Chapter 7.4, below, to reach investors and the trading markets for municipal bonds and to be material to investors.

“*Disclosure Working Group*” means the Disclosure Working Group established in Chapter 7.2 below.

“*EMMA*” means the MSRB Electronic Municipal Market Access system or any other successor thereto as designated by the SEC or the MSRB.

“*Financing Group*” means the working group of City staff, outside consultants and other participants described in Section 7.3.2.

“*Governing Body*” means the legislative body that governs a Covered Entity.

“*Investor Inquiry Coordinator*” means the Director of Finance.

“*Listed Events*” means any of the events specified in a Continuing Disclosure Agreement which require the City, or Covered Entity to post to EMMA, in a timely manner or in the time prescribed, notice of certain specified events with respect to the applicable Bonds.

“*Listed Event Notice*” means the notice of a Listed Event posted to EMMA.

“*Mid-Year Report*” means the report prepared by the City Manager’s Budget Office that provides an assessment of the City’s budget condition in the current fiscal year based on actual performance during the first six months of the fiscal year.

“*Municipal Advisor*” has the same meaning as the term Municipal Advisor in Section 15B(e)(4) of the Securities Exchange Act of 1934, 17 CFR 240.15Ba1-1(d)(1)-(4), and other rules and regulations thereunder.

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

“*Official Statements*” means the documents described in clause (A) and clause (C) of the definition of Disclosure Document.

“*Parking Authority*” means the City of San José Parking Authority.

“*Preparer*” means those persons defined as such in Section 7.4.2.

“*Private Placement Investor*” means one or more investors who proposes to purchase securities exempt from the requirements of Rule 15c2-12, issued by the City, and or Covered Entity.

“*Proposed Capital Budget*” means the proposed annual budget for the next fiscal year for the City’s capital projects and the five-year capital improvement program.

“*Proposed Operating Budget*” means the proposed annual operating budget for the next fiscal year.

“*Rule 10b-5*” means Rule 10(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time. For

ease of reference, Rule 10b-5 as it reads as of the Effective Date of these Policies and Procedures is set forth in Appendix 1.

“*Rule 15c2-12*” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time. For ease of reference, Rule 15c2-12 as it reads as on the Effective Date of these Policies and Procedures is set forth in Appendix 2.

“*Successor Agency*” means the Successor Agency to the Redevelopment Agency of the City of San José.

Section 7.1.3. Validity of Securities.

The failure to comply with any provision of these Policies and Procedures shall not affect the authorization or validity of any bonds, notes or other forms of indebtedness issued by the City, or Covered Entity in accordance with law.

Section 7.1.4. Supplementary or Alternative Administrative Procedures.

To the extent that the Director of Finance believes that supplementary or alternative administrative procedures would promote compliance with these Policies and Procedures by the staff assigned to implement them, then the Director of Finance may issue such supplementary or alternative administrative procedures upon consultation with the City Attorney’s Office.

Section 7.1.5. Application of Policies and Procedures.

While care should be taken not to shortcut or eliminate any steps outlined in these Policies and Procedures on an ad hoc basis, at the same time, these Policies and Procedures are intended to guide the disclosure process and be a “work in progress.” As such, there may be circumstances where the Core Disclosure Working Group or the Director of Finance determines that deviation from these Policies and Procedures are appropriate under particular circumstances.

Section 7.1.6. Material Information.

For purposes of these Policies and Procedures, the terms “material information” and “material to investors” refer to information for which there is a substantial likelihood that the information would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Bonds.

CHAPTER 7.2

Core Disclosure Working Group and Disclosure Working Group

Section 7.2.1. Establishment of Core Disclosure Working Group and Disclosure Working Group.

- (A) By adoption of these Policies and Procedures, a Core Disclosure Working Group and a Disclosure Working Group are established. It is the intent of the City that both the Core Disclosure Working Group and the Disclosure Working Group be internal working groups of City staff and not decision-making or advisory bodies

subject to the provisions of the Ralph M. Brown Act (Government Code Section 54950 et seq.) or the City's Consolidated Open Government and Ethics Resolution.

- (B) The members of the Core Disclosure Working Group will include the following members or their designees:
1. City Manager.
 2. City Attorney.
 3. City Budget Director.
 4. City Finance Director.
 5. Other members of the City's senior staff as the City Manager or Finance Director deems to be appropriate in consultation with the City Attorney.
- (C) A Disclosure Working Group will be assembled for each proposed financing to review and approve, for City Council consideration, private placement memoranda pursuant to Section 7.2.5 or Official Statements, rating agency presentations and investor road shows pursuant to Chapter 7.3. Each Disclosure Working Group will include the following members:
1. The Core Disclosure Working Group.
 2. The Director of the Office of Employee Relations or the Director's designee.
 3. Other members of the City senior staff as the City Manager or Finance Director deems to be appropriate in consultation with the City Attorney.
 4. For Bonds secured by revenues of an enterprise, the department head or assistant department head of the applicable City department.

Section 7.2.2. Responsibilities of the Core Disclosure Working Group and the Disclosure Working Group.

- (A) The Core Disclosure Working Group will:
1. critically review and evaluate these Policies and Procedures and compliance with these Policies and Procedures concurrent with the Core Disclosure Working Group annual review of the ACFR per Section 7.4.7 and as described in Section 7.2.3 to the extent practicable, and, when appropriate, recommend amendments to these Policies and Procedures for approval by the City Manager; and
 2. promote the compliance of the City and other Covered Entities with federal and state securities laws.

- (B) Each Disclosure Working Group will:
1. review and authorize the release of draft Official Statements for City Council consideration as set forth in Chapter 7.3; and
 2. review and approve the agendizing of private placements of securities for Governing Body consideration as set forth in Section 7.2.5 and in Chapter 7.3.

Section 7.2.3. Meetings of the Core Disclosure Working Group and the Disclosure Working Group.

- (C) The Core Disclosure Working Group, to the extent practicable, will meet at least once each calendar year to review these Policies and Procedures, concurrently with the annual review of the ACFR as described in Section 7.4.7. Both the Core Disclosure Working Group and the Disclosure Working Group will meet as often as necessary to fulfill their obligations. The Finance Director is responsible for convening meetings of both the Core Disclosure Working Group and the Disclosure Working Group, although any member of either group may request that the applicable group convene a meeting.
- (D) Participation in meetings of both the Core Disclosure Working Group and the Disclosure Working Group may be remote video conference meeting access, however, the preference is face-to-face meetings when practicable. The procedures for setting meetings, the conduct of meetings, the necessity of formal agenda or meeting notes will be subject to the discretion of the Core Disclosure Working Group or Disclosure Working Group, as applicable.

Section 7.2.4. Determination of Disclosure Document Status.

Whether a particular document or other communication is a Disclosure Document will be determined by the Finance Director in consultation with the City Attorney's Office.

Section 7.2.5. Review of Private Placements.

As a general practice, the Disclosure Working Group will review the issuance of securities by the City, or Covered Entity that are proposed to be purchased by a Private Placement Investor to:

- (A) review the information that has been or will be made available by the City, or Covered Entity to the Private Placement Investor in the course of the Private Placement Investor's conduct of its due diligence;
- (B) determine whether a private placement memorandum will be provided by the City, or Covered Entity and, if so, review and approve the draft private placement memorandum for Governing Body consideration as set forth in Chapter 7.3 related to Official Statements, to the extent those procedures are applicable;
- (C) verify the procedures for the sale of the securities include as a condition of such sale that each Private Placement Investor will be required to execute a letter of

representations in form and substance satisfactory to the City Attorney, who may seek the advice of disclosure counsel; and

- (D) review the provisions that would be put in place restricting the transfers of such securities, if any transfer is to be permitted. For any privately placed transaction when there is no Disclosure Document, the Finance Director will provide the Disclosure Working Group with a substantially final staff report describing the proposed transaction and such other documents as the Disclosure Working Group may request before the transaction is agendized for Governing Body consideration. The staff report will address whether or not the Disclosure Working Group has had an opportunity to review the transaction and has authorized the transaction to proceed for Governing Body consideration. In the event the Disclosure Working Group has not reviewed a particular private placement transaction, the staff report will outline the reasons for not involving the Disclosure Working Group.

CHAPTER 7.3 Review and Approval of Official Statements

Section 7.3.1. Application.

The provisions of this Chapter will apply to the preparation of Official Statements in connection with the public offering of the sale of Bonds by the Covered Entities. Additionally, this Chapter will apply to the preparation of private placement memoranda in connection with the sale of securities by the Covered Entities to a Private Placement Investor, with the recognition that private placement memoranda are not subject to Rule 15c2-12.

Section 7.3.2 Financing Group.

- (A) General. The Disclosure Coordinator in conjunction with the City Attorney's Office will identify a Financing Group for each financing (the composition of which may differ for each financing), which will include, at a minimum, the following individuals:
1. a deputy City Attorney designated by the City Attorney;
 2. the Deputy Director in the City's Department of Finance, Debt and Treasury Management;
 2. the City's Debt Administrator or their designee as approved by the Finance Director;
 3. for bonds secured by revenues of an enterprise, such as the Airport, a member of the management staff of the applicable department and such other knowledgeable department staff as designated by the applicable department head;
 4. outside bond counsel and disclosure counsel;

5. the Municipal Advisor (if any) or other professional advisor (if any);
 6. the underwriter/underwriter's counsel (if any); and
 7. such other members as the City Manager or Finance Director determines to be appropriate depending on the source of repayment of the Bonds and the nature of the project to be financed or refinanced.
- (B) Professional Advisors. It is the City's policy to establish continuing working relationships with professional advisors with expertise in the area of public finance and federal and state securities laws applicable to the issuance of securities by the Covered Entities.

Section 7.3.3. Preparation of Official Statement.

- (A) General. The Financing Group will prepare the Official Statement for the review of the Disclosure Working Group. Additionally, any rating agency presentation prepared by the Financing Group will be transmitted to the Disclosure Working Group for its review and approval.
- (B) Establishing Scope and Process. At the beginning of the disclosure process, the Disclosure Coordinator will consult with members of the Financing Group, either individually or at a meeting/conference call, to (i) determine what information should be disclosed in the Official Statement to present fairly a description of the source of repayment and security for the Bonds, including related financial and operating and capital information, and as applicable, material risks associated with the investment in the Bonds, (ii) assign roles and responsibilities for assembling the information to be included in the Official Statement, including the identification of Contributors, as outlined in Subsection 7.3.3.(C), and (iii) establish a schedule for producing the draft Official Statement that will afford sufficient time for development and review by the Financing Group and the Disclosure Working Group. While the information included in prior Official Statements may be used as a starting point, the Disclosure Coordinator will advise and recommend the Financing Group to provide suggestions for supplementing and/or revising the types of information presented and the manner of presentation.
- (C) Identification of Contributors. The Disclosure Coordinator, with input from the Financing Group, will be responsible for soliciting "material" information from City staff, as applicable, who will be Contributors. The Financing Group will identify Contributors who (i) should prepare portions of the Official Statement, (ii) may have information necessary to prepare portions of the Official Statement or (iii) should review portions of the Official Statement. Additionally, the Disclosure Coordinator with input from the Financing Group will be responsible for seeking "material" information from outside parties, such as utility companies and other government agencies and staff from the Office of Retirement Services.
- (D) Contacting Contributors. The initial contact to contributors will be made by the Finance Director. The subsequently assigned Disclosure Coordinator will contact, or cause to be contacted, the staff identified as Contributors as early as practicable

in order to provide adequate time for them to perform their assigned tasks. Also, as soon as practicable during the process of preparing the Official Statement, Contributors will be notified of the applicable requirements of federal securities law, including the standard established by Rule 10b-5, in a form reviewed by the City Attorney. The City Attorney may seek the advice of disclosure counsel, from time to time, as to the content and form of the notification from the Disclosure Coordinator to the Contributors. The form of the notification to Contributors in effect as of the Effective Date of these Policies and Procedures is set forth in Exhibit A and may be transmitted by email.

- (E) Information from Outside Parties. The Disclosure Coordinator will identify the means of obtaining material information from outside parties that may include directing a request for information to the outside party or reviewing publicly available information, such as information posted on the outside party's website or reported to a governmental agency.
- (F) Disclosure Log. The Disclosure Coordinator will maintain or cause to be maintained a log of the individuals and departments that were requested to be Contributors and the portion of the Official Statement each Contributor prepared or reviewed. No particular format of the Disclosure Log is prescribed by these Policies and Procedures. It is the intent of this subsection that the maintenance of the Disclosure Log be a useful tool to assist the Financing Group and the Disclosure Working Group in the development and review of the Official Statement consistent with Section 7.1.1.
- (G) Document Control. The Disclosure Coordinator will establish a shared document control system to allow for collaborative sharing of comments, edits, and additions to the Disclosure Documents. The shared document control system should allow for version control and tracking of edits.
- (H) Financing Group Review of Official Statement. The Financing Group will have at least one all-hands meeting or videoconference call to review the Official Statement before transmitting to the Disclosure Working Group. To the extent possible, the preference is for the Financing Group to review the Official Statement via a face-to-face meeting rather than a video conference call.
- (I) Transmission of Official Statement to Disclosure Working Group. The Disclosure Coordinator will transmit the Official Statement prepared by the Financing Group to the Disclosure Working Group, using the cover memorandum substantially in the form attached to these Policies and Procedures as Exhibit B. The process described in this subsection may involve the Disclosure Working Group reviewing multiple drafts of the Official Statement transmitted by the Financing Group or the Financing Group preparing multiple drafts of the Official Statement prior to submitting a draft to the Disclosure Working Group, or both. In transmitting a draft Official Statement to the Disclosure Working Group, the Financing Group will:
 - 1. If applicable, identify whether the review is an initial review by the Disclosure Working Group and that the Financing Group expects to perform further review and revision of the Official Statement.

2. If applicable, identify any particular sections of the Official Statement that require additional revision but are being sent to the Disclosure Working Group for its review and comment.
3. If believing the draft Official Statement is ready for final review by the Disclosure Working Group, confirm the following when appropriate:
 - a. that the draft Official Statement accurately states all material information relating to the City, or Covered Entity, as applicable; and
 - b. that all information relating to the City, or Covered Entity, as applicable, has been critically reviewed by an appropriate person; and
 - c. that the Official Statement is in substantially final form and is in a form ready to be “deemed final” by the Governing Body pursuant to Rule 15c2-12 (subject to additional revision by the Financing Group to reflect updated information following the date of the Governing Body’s approval).

Section 7.3.4. Responsibilities of Contributors Generally and Particular Contributors.

- (A) Responsibilities of Contributors Generally. A Contributor will assist in reviewing and preparing the Official Statement using his or her knowledge of the City generally and, as applicable, the Covered Entity along with the Contributor’s area of expertise and knowledge. If appropriate, the Contributor will discuss the Official Statement with other members of the Contributor’s department or other departments, all for the purpose of ensuring the accuracy and completeness of the relevant portions of the Official Statement. Contributors will critically review information provided for inclusion in the Official Statement and as necessary provide corrections and supplementary information, to ensure there are no misstatements or omissions of material information.
- (B) Responsibilities of City Manager. The City Manager will review the Disclosure Documents presented to the Core Disclosure Working Group and act as one of the two designated City officials to “speak to the market” pursuant to the Debt Management Policy.
- (C) Responsibilities of City Attorney. The City Attorney (or a designee) will review the Official Statement and will draft for the Official Statement descriptions of (i) any material current, pending or threatened litigation, (ii) any material settlements or court orders and (iii) any other legal issues that are material information for purposes of the Official Statement.
- (D) Responsibilities of Budget Director. The Budget Director, in consultation with the appropriate staff within the Budget Office, will review the Official Statement to provide input to the Financing Group regarding the accuracy and completeness of the budget information presented in the Official Statement.

- (E) Responsibilities of Finance Director. The Finance Director, in consultation with the appropriate staff within the Finance Department, will review the Official Statement to provide input to the Financing Group regarding any material difference in presentation of financial information from the Annual Financial Statements.

The Finance Director also is responsible for the review, approval, and execution of certain documents, including the 15c2-12 Certificate.

Section 7.3.5. Review by Disclosure Working Group.

Following receipt of the Official Statement from the Financing Group, the Disclosure Working Group will critically evaluate the Official Statement for accuracy and completeness and compliance with federal and state securities laws. Each member of the Disclosure Working Group will evaluate the information presented in the Official Statement using the member's knowledge of the City, or Covered Entity generally and their area of expertise. If appropriate, the Disclosure Working Group will ask questions of the Financing Group and of any Contributor or other person who reviewed or drafted any section of the Official Statement. The Disclosure Working Group may send Official Statements back to the Financing Group for revisions and may instruct the Financing Group to solicit contributions from additional Contributors. The review process described in this Section may be accomplished through one or more meetings of the Disclosure Working Group that may include one or more members of the Financing Group and any Contributors designated by the Disclosure Working Group or the Financing Group.

Section 7.3.6. Approval by Disclosure Working Group.

Upon approval of the draft Official Statement by the Disclosure Working Group for transmittal to the Governing Body, the Finance Director or the Finance Director's designee will maintain in its files a copy of the Official Statement reviewed by the Disclosure Working Group along with a cover sheet currently in the form of Exhibit C.

Section 7.3.7. Submission of Official Statements for Approval.

As part of the agendizing process, the City Manager will transmit or cause the transmission of the substantially final draft Official Statements to the Governing Body for consideration and approval using a staff report that includes the information similar in form and substance to the outline attached as Exhibit D. The consideration and approval of an Official Statement by the City Council, Successor Agency Board or applicable Governing Board will be agendized as a new business matter and will not be considered as a consent item.

CHAPTER 7.4

Disclosure Documents Other than Official Statements

Section 7.4.1. Application of Chapter.

This Chapter provides guidance on the preparation of Disclosure Documents other than Official Statements. Recurring Disclosure Documents are listed in Exhibit E and specific procedures applicable to such documents are set forth in this Chapter. This Chapter also provides procedures

for identifying whether a document not listed in Exhibit E is a Disclosure Document and the reviewing process for such document.

Section 7.4.2. Determination of Disclosure Document.

Any person (each, a “Preparer”) preparing any document for release to the public that is not an Official Statement and could be considered a Disclosure Document will notify the Disclosure Coordinator of such information and its proposed or mandatory dissemination date. If the document is not on the list of Recurring Disclosure Documents attached as Exhibit E, the Finance Director, in consultation with the City Attorney’s Office will make the determination if the document is a Disclosure Document.

Section 7.4.3. Responsibilities of Finance Director when acting as the Disclosure Coordinator

- (A) With respect to Disclosure Documents addressed in Section 7.4.2, the Finance Director with assistance from the Deputy Director and Debt Administrator will assist the Preparer with:
1. identifying material information that should be disclosed in the Disclosure Document and, depending on the nature of the underlying event that caused the document to be prepared,
 2. identifying and contacting any Contributors who may have material information or knowledge of any information omitted from such Disclosure Document in order to obtain assistance in the preparation or review of the Disclosure Document; and
 3. determining when the Disclosure Document is final and ready for review by the Core Disclosure Working Group to the extent required by these Policies and Procedures or upon review and recommendations from the Finance Director and City Attorney’s Office whether the Disclosure Document needs to be reviewed by the Core Disclosure Working Group.
- (B) The Finance Director will contact Contributors for the preparation or review of a Disclosure Document in the same manner used for contacting Contributors for the preparation and review of Official Statements as set forth in Section 7.3.3.
- (C) The Finance Director will consult with the City Attorney to the extent the Finance Director considers appropriate to perform his or her responsibilities. The City Attorney may, in turn, seek the advice of disclosure counsel in advising the Disclosure Coordinator.

For purposes of this Section 7.4.3., Disclosure Documents include Budget Documents only to the limited extent provided in Section 7.4.6.

Section 7.4.4. Responsibilities of Preparer and Contributors.

Any Preparer of, or Contributor to, a Disclosure Document will assist in reviewing and preparing the Disclosure Document, using his or her knowledge of the City, or Covered Entity, as applicable, and if appropriate, by discussing the Disclosure Document with other members of the Contributor's department or other departments, all for purposes of ensuring the accuracy and completeness of the Disclosure Document.

Section 7.4.5. Review and Approval by Core Disclosure Working Group.

- (A) To the extent the Disclosure Document has been deemed a document for review by the Core Disclosure Working Group, following receipt from the Finance Director, the Core Disclosure Working Group will critically evaluate the Disclosure Document for accuracy and completeness and compliance with federal and state securities laws. Each member of the Core Disclosure Working Group will evaluate the information presented in the Disclosure Document using the member's knowledge of the City, or Covered Entity generally and his or her area of concern or expertise. If appropriate, the Core Disclosure Working Group will ask questions of the Finance Director. The Core Disclosure Working Group may send the Disclosure Document back to the Preparer for revisions.
- (B) Upon approval of the Disclosure Document by the Core Disclosure Working Group, the Finance Director will direct Finance staff to maintain in its files a copy of the Disclosure Document reviewed by the Disclosure Working Group along with a cover sheet currently in the form of Exhibit C.

Upon approval of the Finance Director, the Disclosure Document shall be posted on Electronic Municipal Market Access with a transmittal letter and supporting document, if applicable.

Section 7.4.6. Requirements Specific to Budget Documents.

Notwithstanding anything contained herein to the contrary, Budget Documents in draft form are not subject to the prior review and approval of the Core Disclosure Working Group prior to their public release. The Budget Director will consult with the Finance Director and the City Attorney as the Budget Director deems appropriate when preparing such documents to endeavor to produce documents that are accurate and complete in all material respects. To the extent practicable, the Budget Director will submit the final drafts of the City Manager's budget message included in the Proposed and Adopted Operating Budget and in the Proposed and Adopted Capital Budget and the executive summary of the Mid-Year Report and the Annual Report to the Finance Director and the City Attorney for review and comment before they are finalized and released publicly.

Section 7.4.7. Additional Requirements for Annual Financial Statements.

- (A) It is the policy of the Covered Entities to hire an auditing firm that has the technical skills and resources to properly perform an annual audit of the Annual Financial Statements. Pursuant to City Charter Section 805, the "City Auditor shall have the powers and duties to conduct or cause to be conducted annual post audits of all

the fiscal transactions and accounts kept by or for the City.” More specifically, the firm will be a recognized expert in the accounting rules applicable to governmental entities such as the City and Covered Entities will have the resources necessary to review the Annual Financial Statements on a timely basis. Any contract with the auditing firm will include language that explicitly recognizes the Covered Entity’s ongoing right to use the audited Annual Financial Statements without first seeking the auditor’s permission (whether as an appendix to the Official Statement as part of a continuing disclosure filing, or in any investor information section of the City’s website), and any Official Statement to which the Covered Entity’s audited Annual Financial Statements are appended will clearly state that it did not request or receive the auditor’s consent to appending the audited Annual Financial Statements to the Official Statement.

- (B) The Finance Director will submit the substantially final draft of the Annual Financial Statements to the Core Disclosure Working Group with a cover sheet in the form of Exhibit F. The Core Disclosure Working Group will meet to review the substantially final draft of the Annual Financial Statements following the procedures set forth in Section 7.4.5 and, when reviewed and approved for disclosure, will notify the Finance Director. When transmitting Annual Financial Statements to the Governing Body, the Finance Director will note in the transmittal memorandum that the Financial Statement notes were reviewed by the Core Disclosure Working Group.

Section 7.4.8. Requirements for Annual Continuing Disclosure Reports.

- (A) In conjunction with the Core Disclosure Working Group review of the Annual Financial Statements, the Finance Director will also submit the substantially final draft of the ACFR in its entirety to the Core Disclosure Working Group for review following the procedures set forth in Section 7.4.5.
- (B) In the course of the Core Disclosure Working Group review of the substantially final draft of the ACFR and the Annual Financial Statements, the Finance Director will seek input from the Core Disclosure Working Group as to whether any of the Annual Continuing Disclosure Reports to be posted to EMMA should include information, in addition to the information addressed in the ACFR and the information required by a Continuing Disclosure Agreement that may be material to investors. To the extent practicable, taking into account the deadline for posting the Annual Continuing Disclosure Reports, the Finance Director will assist the Core Disclosure Working Group in determining whether to supplement any of the Annual Continuing Disclosure Reports by following the process described in Section 7.4.3. Also, to the extent practicable and deemed necessary by the Finance Director and City Attorney, any supplementary materials will be subject to the Core Disclosure Working Group’s review and approval as set forth in Section 7.4.5 including attachment of the cover sheet currently in the form of Exhibit C to the supplementary materials approved by the Core Disclosure Working Group. In the event that under the circumstances, it was not practicable for all members of the Core Disclosure Working Group to review the supplementary materials, the

Finance Director will list each member of the Core Disclosure Working Group who participated in the review on the cover sheet currently in the form of Exhibit C.

- (C) Except as provided in Subsections (A) and (B), above, the Core Disclosure Working Group will not be responsible for the review of the Annual Continuing Disclosure Reports.

Section 7.4.9. Requirements for Rating Agency Surveillance Reviews.

- (A) From time to time, a rating agency that has issued either a rating of one or more series of Bonds or a credit rating of the City, or Covered Entity, will conduct a surveillance review of the current rating in order to identify matters that may result in affirming the current rating or changing the rating through either an upgrade or a downgrade of the rating. In the event the rating agency notifies a City employee other than the Finance Director of an impending surveillance review, the employee receiving the notification will promptly notify the Finance Director. Once the Finance Director becomes aware of an impending surveillance review, the Finance Director will notify the Core Disclosure Working Group as deemed necessary and other staff who have knowledge of the particular series of Bonds or the Covered Entity under surveillance. The additional identified staff will become part of the Core Disclosure Working Group for purposes of the surveillance review.
- (B) If the rating agency is undertaking a review of the current rating on one or more series of Bonds as a result of a material event, credit event, market event, or other event which may result in a rating downgrade, the Finance Director shall make every effort to convene the Core Disclosure Working Group to (i) brainstorm regarding the “big picture” of the financial and other information that may be material to investors in the Bonds or the Covered Entity under surveillance or review; (ii) review the responses to any written questions posed by the rating agency; (iii) review any written materials to be presented to the rating agency; (iv) respond to the questions posed by the rating agency’s analysts during the course of a conference call or in-person meeting; (v) review and provide comments to any draft of the rating agency’s report of the results of its surveillance review that the rating agency makes available for review and comment prior to its public release.
- (C) The Finance Director shall provide to the Core Disclosure Working Group material provided to the rating agency during the course of a routine surveillance review.
- (D) If as a result of a surveillance review, the rating agency upgrades or downgrades the Bonds or entity under review, the Finance Director will follow the procedures specified in Chapter 7.5.

Section 7.4.10. Investor Information on the Covered Entity’s Website.

- (A) In the event a Covered Entity determines to develop and maintain one or more investor information webpages on the Covered Entity’s website, the investor information webpages will be limited to the display of Disclosure Documents. No other information will be posted to the Investor Information section of the applicable website following review and approval as set forth in this Chapter 7.4 provided that

any Disclosure Documents that are Budget Documents shall be limited to such documents that were previously approved for posting on EMMA. The review and approval process specified in Chapter 7.4 will not be necessary for documents that have been previously approved for posting to EMMA. Investor Information posted to the investor information webpages of the applicable website may be posted directly or via hyperlink to the appropriate page or pages on EMMA.

- (B) The investor information pages on the Covered Entity's website will specify the effective date of each Disclosure Document. The Investor Information webpages of the Covered Entity's website will inform its readers that (i) the only information on the Covered Entity's website that is posted with the intention of reaching the investing public, including bondholders, rating analysts, investment advisors, or any other members of the investment community, is located on the investor information webpages; and (ii) other than the specific information presented in the investor information webpages, no other information on the Covered Entity's website is intended to be the basis of or should be relied upon in making an investment decision; and (iii) the information posted in the investor information webpages speaks only as of the date of such information, and the Covered Entity makes no representation, express or implied, as to its accuracy, reliability or completeness.

Section 7.4.11. Investor Inquiries.

- (A) Investor Inquiry Coordinator. The Finance Director shall serve as the Investor Inquiry Coordinator. The Investor Inquiry Coordinator may designate other staff to perform the functions specified in this Section.
- (B) Processing of Investor Inquiries. All inquiries from investors shall be managed by the Investor Inquiry Coordinator. If any other City employee receives an inquiry from an investor, that employee shall refer such inquiry to the Investor Inquiry Coordinator.
- (C) Responses to Investor Inquiries. With respect to each inquiry from an investor, (a) if information necessary to respond to such inquiry has already been included in a Disclosure Document posted to EMMA, then the Investor Inquiry Coordinator may respond to such inquiry from information in such Disclosure Document, and (b) if information necessary to respond to such inquiry is not obtainable from information included in a Disclosure Document posted to EMMA, then the Investor Inquiry Coordinator, in consultation with the City Attorney, shall determine how to respond to such inquiry in a manner that assures that it is accurate, which may include convening a meeting of the Core Disclosure Working Group. The response also may involve making a voluntary posting to EMMA to ensure all members of the investment community are notified.
- (D) Documentation. The Investor Inquiry Coordinator shall compile and maintain a record of investor inquiries and responses.

CHAPTER 7.5 Continuing Disclosure Policies and Procedures

Section 7.5.1. General Principles.

The City is committed to the timely compliance with the requirements of the Continuing Disclosure Obligations of the City, and Covered Entities. The policies and procedures set forth in this Chapter 7.5 are to be implemented in order to facilitate timely compliance with the Continuing Disclosure Obligations of the City and other Covered Entities.

Section 7.5.2. Supplementary Procedures Related to Continuing Disclosure.

The provisions of this Chapter are intended to provide a framework for compliance with the Continuing Disclosure Obligations of the City, and Covered Entities. The Director of Finance from time to time, as necessary or as desirable, will supplement the policies and procedures in this Chapter with specific instructions, or guidance from professional associations, such as the Government Finance Officers Association of the United States and Canada, or the California Debt and Investment Advisory Commission.

Additionally, the provisions of this Chapter will be supplemented from time to time to implement advice provided by the City Attorney's Office or disclosure counsel working with the City Attorney's Office.

Section 7.5.3. Roles and Responsibilities.

- (A) The Finance Director is responsible for overseeing compliance by the City, and Covered Entities with their Continuing Disclosure Obligations. The Finance Director may delegate day-to-day responsibility with their oversight to the Assistant Director and the Deputy Director. The City Debt Administrator has the direct responsibility for compliance with the obligations specified in Continuing Disclosure Obligations of the City, and Covered Entities.
- (B) Filings posted to EMMA must be reviewed by the Debt Administrator, the Deputy Director of Finance – Debt & Treasury Management, and then approved for filing by the Finance Director. The Finance Director, in consultation with the City Attorney's Office, to the extent warranted, will convene the Core Disclosure Working Group to determine whether the information in any of the Annual Continuing Disclosure Reports should be supplemented as provided in Section 7.4.8 (B).
- (C) The City Manager, the City Attorney and members of the City's senior and executive management staff will alert the Finance Director if he or she has reason to believe that a Listed Event will soon occur or has occurred. The Listed Events, as in effect for financings entered into on or after February 27, 2019, are set forth in Appendix 3 and are categorized by (i) events that require posting to EMMA in all circumstances; and (ii) events that require posting to EMMA in circumstances when the event is material.

Section 7.5.4. Continuing Disclosure Responsibilities of Debt Administrator.

The Debt Administrator has the responsibility for the following:

- (A) Have familiarity with the requirements specified in each Continuing Disclosure Agreement, including without limitation, the content requirements of each Annual Continuing Disclosure Report, the Listed Events, and the timing requirements for filing the Listed Event Notice and each Annual Continuing Disclosure Report.
- (B) In consultation with the Finance Director and the City Attorney's Office, establish and maintain an inventory of "financial obligations" as defined in Rule 15c2-12 in the event that the City, or any other Covered Entity enters into any Continuing Disclosure Agreement on or after February 27, 2019 requiring disclosure of the Listed Events identified in Rule 15c2-12 (b)(5)(i)(C)(15) and (16).
- (C) Supervise the work of the Debt Management program staff with respect to Continuing Disclosure Obligations, including, on an annual basis, reviewing the requirements of each Continuing Disclosure Agreement with the staff assigned to prepare the Annual Continuing Disclosure Report and Listed Event Notices.
- (D) Serve as the main contact for Debt Management staff as well as staff in other divisions of the Finance Department and other City departments to communicate issues and information related to Continuing Disclosure Obligations and Annual Continuing Disclosure Reports.
- (E) Maintain an updated database or databases containing the following information for each issue of Bonds:
 - 1. CUSIP (Committee on Uniform Securities Identification Procedures) numbers.
 - 2. Issue date and maturity date.
 - 3. Original principal amount and principal amount outstanding as of June 30 of the current fiscal year.
 - 4. Identity of bond insurer or credit provider, if any.
 - 5. Current ratings, both underlying and insured, as applicable.
 - 6. Due date for the Annual Continuing Disclosure Report.
 - 7. Any other information as determined by the Director of Finance.
- (F) Review and revise, as necessary, all proposed Listed Event Notices and Annual Continuing Disclosure Reports before submission to the Finance Director for approval for posting to EMMA.

- (G) The Debt Administrator will be responsible for overseeing the process of posting to EMMA to ensure that each posting is posted to the correct CUSIP numbers and that each posting is complete and timely posted. It will be the practice of the Debt Management Division that each posting to EMMA is checked by another staff person within the Finance Department as designated by the Finance Director or the Debt Administrator.
- (H) The Debt Administrator will monitor the occurrence of any Listed Event. In particular, the Debt Administrator will oversee the weekly check of ratings assigned to Bonds including the ratings assigned to any insurer of insured Bonds in order to determine whether a rating change has occurred.
- (I) Annually, the Finance Director will audit or cause an audit of the compliance of the City or Covered Entity with the Continuing Disclosure Obligations during the prior calendar year.

Section 7.5.5. Specific Policies and Procedures Regarding Disclosure of Listed Events.

- (A) In the event any member of the Core Disclosure Working Group or any member of the Finance Department learns a Listed Event has occurred or may soon occur, they will notify the Finance Director by email to the Finance Director's City email address and to debt.management@sanjoseca.gov. Upon learning of the occurrence of a Listed Event or that a Listed Event is soon to occur, the Debt Administrator will notify by email the Finance Director, the Assistant Director, and the Deputy Director if they have not already been apprised of this information.
- (B) If the particular Listed Event requires a Listed Event Notice to be posted under all circumstances, then the Debt Administrator will prepare or assign the preparation of the Listed Event Notice for the review of the Assistant Director or the Deputy Director and the approval of the Finance Director, with consultation with the City Attorney's Office.
- (C) The Finance Director will consult with the City Attorney's Office who may consult with disclosure counsel on whether a Listed Event Notice should be posted to EMMA. The Debt Administrator will be instructed to post or cause the posting of a Listed Event Notice as set forth in Section 7.5.5(B).
- (D) As a matter of practice, a rating change to a rating assigned to a bond insurer of Bonds, including a withdrawal of any rating, will trigger the posting of a Listed Event Notice to EMMA to provide notice of such rating event regardless of whether there is any change to the underlying ratings of the Bonds.

Section 7.5.6. Policies and Procedures Regarding Voluntary Disclosure.

If any member of the Core Disclosure Working Group concludes an event has occurred that is not a Listed Event and that may be material with respect to any Bonds, he or she will instruct the Finance Director to convene a meeting of the Core Disclosure Working Group to discuss the event and evaluate whether notice of such event should be posted to EMMA. In evaluating whether there is an obligation to disclose the event, the Core Disclosure Working Group will evaluate whether the City, or any other Covered Entity, as applicable, is currently speaking to the marketplace (whether as a result of filing an Official Statement, an Annual Continuing Disclosure Report or otherwise) such that disclosure of the event is required. If the Core Disclosure Working Group concludes that disclosure of the event is required, the Finance Director will prepare or cause the preparation of the notice for the review of the Core Disclosure Working Group. Upon the completion of the review by the Core Disclosure Working Group, the Finance Director will cause the posting of such notice as provided for in Section 7.5.5.

CHAPTER 7.6 Training Policy

Section 7.6.1. Training – Content.

The Finance Director will conduct or cause others to conduct periodic disclosure training sessions on these Policies and Procedures, the disclosure obligations of the City, and Covered Entities under applicable federal and state securities laws and the disclosure responsibilities and potential liabilities of staff and members of the applicable Governing Board. The Finance Director will seek the advice of the City Attorney in preparing the training or in causing others to conduct the training as well as tailoring the content of the training session to the needs of its participants. The City Attorney may in turn consult with disclosure counsel on the content of the training as well as the parties who will conduct the training. Such training sessions may be conducted using recorded presentations, webinars, or other similar forms of presentations that are not "live" events.

Section 7.6.2. Training for City Staff.

- (A) City Staff: Disclosure Working Group/Core Disclosure Working Group. The Disclosure Coordinator will, to the extent practicable, cause all members of the Disclosure Working Group/Core Disclosure Working Group, City staff members of Financing Groups and all members of City staff who the Disclosure Coordinator believes are likely to be Contributors to participate in the disclosure training sessions. The goal will be to conduct such training on an annual basis with the assistance of the City Attorney and disclosure counsel.
- (B) City Staff Assigned to the Finance Department's Debt Management Division. The training for City staff assigned to the Finance Department's Debt Management Division in addition to the topics covered in Section 7.6.2(A) will address the mechanics of accessing and posting documents to EMMA.

Section 7.6.3. Training for Governing Board.

The Finance Director, working with the City Manager's Office, will agendize training for the City Council, the City of San José Financing Authority Board and the Successor Agency Board on the disclosure obligations of the City and the Successor Agency, respectively, under applicable federal and state securities laws and the disclosure responsibilities and potential liabilities of members of City staff and members of the City Council, the City of San José Financing Authority Board and the Successor Agency Board. To the extent that the membership of a Governing Body of a Covered Entity is comprised of members different from the membership of the City Council/Successor Agency Board, the Finance Director will schedule training on disclosure obligations under applicable federal and state securities laws. The goal will be to conduct such training periodically with the assistance of the City Attorney and disclosure counsel.

CHAPTER 7.7

Document Retention

Section 7.7.1. Document Retention Generally; Budget Documents.

- (A) The provisions of these Policies and Procedures provide minimum standards for document retention. To the extent that a conflicting retention schedule provides for a longer retention period, then such conflicting retention schedule shall control.
- (B) Budget Documents will be retained in accordance with approved retention schedule for documents maintained by the City Manager's Budget Office.

Section 7.7.2. Materials Related to Official Statements.

- (A) The following will be retained in the Department of Finance for the life of the Bonds, including any refunding: Official Statements, Preliminary Official Statements, any certificates issued by the applicable Covered Entity to underwriters in connection with their publication, the bond purchase agreement, or any official notice of sale as applicable, and any and all opinions of counsel related to disclosure matters.
- (B) The following will be retained in the Department of Finance for a period of five (5) years following the date of issuance or remarketing of Bonds or such longer period of time required under applicable law: each notice to Contributors (currently in the form of Exhibit A); the responses to such notices from Contributors, the Disclosure Log maintained pursuant to Section 7.3.3, the cover memoranda from the Financing Group to the Disclosure Working Group (currently in the form of Exhibit B), the coversheet attached to the substantially final draft Official Statement submitted to the Governing Body (currently in the form of Exhibit C), the cover sheet (currently in the form of Exhibit C) attached to any rating presentation, and the memorandum to the Governing Body transmitting the substantially final draft Official Statement submitted to the Governing Body.
- (C) Except for the substantially final drafts of Official Statements submitted to the Governing Body, drafts of Official Statements will not be retained by the Department of Finance or the Disclosure Working Group.

Section 7.7.3. Materials Related to Private Placements.

- (A) The following will be retained by the Department of Finance for the term of the private placement of the securities purchased plus five (5) years or such longer period of time required under applicable law: any private placement memoranda, any certificates issued by the City, or Covered Entity in connection with the Private Placement Investor's purchase, the agreement entered into by the applicable Covered Entity in connection with the Private Placement Investor's purchase, and the memorandum to the Governing Body seeking approval of the sale of the securities to the Private Placement Investor.

- (B) In the event that a private placement memorandum is prepared, the Department of Finance will maintain documents related to the preparation of the private placement memorandum: each notice to Contributors, the responses to such notices from Contributors, the Disclosure Log maintained pursuant to Section 7.3.3, the cover memoranda from the Financing Group to the Disclosure Working Group (currently in the form of Exhibit B) and the cover sheet attached to the substantially final private placement memorandum (currently in the form of Exhibit C).
- (C) Except for the substantially final drafts of private placement memoranda submitted to the Governing Body, drafts of private placement memoranda will not be retained by the Finance Department or the Disclosure Working Group.

Section 7.7.4. Materials Related to Continuing Disclosure Obligations.

- (A) The Department of Finance will maintain in its records for a period of five (5) years from the posting date or any longer period required under applicable law the following: any documents that were posted to EMMA in order to comply with the requirements of a Continuing Disclosure Agreement and the confirmation, if any, provided in connection with the posting.
- (B) Drafts of documents prepared in connection with compliance with Continuing Disclosure Obligations will not be retained by the Finance Department or Core Disclosure Working Group.

Section 7.7.5. Materials Related to Investor Inquiries and Voluntary Disclosure.

- (A) The Department of Finance will maintain in its records for a period of five (5) years or any longer period required under applicable law the following: the response to an investor inquiry that is not posted to EMMA, any documents that were posted to EMMA on a voluntary basis, the confirmation, if any, provided in connection with the posting to EMMA, the cover sheet (currently in the form of Exhibit C), attached to the voluntary disclosure or response to an investor inquiry reviewed and approved by the Core Disclosure Working Group, and notices to any Contributors requesting their review and preparation of the voluntary disclosure document or response to an investor inquiry.
- (B) Drafts of voluntary disclosure documents and responses to investor inquiries will not be retained by the Finance Department or the Core Disclosure Working Group.

Section 7.7.6. Materials Related to Rating Agency Surveillance Review.

- (A) The Department of Finance will maintain in its records for a period of five (5) years or any longer period required under applicable law the information provided to a rating agency in connection with a rating agency's surveillance review and the cover sheet (currently in the form of Exhibit C), attached to the information reviewed and approved by the Finance Director. In the event that under the circumstances of the particular surveillance review, it was not practicable to obtain the review of all members of the Core Disclosure Working Group, then the

Disclosure Coordinator will attach a note to such effect to the cover sheet.

- (B) Drafts of the information provided to the rating agency in connection with a surveillance review will not be retained by the Finance Department or the Core Disclosure Working Group.

CHAPTER 7.8 Confidential Submissions to the City Attorney

City employees are advised to contact the City Attorney with any disclosure questions or concerns. To the extent permitted by law, upon the employee's request, the City Attorney will keep the employee's identity confidential.

EXHIBIT A

FORM OF NOTIFICATION TO CONTRIBUTORS

THIS NOTIFICATION MAY BE SENT BY EMAIL. THIS FORM NOTIFICATION PROVIDES A GUIDELINE FOR THE CONTENT OF THE NOTIFICATION TO CONTRIBUTORS AND MAY BE MODIFIED TO ADDRESS CIRCUMSTANCES ASSOCIATED WITH A PARTICULAR TRANSACTION OR LEGAL GUIDANCE. THE INFORMATION IN THE NOTIFICATION DOES NOT NEED TO BE SENT IN A SINGLE NOTIFICATION.

THIS FORM IS TO BE MODIFIED IF USED IN CONNECTION WITH PRIVATE PLACEMENT MEMORANDUM OR OTHER DISCLOSURE DOCUMENT.

The Finance Department is working on the issuance of [Tax-Exempt][Taxable] Bonds for [explain purpose]. In connection with the sale of the Bonds to investors, the City staff must prepare an [Official Statement/Offering Memorandum/Remarketing Memorandum] that includes the information an investor would need to decide whether to purchase the Bonds.

Federal securities laws require the information in the [Official Statement/Offering Memorandum/Remarketing Memorandum] be complete, accurate and in no way misleading. Disclosure documents used by municipal issuers, such as official statements, are subject to the prohibition against false or misleading statements of material facts. This includes the omission of material facts necessary to make the statements made, in light of the circumstances in which they are made, not misleading. The adequacy of the disclosure provided in offering materials is tested against an objective standard: an omitted fact is material if there is a substantial likelihood that, under all the circumstances, the omitted fact would have assumed substantial significance in the deliberations of the reasonable investor. Put another way, there must be a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the "total mix" of information made available.

Please carefully and critically review the information you are providing to be certain to the best of your knowledge, after reasonable inquiry of the appropriate persons, that it is *accurate, complete, and not misleading to an investor purchasing the Bonds*. Please ensure the source documentation for making revisions to the [Review Document] is reliable and is available for Financing Group members upon request. Please describe any exceptions or limitations to the information that you are providing. If statements made are dependent on underlying assumptions, please identify these assumptions and the basis on which these assumptions were made.

Attached is a draft of [Insert the Name of the document to be reviewed]. Assuming the City Council [Covered Entity Board] approves the proposed sale, the [Official Statement/Offering Memorandum/Remarketing Memorandum], will be finalized and distributed to investors, underwriters, and rating agencies.

Please review the [Review Document] in its entirety for any and all sections relevant to your department program or operations, rather than simply updating information that you or others in your department may have previously reviewed or provided. This review may include more sections to which your department have been assigned. This is important because the document in its entirety must be updated to reflect changes that have occurred since the prior version was published plus any changes that are anticipated to occur. Ask yourself whether additional

information should be included to make the information already included as complete and accurate as possible and not misleading.

There will be additional requests for review and updates to the [Review Document] before it is finalized for City Council review and again before the [Official Statement/Offering Memorandum/Remarketing Memorandum] is finalized for distribution to the investment community. We recognize these multiple reviews present a burden; however, it is critical that the information provided for the [City] [Successor Agency] [Covered Entity] to the investment community be accurate and complete as of the date of the document's release and is in no way misleading, as required by federal securities laws.

Please provide your proposed update to the [Review Document] by [DATE]. Your updates to the document should be provided on the shared document site link provided in this memorandum. Please include with your update a list the documents or other sources of information that was used to prepare the proposed update.

If you have any questions, please don't hesitate to contact [Name of Disclosure Coordinator] or [Name of Deputy City Attorney assigned to Financing Group].

cc: Department Head
Applicable Senior Staff within Department

EXHIBIT B

**Form of Cover Memorandum for
Transmittal of Official
Statement by Financing Group
to Disclosure Working Group**

THIS COVER MEMORANDUM MAY BE SENT BY EMAIL. THE FORM PROVIDES A GUIDELINE FOR THE NOTIFICATION TO CONTRIBUTORS AND MAY BE MODIFIED TO ADDRESS CIRCUMSTANCES ASSOCIATED WITH A PARTICULAR TRANSACTION OR LEGAL GUIDANCE.

Disclosure Working Group¹:

With respect to the attached draft [Official Statement/Offering Memorandum/Remarketing Memorandum], the Financing Group has performed its responsibilities set forth in subsection (G) of Section 7.3.3 of the Disclosure Policies and Procedures. The members of the Financing Group and the Contributors to the draft [Official Statement/Offering Memorandum/Remarketing Memorandum] are listed below. The draft [Official Statement/Offering Memorandum/Remarketing Memorandum] accurately reports all material information relating to the City [Covered Entity], and all information relating to the City [Covered Entity] has been critically reviewed by an appropriate person(s). All information in the draft [Official Statement/Offering Memorandum/Remarketing Memorandum] other than the information described in the previous sentence will be addressed by an appropriate person in a closing certificate or opinion.

[Option #1: In our judgment, the [Official Statement/Offering Memorandum/Remarketing Memorandum] is in substantially final form and ready for review by the Disclosure Working Group]

[Option #2: The Financing Group has identified the following sections _____ will require additional review or revision; the draft is being submitted at this time for your review and comment].

[Option #3 The rating agency presentation are also attached for your review or will be submitted to you at a later date].

[Option #4 [If the rating agency are submitted at a later date, then provide the latest version of the draft [Official Statement/Offering Memorandum/Remarketing Memorandum] for the Disclosure Working Group review].

Director of Finance

Members of Financing Group:

[As applicable] Name, Title, Department

Contributors:

[As applicable] Name, Title, Department

¹ List by name and title the members of the Core Disclosure Working Group and the added members to the Disclosure Working Group

EXHIBIT C

**Cover Sheet Documenting Approval of Disclosure Document
By Core Disclosure Working Group/Disclosure Working Group
[Form may be revised in consultation with City Attorney's Office]**

**THIS FORM COVERSHEET PROVIDES A GUIDELINE AND MAY BE
MODIFIED TO ADDRESS CIRCUMSTANCES ASSOCIATED WITH A
PARTICULAR TRANSACTION OR LEGAL GUIDANCE.**

DATE

The attached Disclosure Document has been reviewed and approved by the [Core Disclosure Working Group or Disclosure Working Group, as applicable] pursuant to the City's Disclosure Policies and Procedures.

The members of the [Core Disclosure Working Group or Disclosure Working Group, as applicable] and their designees who participated in the review and approval of the [Name of Document] are as follows:

Note: The approval of only the Finance Director (as Disclosure Coordinator) is required for Disclosure Documents that (i) the City/Successor Agency/Covered Entity is contractually obligated to file with the MSRB as a result of the occurrence of a Listed Event under all circumstances or as a result of the failure to file the required Annual Continuing Disclosure Report on a timely basis or (ii) contain no discretionary content. In the event it was not practicable to obtain the review of all Core Disclosure Group members, the Finance Director will generally describe the circumstances.

Director of Finance

Disclosure Policies and Procedures	Section 7
---	------------------

EXHIBIT D

**Matters to be Addressed in Memorandum Transmitting
Official Statement to Governing Board**

Please note that these matters may be addressed in a memorandum describing the proposed financing.

Overview of Financing. This memorandum relates to the proposed issuance of _____ (the “Obligations”) by the [name of issuing entity]. The [applicable Governing Board] is asked to approve the issuance of the Obligations and the primary documents associated with the Obligations. The near-final versions of these documents have been posted to the agenda webpage for this meeting.

Discussion specific to the draft Preliminary Official Statement. The draft Preliminary Official Statement has been reviewed and approved for transmittal to the [applicable Governing Board] by the Disclosure Working Group. The distribution of the Preliminary Official Statement by the City/Successor Agency/Covered Entity is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Obligations. Material information is information where is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Obligations. If the [applicable Governing Board] concludes the Preliminary Official Statement includes all facts material to an investor in the Obligations, and authorizes staff to proceed with the issuance of the Obligations, then one of the actions the [applicable Governing Board] will take is to adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been “deemed final.”

The Securities and Exchange Commission (the “SEC”), the agency with regulatory authority over the City’s/Successor Agency’s compliance with the federal securities laws, has issued guidance as to the duties of the [applicable Governing Board] with respect to its approval of the Preliminary Official Statement. In its “Report of Investigation in the Matter of County of Orange, California as it relates to the conduct of the Members of the Board of Supervisors” (Release No. 36761 / January 24, 1996) (the “Release”), the SEC stated that, if a member of the authorizing board has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Obligations, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC stated that the steps that a member of the City Council/Successor Agency Board/Covered Entity Board could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts concerning the following areas:

<i>Purpose of Financing</i>	<i>Risks Relating to Repayment and Tax-Exempt Status [if applicable] of the Obligations</i>
<i>Documents for Approval; Security for the Obligations</i>	<i>Requested Approvals</i>

EXHIBIT E

List of Recurring Disclosure Documents

1. Annual Continuing Disclosure Reports
2. Budget Documents
3. ACFR
4. Annual Financial Statements
5. Listed Event Notices subject to the procedures specified in Section 7.5.5(B)

EXHIBIT F

**Form of Notification for
Transmittal of Draft Annual Financial Statements
to Core Disclosure Working Group**

THIS NOTIFICATION MAY BE SENT BY EMAIL. THIS FORM NOTIFICATION PROVIDES A GUIDELINE FOR THE NOTIFICATION TO CONTRIBUTORS AND MAY BE MODIFIED TO ADDRESS CIRCUMSTANCES ASSOCIATED WITH A PARTICULAR TRANSACTION OR LEGAL GUIDANCE.

Core Disclosure Working Group:

Please find attached the substantially final drafts of the Annual Comprehensive Financial Reports ("ACFR") and statements for

- the City;
- the San José Mineta International Airport;
- the City of San José Clean Energy;
- the Wastewater System
- the Successor Agency to the Redevelopment Agency ("SARA");. and
- other Disclosure Documents.

These financial statements have been prepared to present fairly, in all material respects, the financial position of the City and Covered Entities as of June 30, ____ in accordance with the Governmental Accounting Standards Board in the United States of America.

In addition, the Annual Financial Statements include a management discussion and analysis and certain supplementary schedules, where available. These Annual Financial Statements are ready for review by the Core Disclosure Working Group pursuant to Section 7.4.5 of the Disclosure Policies and Procedures.

[Option #1: A meeting of the Core Disclosure Working Group to review these documents has been scheduled to occur [DATE, TIME of meeting in Room #] or

[Option #2: A meeting of the Core Disclosure Working Group to review these documents will be scheduled to occur in the near future].

Director of Finance

APPENDIX 1**Rule 10b-5**

CFR 17 § 240.10b-5 Employment of Manipulative and Deceptive devices.²

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

² <https://www.ecfr.gov/current/title-17/chapter-II/part-240/subpart-A#240.10b-5>

APPENDIX 2**RULE 15c2-12³**

CFR 17 § 240.15c2-12 Municipal securities disclosure.⁴

Preliminary Note: For a discussion of disclosure obligations relating to municipal securities, issuers, brokers, dealers, and municipal securities dealers should refer to [Securities Act Release No. 7049](#), [Securities Exchange Act Release No. 33741](#), FR–42 (March 9, 1994).

For a discussion of the obligations of underwriters to have a reasonable basis for recommending municipal securities, brokers, dealers, and municipal securities dealers should refer to [Securities Exchange Act Release No. 26100](#) (Sept. 22, 1988) and [Securities Exchange Act Release No. 26985](#) (June 28, 1989).

(a) General. As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any broker, dealer, or municipal securities dealer (a “Participating Underwriter” when used in connection with an Offering) to act as an underwriter in a primary offering of municipal securities with an aggregate principal amount of \$1,000,000 or more (an “Offering”) unless the Participating Underwriter complies with the requirements of this section or is exempted from the provisions of this section.

(b) Requirements.

(1) Prior to the time the Participating Underwriter bids for, purchases, offers or sells municipal securities in an Offering, the Participating Underwriter shall obtain and review an official statement that an issuer of such securities deems final as of its date, except for the omission of no more than the following information: The offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, any other terms or provisions required by an issuer of such securities to be specified in a competitive bid, ratings, other terms of the securities depending on such matters, and the identity of the underwriter(s).

(2) Except in competitively bid offerings, from the time the Participating Underwriter has reached an understanding with an issuer of municipal securities that it will become a

³ <https://www.govinfo.gov/app/details/CFR-2013-title17-vol3/CFR-2013-title17-vol3-sec240-15c2-12>

⁴ <https://www.govinfo.gov/app/details/CFR-2013-title17-vol3/CFR-2013-title17-vol3-sec240-15c2-12>

Participating Underwriter in an Offering until a final official statement is available, the Participating Underwriter shall send no later than the next business day, by first-class mail or other equally prompt means, to any potential customer, on request, a single copy of the most recent preliminary official statement, if any.

(3) The Participating Underwriter shall contract with an issuer of municipal securities or its designated agent to receive, within seven business days after any final agreement to purchase, offer, or sell the municipal securities in an Offering and in sufficient time to accompany any confirmation that requests payment from any customer, copies of a final official statement in sufficient quantity to comply with paragraph (b)(4) of this rule and the rules of the Municipal Securities Rulemaking Board.

(4) From the time the final official statement becomes available until the earlier of:

- (i) Ninety days from the end of the underwriting period or
- (ii) The time when the official statement is available to any person from the Municipal Securities Rulemaking Board, but in no case less than twenty-five days following the end of the underwriting period, the Participating Underwriter in an Offering shall send no later than the next business day, by first-class mail or other equally prompt means, to any potential customer, on request, a single copy of the final official statement.

(5) (i) A Participating Underwriter shall not purchase or sell municipal securities in connection with an Offering unless the Participating Underwriter has reasonably determined that an issuer of municipal securities or an obligated person for whom financial or operating data is presented in the final official statement has undertaken, either individually or in combination with other issuers of such municipal securities or obligated persons, in a written agreement or contract for the benefit of holders of such securities, to provide the following to the Municipal Securities Rulemaking Board in an electronic format as prescribed by the Municipal Securities Rulemaking Board, either directly or indirectly through an indenture trustee or a designated agent:

- (A) Annual financial information for each obligated person for whom financial information or operating data is presented in the final official statement, or, for each obligated person meeting the objective criteria specified in the undertaking and used to select the obligated persons for

whom financial information or operating data is presented in the final official statement, except that, in the case of pooled obligations, the undertaking shall specify such objective criteria;

(B) If not submitted as part of the annual financial information, then when and if available, audited financial statements for each obligated person covered by paragraph (b)(5)(i)(A) of this section;

(C) In a timely manner not in excess of ten business days after the occurrence of the event, notice of any of the following events with respect to the securities being offered in the Offering:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the obligated person;

Note to paragraph (b)(5)(i)(C)(12): For the purposes of the event identified in paragraph (b)(5)(i)(C)(12) of this section, the event is considered to occur when any of the following occur: The

appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;

(15) Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties; and

(D) In a timely manner, notice of a failure of any person specified in paragraph (b)(5)(i)(A) of this section to provide required annual financial information, on or before the date specified in the written agreement or contract.

(ii) The written agreement or contract for the benefit of holders of such securities also shall identify each person for whom annual financial information and notices of material events will be provided, either by name or by the objective criteria used to select such persons, and, for each such person shall:

(A) Specify, in reasonable detail, the type of financial information and operating data to be provided as part of annual financial information;

(B) Specify, in reasonable detail, the accounting principles pursuant to which financial statements will be prepared, and whether the financial statements will be audited; and

(C) Specify the date on which the annual financial information for the preceding fiscal year will be provided.

(iii) Such written agreement or contract for the benefit of holders of such securities also may provide that the continuing obligation to provide annual financial information and notices of events may be terminated with respect to any obligated person, if and when such obligated person no longer remains an obligated person with respect to such municipal securities.

(iv) Such written agreement or contract for the benefit of holders of such securities also shall provide that all documents provided to the Municipal Securities Rulemaking Board shall be accompanied by identifying information as prescribed by the Municipal Securities Rulemaking Board.

(c) Recommendations. As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any broker, dealer, or municipal securities dealer to recommend the purchase or sale of a municipal security unless such broker, dealer, or municipal securities dealer has procedures in place that provide reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of this section with respect to that security.

(d) Exemptions.

(1) This section shall not apply to a primary offering of municipal securities in authorized denominations of \$100,000 or more, if such securities:

(i) Are sold to no more than thirty-five persons each of whom the Participating Underwriter reasonably believes:

(A) Has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment; and

(B) Is not purchasing for more than one account or with a view to distributing the securities; or

(ii) Have a maturity of nine months or less.

(2) Paragraph (b)(5) of this section shall not apply to an Offering of municipal securities if, at such time as an issuer of such municipal securities delivers the securities to the Participating Underwriters:

(i) No obligated person will be an obligated person with respect to more than \$10,000,000 in aggregate amount of outstanding municipal securities, including the offered securities and excluding municipal securities that were offered in a transaction exempt from this section pursuant to paragraph (d)(1) of this section;

(ii) An issuer of municipal securities or obligated person has undertaken, either individually or in combination with other issuers of municipal securities or obligated persons, in a written agreement or contract for the benefit of holders of such municipal securities, to provide the following to the Municipal Securities Rulemaking Board in an electronic format as prescribed by the Municipal Securities Rulemaking Board:

(A) At least annually, financial information or operating data regarding each obligated person for which financial information or operating data is presented in the final official statement, as specified in the undertaking, which financial information and operating data shall include, at a minimum, that financial information and operating data which is customarily prepared by such obligated person and is publicly available; and

(B) In a timely manner not in excess of ten business days after the occurrence of the event, notice of events specified in paragraph (b)(5)(i)(C)

of this section with respect to the securities that are the subject of the Offering; and

(C) Such written agreement or contract for the benefit of holders of such securities also shall provide that all documents provided to the Municipal Securities Rulemaking Board shall be accompanied by identifying information as prescribed by the Municipal Securities Rulemaking Board; and

(iii) The final official statement identifies by name, address, and telephone number the persons from which the foregoing information, data, and notices can be obtained.

(3) The provisions of paragraph (b)(5) of this section, other than paragraph (b)(5)(i)(C) of this section, shall not apply to an Offering of municipal securities, if such municipal securities have a stated maturity of 18 months or less.

(4) The provisions of paragraph (c) of this section shall not apply to municipal securities:

- (i) Sold in an Offering to which paragraph (b)(5) of this section did not apply, other than Offerings exempt under paragraph (d)(2)(ii) of this section; or

- (ii) Sold in an Offering exempt from this section under paragraph (d)(1) of this section.

(5) With the exception of paragraphs (b)(1) through (b)(4), this section shall apply to a primary offering of municipal securities in authorized denominations of \$100,000 or more if such securities may, at the option of the holder thereof, be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent; provided, however, that paragraphs (b)(5) and (c) of this section shall not apply to such securities outstanding on November 30, 2010, for so long as they continuously remain in authorized denominations of \$100,000 or more and may, at the option of the holder thereof, be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently

as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent.

(e) Exemptive authority. The Commission, upon written request, or upon its own motion, may exempt any broker, dealer, or municipal securities dealer, whether acting in the capacity of a Participating Underwriter or otherwise, that is a participant in a transaction or class of transactions from any requirement of this section, either unconditionally or on specified terms and conditions, if the Commission determines that such an exemption is consistent with the public interest and the protection of investors.

(f) Definitions. For the purposes of this rule:

(1) The term authorized denominations of \$100,000 or more means municipal securities with a principal amount of \$100,000 or more and with restrictions that prevent the sale or transfer of such securities in principal amounts of less than \$100,000 other than through a primary offering; except that, for municipal securities with an original issue discount of 10 percent or more, the term means municipal securities with a minimum purchase price of \$100,000 or more and with restrictions that prevent the sale or transfer of such securities, in principal amounts that are less than the original principal amount at the time of the primary offering, other than through a primary offering.

(2) The term end of the underwriting period means the later of such time as:

(i) The issuer of municipal securities delivers the securities to the Participating Underwriters or

(ii) The Participating Underwriter does not retain, directly or as a member or an underwriting syndicate, an unsold balance of the securities for sale to the public.

(3) The term final official statement means a document or set of documents prepared by an issuer of municipal securities or its representatives that is complete as of the date delivered to the Participating Underwriter(s) and that sets forth information concerning the terms of the proposed issue of securities; information, including financial information or operating data, concerning such issuers of municipal securities and those other entities, enterprises, funds, accounts, and other persons material to an evaluation of the Offering; and a description of the undertakings to be provided pursuant to paragraph (b)(5)(i), paragraph (d)(2)(ii), and paragraph (d)(2)(iii) of this section, if applicable, and of any

instances in the previous five years in which each person specified pursuant to paragraph (b)(5)(ii) of this section failed to comply, in all material respects, with any previous undertakings in a written contract or agreement specified in paragraph (b)(5)(i) of this section. Financial information or operating data may be set forth in the document or set of documents, or may be included by specific reference to documents available to the public on the Municipal Securities Rulemaking Board's Internet Web site or filed with the Commission.

(4) The term issuer of municipal securities means the governmental issuer specified in section 3(a)(29) of the Act and the issuer of any separate security, including a separate security as defined in rule 3b-5(a) under the Act.

(5) The term potential customer means (i) Any person contacted by the Participating Underwriter concerning the purchase of municipal securities that are intended to be offered or have been sold in an offering, (ii) Any person who has expressed an interest to the Participating Underwriter in possibly purchasing such municipal securities, and (iii) Any person who has a customer account with the Participating Underwriter.

(6) The term preliminary official statement means an official statement prepared by or for an issuer of municipal securities for dissemination to potential customers prior to the availability of the final official statement.

(7) The term primary offering means an offering of municipal securities directly or indirectly by or on behalf of an issuer of such securities, including any remarketing of municipal securities.

(i) That is accompanied by a change in the authorized denomination of such securities from \$100,000 or more to less than \$100,000, or

(ii) That is accompanied by a change in the period during which such securities may be tendered to an issuer of such securities or its designated agent for redemption or purchase from a period of nine months or less to a period of more than nine months.

(8) The term underwriter means any person who has purchased from an issuer of municipal securities with a view to, or offers or sells for an issuer of municipal securities in connection with, the offering of any municipal security, or participates or has a direct or

indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; except, that such term shall not include a person whose interest is limited to a commission, concession, or allowance from an underwriter, broker, dealer, or municipal securities dealer not in excess of the usual and customary distributors' or sellers' commission, concession, or allowance.

(9) The term annual financial information means financial information or operating data, provided at least annually, of the type included in the final official statement with respect to an obligated person, or in the case where no financial information or operating data was provided in the final official statement with respect to such obligated person, of the type included in the final official statement with respect to those obligated persons that meet the objective criteria applied to select the persons for which financial information or operating data will be provided on an annual basis. Financial information or operating data may be set forth in the document or set of documents, or may be included by specific reference to documents available to the public on the Municipal Securities Rulemaking Board's Internet Web site or filed with the Commission.

(10) The term obligated person means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the municipal securities to be sold in the Offering (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities).

(11) (i) The term financial obligation means a:

(A) Debt obligation;

(B) Derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation;
or

(C) Guarantee of paragraph (f)(11)(i)(A) or (B).

(ii) The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with this rule.

(g) Transitional provision. If on July 28, 1989, a Participating Underwriter was contractually committed to act as underwriter in an Offering of municipal securities originally issued before July 29, 1989, the requirements of paragraphs (b)(3) and (b)(4) shall not apply to the Participating Underwriter in connection with such an Offering. Paragraph (b)(5) of this section shall not apply to a Participating Underwriter that has contractually committed to act as an underwriter in an Offering of municipal securities before July 3, 1995; except that paragraph (b)(5)(i)(A) and paragraph (b)(5)(i)(B) shall not apply with respect to fiscal years ending prior to January 1, 1996. Paragraph (c) shall become effective on January 1, 1996. Paragraph (d)(2)(ii) and paragraph (d)(2)(iii) of this section shall not apply to an Offering of municipal securities commencing prior to January 1, 1996.

Credits [[54 FR 28813](#), July 10, 1989; [59 FR 59609](#), Nov. 17, 1994; [73 FR 76132](#), Dec. 15, 2008; [75 FR 33155](#), June 10, 2010; [83 FR 44742](#), Aug. 31, 2018]

APPENDIX 3

LISTED EVENTS	
Events that Always Require Notification	Events that Require Notification If Material
Principal and interest payment delinquencies	Unless described in the left-hand column, adverse tax opinions or other material notices or determinations by the Internal Revenue Service with respect to the tax status of the securities or other material events affecting the tax status of the securities
Unscheduled draws on debt service reserves or credit enhancements reflecting financial difficulties;	Modifications to rights of holders of the securities
Substitution of credit or liquidity providers, or their failure to perform;	Optional, unscheduled, or contingent Bond calls
Issuance by the Internal Revenue Service of proposed or final determination of taxability or of a Notice of Proposed Issue (IRS Form 5701 TEB)	Release, substitution, or sale of property securing repayment of the securities
Tender offers	Non-payment related defaults
Defeasances	The consummation of a merger, consolidation or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms
Rating Changes	Appointment of a successor or additional trustee or the change of name of a trustee
Bankruptcy, insolvency, receivership, or similar event of the obligated person	Incurrence of a financial obligation, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material
Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties	

Disclosure Policies and Procedures **Section 7**

Approved:

_____/s/ Julia H. Cooper_____
Julia H. Cooper
Director of Finance

_____/March 30, 2023_____
Effective Date

Approved for posting:

_____/s/ Jennifer A. Maguire_____
Jennifer A. Maguire
City Manager

_____/March 30, 2023_____
Effective Date