



# CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

# C-11

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December 13, 2016

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Adopt the attached Disclosure Policy pursuant to Section 8855 of the State of California Government Code. (Citywide)

## DISCUSSION

In September 2016, Senate Bill 1029 (SB 1029) was enacted. This bill amended Government Code 8855 requiring local governments to prepare and submit accountability reports to the California Debt and Investment Advisory Commission (CDIAC). SB 1029 also mandates local governments to adopt comprehensive debt policies including a Disclosure Policy prior to the issuance of any publicly offered debt obligation.

The proposed Disclosure Policy establishes the City's compliance guidelines for disclosure requirements under the federal securities laws in connection with the City's debt obligations. All publicly offered debt obligations issued by the City including notes, bonds, and certificates of participation, are required to comply with the Securities Exchange Commission (SEC) Rule 15c2-12. This rule requires the City to provide the investor community with all material information related to the debt obligation. This rule also requires the City to submit certain disclosure information for each debt obligation to the Municipal Securities Rulemaking Board's (MSRB) Electronic Municipal Market Access (EMMA) system, the central repository designated by the SEC for ongoing disclosures by municipal issuers. This information includes the official statements, continuing disclosure agreement requirements, material event notices, and the annual continuing disclosure reports, also known as the Summary of Financial Information.

This Disclosure Policy is consistent with the recommendations of CDIAC and the Government Finance Officers Association (GFOA). The Debt Management Policy, in its entirety, will be brought forth to City Council for adoption within the first quarter of 2017.

This matter was reviewed by Deputy City Attorney Amy R. Webber and by Assistant Finance Director Lea Eriksen on November 18, 2016.

TIMING CONSIDERATIONS

In order to comply with the State of California Government Code 8855, City Council approval is requested on December 13, 2016. The Disclosure Policy must be adopted 30 days prior to the issuance of any publicly offered debt obligation issued by the City after January 21, 2017.

FISCAL IMPACT

There is no fiscal or local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS  
DIRECTOR OF FINANCIAL MANAGEMENT

JG:DSN:FA  
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ATTACHMENT:

APPROVED:



PATRICK WEST  
CITY MANAGER

# City of Long Beach, California



## Disclosure Policy



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## **I. Introduction**

The City may issue publicly offered debt obligations such as notes, bonds, or certificates of participation in order to fund capital projects, refund outstanding debt, or provide short-term working capital. When issuing any publicly offered debt obligation, the City must comply with federal securities laws. These laws require the City to provide the investor community with all “material information” related to the debt obligation. All disclosure information must be a complete and transparent description of the debt obligation and of the City’s financial condition.

When the City issues a publicly offered debt obligation, it is required to prepare an “Official Statement” document. The Official Statement contains a description of the type of financing, sources and uses of funds, financial and budget figures, and operational and statistical information. Investors use the Official Statement as the primary source for making informed investment decisions in regards to the purchase of the City’s debt obligations.

The Official Statement also contains certain contractual obligations including the Continuing Disclosure Agreement (CDA). Pursuant to the Securities Exchange Commission (SEC) underwriters cannot purchase City debt obligations unless the City enters into a CDA. CDAs require the City to prepare an annual continuing disclosure report that contains specific information related to the debt obligation. CDAs also require the City to notify the investor community of any “material events” pertaining to its debt obligations. The annual continuing disclosure report and material event notices must be posted on the Municipal Securities Rulemaking Board’s (MSRB) Electronic Municipal Market Access (EMMA) system, the central repository designated by the SEC for ongoing disclosures by municipal issuers.

Disclosure regulations may also apply to public statements made in connection with the issuance of any publicly offered debt obligation. City and elected officials should not use any public statements misrepresenting the City’s fiscal, financial, and/ or its operations. Public statements must not contain any material misstatements, or omit any material information.

## **II. Purpose**

The purpose of this Disclosure Policy is to set forth guidelines for staff to utilize in developing procedures to ensure that the City complies with all applicable disclosure requirements under the federal securities laws in connection with the City’s debt obligations.

## **III. Objective**

The objective of this Disclosure Policy is to ensure (1) dissemination of timely, factual, and accurate information, (2) adherence with contractual disclosure obligations; and (3) compliance with State and Federal regulations.

## **IV. Oversight of Disclosure Activities**

The City Treasurer’s Office is responsible for assembling, disclosing, and disseminating each Official Statement. In preparing the Official Statement, the City Treasurer’s Office will engage the City Attorney’s Office, Bond/Disclosure Counsel, Financial Management, and any other required department. Each department will be responsible for the accuracy and timeliness

of all disclosure information. The City Treasurer's Office is also responsible for the preparation and filing of the annual continuing disclosure reports, and the timely dissemination of any material event notices. The City Treasurer's Office may elect to retain a third party service provider to assist with the preparation and filing of annual continuing disclosure reports and material event notices, including monitoring any rating changes with respect to the City' debt obligations.

## **V. Development of the Official Statement**

For debt obligations payable from the City's General Fund, the City Treasurer's Office, City Attorney's Office, and Financial Management will be responsible for the development of financial, operational, and statistical information. For non-General Fund debt obligations, additional officials from the respective department will also be involved. This includes, but not limited to senior executives, finance and operational managers, and support staff. Each department will be responsible for the development and accuracy of all necessary financial, operational, and statistical information.

## **VI. Annual Continuing Disclosure Reporting**

The City will prepare and file annual continuing disclosure reports to the MSRB's EMMA system until the debt obligations are retired. The annual continuing disclosure reports will be filed in accordance with the City's CDAs. The CDAs enumerate specific reporting requirements related to the City's operations and financial condition. The City's annual continuing disclosure reports will be filed within six months after the end of the City's fiscal year.

## **VII. Material Event Notices**

The City will notify the investor community of certain material events in connection with its debt obligations. Material event notices will be filed to the MSRB's EMMA system within ten days of occurrence. Events that would constitute a "material event" include:

1. Principal and interest payment delinquencies
2. Non-payment related defaults
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 or event affecting tax-exempt status of debt obligation
7. Modifications to the rights of a security holder
8. Bond Calls or Tender offers
9. Defeasances
10. Release, substitution, or sale of property securing repayment of a debt obligation
11. Rating changes
12. Bankruptcy, insolvency, or receivership

13. Merger, consolidation, acquisition, or sale of all issuer assets

14. Change of fiscal agent or trustee

### **VIII. Review and Approval of Disclosure Information**

The City Treasurer's Office will facilitate and be responsible for the final review process of the disclosure information, including the official statements and annual continuing disclosure reports. Generally, the review process shall engage the City Attorney's Office, Bond/Disclosure Counsel, Financial Management, Municipal Advisers, Bond Underwriters, and any other required City department. The department providing the disclosure information and/or explicitly assigned responsibility for its review will be responsible for the accuracy of the disclosure material. Each department will also provide the City Treasurer's Office with final approval to disseminate.

### **IX. Care in Public Statements**

In connection with any publicly offered debt obligation and in order to avoid any disclosure issues, care will be taken to avoid any public misstatements that pertain to the City's fiscal, financial condition, or its operations. This includes, but is not limited to omission of material information, speeches, press releases, social media, and website postings.

### **X. Identification and Correction of Disclosure Issues**

The City Treasurer's Office is responsible for identifying and correcting any disclosure issues. The City Treasurer's Office will consult with Disclosure Counsel to determine the City's options and alternatives in order to resolve any disclosure issues. Additionally, each department will be responsible for notifying the City Treasurer's Office of any potential or actual disclosure issues, or adverse changes in operations or financial matters.

### **XI. Education and Staff Training**

Periodically, the City Treasurer's Office with the assistance of Disclosure Counsel will provide educational and training sessions for staff involved in the preparation of the Official Statement and continuing disclosure reports. Educational and training sessions will be provided to identify relevant disclosure information.

### **XII. Engagement of Outside Disclosure Counsel**

The City Treasurer's Office along with the City's Attorney's Office will engage outside Disclosure Counsel with expertise in federal securities laws for advice with respect to the City's disclosure requirements and obligations. Disclosure Counsel will assist the City in the preparation of the Official Statements and continuing disclosure reports. Disclosure Counsel will also provide a "Negative Assurance Letter" regarding the disclosure in the Official Statements. Generally, the Negative Assurance Letter should state that Disclosure Counsel provided legal advisory services to the City and that although Disclosure Counsel is not guaranteeing the accuracy or completeness of the information in the Official Statement, no untrue or misleading statement, or omission of any material fact came to the attention of the attorneys working on the public offering.

### **XIII. Definitions**

Continuing Disclosure Agreement (CDA): The agreement or undertaking by the issuer of municipal securities to disseminate annual financial information, certain operating information, and disclosures concerning certain events to the investor community.

Departments: Any City department that issues debt obligations such as the Airport, Gas and Oil, Harbor, and Water.

Material Information: Any information related to a securities transaction that an investor would be likely to consider important in making investment decisions. Material information may include financial, operational, or statistical information.

Material Event Notice: A disclosure or alert notification informing the investor community of certain enumerated events relating to a debt obligation.

Municipal Securities Rulemaking Board (MSRB): A self-regulatory organization that is charged with primary rulemaking authority over municipal securities dealers and municipal advisors in connection with their municipal securities and municipal advisory activities.

Electronic Municipal Market Access (EMMA) System: A centralized online source for free access to municipal disclosures, market transparency data, and educational materials about the municipal securities market.

Negative Assurance Letter: A letter provided by Disclosure Counsel stating that particular facts outlined in the documentation are believed to be accurate since no contrary evidence has been found.

Official Statement (OS): A document prepared by or on behalf of the issuer of municipal securities in connection with a public offering that discloses material information on the debt obligations. Official statements typically include information regarding the purposes of the issue, source of payment, and the financial and economic characteristics of the issuer. Investors use this information to evaluate the credit quality of the securities and potential risks of the public offering.

Securities Exchange Commission (SEC): The SEC is the federal agency responsible for supervising and regulating the securities industry.

SEC Rule 15c12-2: This rule requires municipal issuers to enter into written agreements to provide certain information on an ongoing basis. This includes but not limited to financial, operation, and statistical data, as well as material event notices.