

EXECUTIVE SUMMARY

Process for Filing Audited FY 2010 CAFR on Electronic Municipal Market Access (EMMA) System

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: April 29, 2011

IBA Report Number: 11-26

Audit Committee Docket Date: May 2, 2011

Item Number: 2b

In response to a request from Councilmember DeMaio at the Audit Committee meeting on April 11, 2011, the IBA and the Office of the City Auditor have reviewed issues related to transmitting the FY 2010 CAFR to EMMA before additional internal review by the Audit Committee and City Council. We considered trade-offs between additional internal review (beyond the draft CAFR review options for the Audit Committee discussed in this report) and further delays in transmitting the audited CAFR to the financial markets.

Our offices recommend following the approach provided by the City's Disclosure Counsel and Independent Consultant in 2009 in order to immediately convey, rather than further delay, important City information to the financial markets. The language recommended by the City's Disclosure Counsel to accompany the EMMA filing informs and assures investors that any material changes to the CAFR attributable to additional Audit Committee or City Council review will be highlighted in a subsequent filing.

Given the challenges associated with public review/discussion of unaudited draft CAFRs by the Audit Committee or City Council, the IBA and City Auditor further recommend the Audit Committee consider existing Municipal Code provisions, management practices and the prior CAFR review suggestion presented in this report. In particular, we suggest 1) assigning a Committee member to attend DPWG meetings where the draft CAFR is reviewed and 2) taking time to review the substantially final draft CAFR before the audit opinion is issued. These opportunities will help the Audit Committee to better understand the City's CAFR development and review processes before an audit opinion is issued.



MEMORANDUM

TO: Audit Committee
City Council

FROM: John M. McNally 

DATE: March 21, 2009

RE: Filing/Posting of 2008 CAFR

The City is required, pursuant to continuing disclosure agreements entered into in accordance with SEC Rule 15c2-12, to file with national repositories certain financial information and operating data, including audited financial statements, on an annual basis. The first such deadline is March 26. It is expected that an executed audit letter will be issued by Macias regarding the fiscal year 2008 financial statements by March 25. As of that date, such financial statements will not have been reviewed by the Audit Committee or received and filed by the City Council.

The SEC staff has advised, in an interpretation of Rule 15c2-12 requirements, that “[i]f audited financial statements are not available by the time the annual financial information must be provided, unaudited financial statements must be provided as part of the annual financial information.” In light of such advice, and most particularly because the City will have not simply unaudited financial statements but audited financial statements that are complete (subject to certain additional voluntarily-implemented control processes), it is our recommendation that the City file the audited financial information statements when available in order to meet the various continuing disclosure agreements filing dates. It is our further recommendation that any such filings be accompanied by language substantially along the following lines:

We have attached the City's fiscal year 2008 Comprehensive Annual Financial Report ("CAFR"), which includes the City's fiscal year 2008 audited financial statements. Pursuant to disclosure controls and procedures adopted by the City, the CAFR is required to be approved by the City's Audit Committee and received and filed by the City's City Council. Those additional procedures of the Audit Committee and the City Council have not yet occurred, and were they to result in any material changes to the CAFR, such changes will be highlighted in a subsequent filing. In addition, the City will make a filing to advise when the Audit Committee and City Council processes have been completed.

Stanley Keller, Independent Consultant, has reviewed and provided comments regarding this advice, and concurs in the conclusion.

cc: Brant C. Will