

# City of Cedar Rapids, Iowa BOND DISCLOSURE POLICY

## Article I *General Overview*

This Bond Disclosure Policy ("Policy") of the City of Cedar Rapids, Iowa (the "City") is intended to establish a framework for compliance by the City with its disclosure and/or contractual obligations with respect to the securities it issues pursuant to the requirements of the Securities Exchange Act of 1934, as amended, and the Securities Act of 1933, as amended, including, in particular, Rule 15c2-12, as amended (the "Rule"), promulgated under the Securities Exchange Act of 1934, as amended, and other applicable rules, regulations and orders.

Section 1.01. Background. The City has issued and expects to continue to issue Obligations in the public debt markets and, in connection therewith, to issue offering documents and to enter into Disclosure Agreements consistent with the Rule designed to update financial and operating information contained in the offering documents at least annually, and to file timely notices of certain events with the MSRB through EMMA. Investors rely on the filings in deciding whether to buy, hold or sell the City's Obligations.

Under federal securities laws, the City must exercise reasonable care to avoid material misstatements or omissions in preparing Official Statements and offering documents that are used to sell Obligations in primary offerings, and it may not knowingly or recklessly include material misstatements or misleading statements in other public statements while its obligations are outstanding. Knowledge of any officer or employee of the City as well as information in files of the City may be imputed to the City. Disclosure Counsel opinions may help to establish care, but are no defense to an action for failing to disclose or misstating a known material fact.

Section 1.02. Purposes. The purposes of this Policy are to formally confirm and enhance existing policies and procedures regarding compliance with federal securities laws relating to disclosure in order (i) to facilitate compliance with applicable laws and existing contracts when preparing and distributing disclosure documents in connection with offerings of Obligations and continuing disclosure documents, (ii) to reduce exposure of the City and its officials and employees to liability for damages and enforcement actions based on misstatements and omissions in disclosure documents, (iii) to reduce borrowing costs by promoting good investor relations, (iv) to avoid damage to residents of the City and other third parties from misstatements or omissions in disclosure documents, and (v) to comply with the Order.

Section 1.03. Policy. It is the policy of the City to comply fully with applicable securities laws regarding disclosure in connection with the issuance of Obligations and with the terms of its Disclosure Agreements.

Section 1.04. Definitions. In addition to the terms defined above, the following capitalized terms shall have the following meanings:

- (A) "Annual Filing" shall have the meaning set forth in Section 4.01 of this Policy.
- (B) "CAFR" means the Comprehensive Annual Financial Report of the City.
- (C) "Disclosure Agreement" means the provisions of each continuing disclosure certificate, or other agreement of the City, by which the City undertakes to provide financial and operating data periodically, and timely notices of certain events, to the MSRB under the Rule.
- (D) "Disclosure Coordinator" means the individual designated in Section 2.01 of this Policy.
- (E) "Disclosure Counsel" means legal counsel (which may be bond counsel retained under separate engagement for a series of Obligations) engaged for the purpose of assisting the City in meeting its primary and secondary market disclosure obligations.
- (F) "Disclosure Working Group" means the individuals described in Section 2.02 of this Policy.
- (G) "EMMA" means the Electronic Municipal Market Access system of the MSRB. Information regarding submissions to EMMA is available at <http://emma.msrb.org/>, which address may be changed by the MSRB from time to time.
- (H) "Event Notice" means the notice described in Section 5.01 of this Policy.
- (I) "Financial Obligation" means a (i) debt obligation<sup>1</sup>; (ii) derivative instrument entered in connection with, or pledged as security or a source of

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<sup>1</sup> The term "debt obligation" includes, but is not limited to: (1) any short-term or long-term debt obligation of the City under the terms of an indenture, loan agreement or similar contract; (2) a direct purchase of municipal securities of the City by an investor; (3) a direct loan to the City by a bank; and (4) generally, lease arrangements entered into by the City that operate as a vehicle to borrow money. The City should analyze each "Financial Obligation" upon the facts and circumstances in accordance with the Rule, and any subsequent guidance thereunder by the SEC.

payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii).

By way of further explanation of the definition:

- a. The term Financial Obligation is intended to distinguish debt, debt-like, and debt-related obligations (which could impact the City's liquidity, overall creditworthiness, or an existing Obligation-holder's rights) from ordinary financial and operating obligations incurred in the normal course of City operations.
- b. The term Financial Obligation shall not include Obligations as to which an Official Statement has been provided to the MSRB consistent with the Rule.
- c. The term Financial Obligation includes lease arrangements entered into by the City that operate as vehicles to borrow money, e.g. create an obligation to repay borrowed money over time under the terms of a lease equivalent to a similar obligation incurred under the terms of an indenture, loan agreement or similar contract, but does not include lease arrangements that are not vehicles to borrow money (e.g. operating leases) which do not represent competing debt of the City.
- d. A "derivative instrument" includes a swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing, or any similar instrument to which the City is a counterparty, designed to hedge against the risks of a related debt obligation, as opposed to such vehicles designed to mitigate investment risk.

(J) "Fiscal Year" means the fiscal year of the City, beginning on July 1 and ending on the following June 30.

(K) "Listed Event" means any of the events listed on Exhibit A of this Policy.

(L) "MSRB" means the Municipal Securities Rulemaking Board or any other board or entity which succeeds to the functions currently delegated to the Municipal Securities Rulemaking Board by the Rule.

(M) "Municipal Advisor" means a municipal advisor engaged for the purpose of assisting with the City's structuring and sale of Obligations.

(N) "Obligations" means any bonds, notes and other debt obligations or securities that are issued by, or whose payment is guaranteed by, the City that are sold to or otherwise held or traded in by the public and subject to the Rule<sup>2</sup>.

(O) "Official Statement" shall mean any preliminary or final official statement issued in connection with a primary offering of Obligations.

(P) "Order" means Order No. 10141, dated August 24, 2016, Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, issued by the SEC in connection with its investigation of the City pursuant to the Municipalities Continuing Disclosure Cooperation Initiative.

(Q) "Rule" means 15c2-12, as amended, promulgated under the Securities Exchange Act of 1934.

(R) "SEC" means the United States Securities and Exchange Commission.

## **Article II**

### ***Key Participants and Responsibilities***

Section 2.01. Disclosure Coordinator. By adoption of this Policy, the City hereby appoints the Finance Director to act as the Disclosure Coordinator for the City.

Section 2.02. Disclosure Working Group. The Disclosure Coordinator, along with the Municipal Advisor, shall serve as the Disclosure Working Group under this Policy. The Disclosure Working Group shall implement the procedures set forth in this Policy when preparing preliminary and final Official Statements, Annual Filings and Event Notices under this Policy, including consultation with engaged Disclosure Counsel, if any.

## **Article III**

### ***Official Statements***

Section 3.01. Preliminary Consultations. Whenever the City Council determines to issue a series of Obligations, the Disclosure Working Group shall determine whether an Official Statement will be prepared.

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<sup>2</sup> Various offerings are fully or partially exempt from the continuing disclosure provisions under the Rule. Offerings with an aggregate original principal amount of less than \$1 million, offerings sold prior to July 3, 1995, and offerings sold by an issuer directly to investors without using a broker, dealer, or municipal securities dealer as an underwriter or placement agent are entitled to certain exemptions from continuing disclosure provisions under the Rule, unless the City voluntarily agrees to provide continuing disclosure for an otherwise exempt issue. Such exempt offerings may constitute a "Financial Obligation" under a Disclosure Agreement entered into after February 27, 2019.

Section 3.02. Establishing Scope and Process. Once it has been has determined that an Official Statement will be prepared, at the beginning of the disclosure process, the Disclosure Working Group will (a) determine (with input from the City's underwriters, in the case of a negotiated offering) what information should be disclosed in the Official Statement to present fairly a description of the source of repayment and security for the Obligations being offered, including related financial and operating information (which may include a discussion of material risks related to investment in the Obligations), (b) assign responsibilities for assembling and verifying the information, and (c) establish a schedule for producing the information and the Official Statement that will afford sufficient time for final review by the Disclosure Working Group and the approvals required by this Policy.

Section 3.03. Assembling Current Information. To the extent they determine necessary, the Disclosure Working Group shall (a) identify City employees who are likely to know or be able to obtain and verify required information, (b) request that they assemble, verify and forward information and also notify the Disclosure Coordinator of any other fact they believe may be important to investors, and (c) establish a reasonable but sufficient deadline for producing the information. The Disclosure Working Group, or a designated member thereof, shall produce a draft of the Official Statement based on the information collected or received.

Official Statements issued by the City within five years of the Order shall include a clear and conspicuous statement of the terms of the Order.

Section 3.04. Review for Accuracy and Completeness. Based on information known or reported to them, for each Official Statement related to the sale of Obligations, the Disclosure Working Group shall ensure that: (a) this Policy was followed, (b) the material facts in the Official Statement appear to be consistent with those known to the members of the Disclosure Working Group and (c) the Official Statement does not omit any material fact that is necessary to be included to prevent the Official Statement from being misleading to investors. The Disclosure Coordinator shall take such action as may be necessary, based on feedback from the Disclosure Working Group, to enable the Disclosure Working Group to conclude that this Policy was followed and that the Official Statement is accurate and complete in all material respects.

Section 3.05. Final Approval. The Disclosure Working Group shall approve the final draft of the preliminary Official Statement prior to release of such for the sale of Obligations. The Disclosure Coordinator thereafter shall submit the preliminary Official Statement to the City Council for review and approval. The City Council shall undertake such review as deemed necessary by the City Council, following consultation with the Disclosure Coordinator, to fulfill the City Council's responsibilities under applicable federal and state securities laws. The preliminary

Official Statement will be updated with final sale results (rates, re-offering yields, CUSIPS, purchaser, insurance, as applicable) for circulation in accordance with the Rule.

## **Article IV** ***Annual Filings***

Section 4.01. Working Group. The Disclosure Working Group shall cause to be prepared the annual financial information and operating data required to be filed with the MSRB pursuant to the Disclosure Agreements (the "Annual Filing"). The Annual Filings are generally required to include (i) certain updated financial and operating information, and (ii) the City's audited financial statements. All of the required information may be included in the City's CAFR for the most recently completed Fiscal Year, in which case the Annual Filing may consist of a copy of the CAFR.

Section 4.02. Assembling Current Information. The Disclosure Coordinator shall (a) confirm and maintain (updated after every issuance, defeasance or early redemption of a series of Obligations) a list of all financial information and operating data required to be filed with the MSRB pursuant to each of the Disclosure Agreements; (b) assign responsibilities to officers and employees for periodically assembling and verifying the data; (c) request that responsible parties assemble, verify, and forward data to the Disclosure Coordinator and notify the Disclosure Coordinator if they have learned of any other fact that they consider to be material with respect to the information provided; and (d) establish a schedule for producing the data (and the Annual Filing document) that will afford sufficient time for final review by the Disclosure Working Group and the Disclosure Coordinator and the approvals required by this Policy. The Disclosure Coordinator shall distribute drafts of the Annual Filing to the Disclosure Working Group for review together with a description of the process used to compile it.

Section 4.03. Review for Process, Accuracy, and Completeness. The members of the Disclosure Working Group shall ensure a review of the Annual Filing drafts and Disclosure Coordinator process description is completed to determine whether, based on information known or reported to them: (a) this Policy was followed, (b) the material facts in the Annual Filing appear to be consistent with those known to the members of the Disclosure Working Group, and (c) the Annual Filing does not omit any material fact that is necessary to be included to prevent the Annual Filing from being misleading to investors. The Disclosure Coordinator shall take such action as may be necessary, based on feedback from the Disclosure Working Group, to enable the Disclosure Working Group to conclude that this Policy was followed and that the Annual Filing is accurate and complete in all material respects.

Section 4.04. Final Approval. The Disclosure Working Group shall have approved the data incorporated into any Annual Filing.

Section 4.05. Posting. Once the Annual Filing has been finalized, the Disclosure Coordinator shall cause the Annual Filing to be filed with the MSRB through EMMA by the deadline established by the Disclosure Agreements. The Disclosure Coordinator shall exercise reasonable care to ensure the Annual Filing is completed in the format and with the identifying information required by the Disclosure Agreements, including applicable CUSIP numbers for the Obligations. The documents, reports and notices required to be submitted to the MSRB pursuant to this Policy shall be submitted through EMMA in an electronic format, and shall be accompanied by identifying information, in the manner prescribed by the MSRB, or in such other manner as is consistent with the Rule. A description of the format and information presently used to make filings with EMMA is included in Exhibit B to this Policy. All documents submitted to the MSRB through EMMA that are identified by specific reference to documents already available to the public on the EMMA website or filed with the SEC shall be clearly identified by cross reference.

Section 4.06. Failure to File Notice. In the event the City does not have audited financial statements available by the filing deadline imposed by the Disclosure Agreement, the Disclosure Coordinator shall cause the City's unaudited financial statements to be timely submitted with a notice to the effect that unaudited financial statements are being provided pending completion of audited financial statements and that the audited financial statements will be submitted to EMMA when they have been prepared. In the event neither audited nor unaudited financial statements are timely posted, the Disclosure Coordinator shall cause a "failure to file notice" posted to EMMA in accordance with the Rule. The failure to file notice for annual financial information shall include information describing the nature and/or cause of the failure to meet the contractual deadline and, if available, an approximate timeframe for when the complete annual financial information is expected to be submitted. Audited financial statements shall be filed on EMMA as soon as they are available.

If updated financial and operating information is not posted by the filing deadline, the Disclosure Coordinator shall cause a "failure to file notice" to be posted to EMMA in accordance with the Rule, and the financial and operating information shall be posted to EMMA.

## **Article V** ***Listed Event Filings***

Section 5.01. Identification of Reportable Listed Events. The Disclosure Coordinator shall maintain a list of events of which the City is required to provide

notice to the MSRB (each, an “Event Notice”) pursuant to the Disclosure Agreements. The current list of such events is attached to this Policy as Exhibit A (“Listed Event(s)”). The Disclosure Coordinator shall (a) identify officers and employees of the City (other than the Disclosure Working Group), if any, who are most likely to first obtain knowledge of the occurrence of Listed Events and (b) request in writing that such other officers and employees notify the Disclosure Coordinator immediately after learning of any such Listed Event (particularly any new Financial Obligations), regardless of materiality, and repeat such request in periodic reminders. Prior to the City’s first issuance of Obligations after February 27, 2019, a complete list of current Financial Obligations shall be compiled and submitted to the Disclosure Coordinator for continuous monitoring with regard to compliance with all Disclosure Agreements entered into on or after February 27, 2019.

Section 5.02. Preparation of Event Notice. The Disclosure Coordinator shall (a) assess the materiality of any Listed Event with the assistance of Disclosure Working Group (reportable under the Disclosure Agreements only if material) and, if notice of the Listed Event must be given (or if no materiality standard applied to that particular event); (b) prepare an Event Notice giving notice of the Listed Event; and (c) except for notices of a rating change, bond call, or defeasance, forward the draft Event Notice to the Disclosure Working Group for their review. To the extent Disclosure Coordinator determines notice for a Listed Event is not required based on the event not achieving a required level of materiality, Disclosure Coordinator shall document the basis for the determination.

Section 5.03. Posting. The Disclosure Coordinator shall cause the Event Notice to be filed with the MSRB through EMMA by the deadline established by the Disclosure Agreements or, if the facts cannot be correctly and fairly described by the deadline, then as soon thereafter as possible. The Disclosure Coordinator shall exercise reasonable care to ensure Event Notices are filed in the format and with the identifying information required by the Disclosure Agreements, including CUSIP numbers for the applicable Obligations.

Section 5.04. Failure to File Notice. If an Event Notice required under a Disclosure Agreement is not timely filed, the Disclosure Coordinator shall cause a "failure to file notice" to be posted to EMMA in accordance with the Rule.

## **Article VI** ***Miscellaneous***

Section 6.01. Documents to be Retained. The Disclosure Coordinator shall be responsible for causing records demonstrating compliance with this Policy to be retained. Such records may include compilations or summaries of the actions taken to prepare, check and approve an Official Statement, Annual Filing or Event Notice, as



applicable; records evidencing the comments or actions of the Disclosure Working Group in connection with a particular filing or document; or records describing the process followed by the Disclosure Coordinator or Disclosure Working Group to prepare a particular filing. The Disclosure Coordinator shall cause to be retained an electronic or paper file ("Transcript") for each Official Statement, Annual Filing and Event Notice that the City completes and files on the EMMA system. Each Transcript shall include final versions of documents submitted to the MSRB through EMMA, and any documentation related to determinations of materiality (or immateriality) of Listed Events. Transcripts shall be maintained for no less than five (5) years after the retirement of applicable Obligations.

Section 6.02. Education and Training. The Disclosure Coordinator and each City officer or employee designated as responsible for periodically assembling and verifying the data in connection with the preparation and filing of disclosure documents under this Policy shall undergo periodic training. The City Council also shall receive periodic training and/or materials prepared by or with the assistance of Disclosure Counsel or Bond Counsel, if any, to assist the City Council in understanding and performing their responsibilities under this Policy. Such training sessions may include a review of this Policy, the City's disclosure obligations under applicable federal and state securities laws, including the Listed Events in Exhibit A, the meaning of "material", and the disclosure responsibilities and potential liabilities of City staff and members of the City Council. Such training sessions may include presentations by Disclosure Counsel, teleconferences, attendance at seminars or conferences where disclosure responsibilities are discussed, and/or previously recorded presentations on disclosure-related topics. The Disclosure Coordinator shall retain records evidencing or summarizing the training provided or completed, as well as attendance by City staff and officials as required herein.

Section 6.03. Public Statements Regarding Financial Information. Whenever the City makes statements or releases information relating to its finances to the public that is reasonably expected to reach investors and the trading markets (including, without limitation, all Event Notices, statements in the annual financial reports, and other financial reports and statements of the City), the City is obligated to ensure that such statements and information are accurate and complete in all material aspects. The Disclosure Coordinator shall assist the Mayor, City Manager and City Council in ensuring that such statements and information are accurate and not misleading in any material aspect.

Section 6.04. Website Posting. The City's CAFRs are posted on the City's website ([www.cedar-rapids.org](http://www.cedar-rapids.org)). The Disclosure Coordinator shall ensure that investment-related information published on the City's website includes appropriate cautionary statements designed to notify the public that, among other things, the City website is not intended to be a substitute for information available on EMMA.

Section 6.05. Dissemination Agent. The responsibilities of the Disclosure Coordinator to make certain filings with the MSRB under Articles IV (Annual Filings) and V (Event Notices) may be delegated internally by means of the Finance Department-approved procedures, or by contract to a dissemination agent under terms approved by the City Council.

Section 6.06. Periodic Review of Policy. This Policy shall be reviewed periodically by the Disclosure Working Group, which may make recommendations for changes at any time to the City Council so that this Policy fosters better compliance with applicable law, results in better information to investors, or makes procedures required by this Policy more efficient.

Originally approved the 6th day of December, 2016.

Revised this 26 day of March, 2019.

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## EXHIBIT A

### LISTED EVENTS

*The following events automatically trigger a requirement to file on EMMA within ten (10) business days of their occurrence (listed events are subject to change by the SEC):*

- (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*;

*Additionally, the following events apply to Disclosure Agreements entered into by the City on or after February 27, 2019:*

(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.

\*Materiality is determined upon the incurrence of each distinct Listed Event, taking into account all relevant facts and circumstances. A Financial Obligation is considered to be incurred when it is enforceable against the City, and notice of such should be posted at that time. Event notices for Financial Obligations (e.g. under 15 and 16 above) should generally include a description of the material terms of the Financial Obligation, including: (i) date of the incurrence, (ii) principal amount, (iii) maturity and amortization; (iv) interest rate(s), if fixed, or method of computation, if variable, (v) other appropriate terms, based on the circumstances. In addition to a summary of material terms, the City may alternatively, or in addition, submit related materials, such as transaction documents (which may require some redaction), terms sheets prepared in connection with the Financial Obligation, or continuing covenant agreements or financial covenant reports.

## EXHIBIT B

### Suggested Practices in Submitting Annual Financial Information to EMMA\*

#### Annual Financial Information is to be submitted to EMMA as follows:

- through the EMMA Dataport;
- in one or more electronic word-searchable portable document format files configured to permit documents to be saved, viewed, printed and retransmitted by electronic means ("properly formatted pdf file"); and
- indexed by the submitter as "Annual Financial Information and Operating Data" – this EMMA indexing category should be used for all submissions consisting of one or both parts of an annual financial information submission. A submission should be indexed in EMMA by the submitter as "Annual Financial Information and Operating Data" if it consists of complete annual financial information (including audited financial statements and/or the CAFR).
- indexed by the submitter as "Audited Financial Statements or CAFR" for the annual audit.

#### If the audited financial statements have not been prepared in time to meet the deadline:

- file unaudited financial statements with a notice to the effect that the unaudited financial statements are being provided pending completion of audited financial statements and that the audited financial statements will be submitted to EMMA when they have been prepared.

#### If annual financial information is provided by reference to other submitted documents file:

- a notice that includes specific reference to a document available on the EMMA website or the SEC (such as, but not limited to, an official statement), to the extent that such document in fact includes the information required to be include in the annual financial information; and
- the submitter should confirm that such document in fact is available from the EMMA website or the SEC and should include in such notice (A) a textual description of the document that includes the required information, with sufficient detail for a reasonable person to determine the precise

document being referenced, and (B) an active hyperlink to the pdf file of such document as then posted on the EMMA website or to the SEC's EDGAR system; further, if such document includes audited financial statements, the submitter should also index such submission as "Audited Financial Statements or CAFR" in addition to (but not instead of) "Annual Financial Information and Operating Data" unless the submitter submits such audited financial statements separately to EMMA.

**Failure to file notices are to be submitted to EMMA as follows:**

- through the EMMA Dataport;
- as an electronic word-searchable and properly formatted pdf file; and
- indexed by the submitter as "Failure to Provide Annual Financial Information."

\* *The above procedures are subject to change by the MSRB.*