

## Attachment A: Minimum Language

### 1. Transparency

- The Entity shall comply with legal requirements for notice and for public meetings related to debt issuance. In the interest of transparency, all costs (including interest, issuance, continuing, and one-time) shall be disclosed to the citizens/members, governing body, and other stakeholders in a timely manner. *(The method for disclosure of costs and other information, including documentation of compliance with the policy, shall be developed and outlined in the policy.)*

### 2. Professionals

- The Entity shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the Entity and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.
- Counsel<sup>i</sup>: The Entity shall enter into an engagement letter agreement with each lawyer or law firm representing the Entity in a debt transaction. *(No engagement letter is required for any lawyer who is an employee of the Entity or lawyer or law firm which is under a general appointment or contract to serve as counsel to the Entity. The Entity does not need an engagement letter with counsel not representing the Entity, such as underwriters’ counsel.)*
- Financial Advisor<sup>ii</sup>: ~~*If the Entity chooses to hire financial advisors, the Entity must select between the following options:*~~  
~~The Entity~~ shall enter into a written agreement with each person or firm serving as financial advisor ~~in for~~ debt management and transactions.  
~~Whether in~~ a competitive or negotiated sale, the financial advisor ~~(either):~~  
~~s~~shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance; or,
  - ~~may bid on an issue for which they are providing advisory services only if (i) the governing body or designated official grants in writing specific authority on a transaction by transaction basis, (ii) such sale is properly carried out through a widely and publicly advertised sale, during normal bond sale hours, and through an industry standard, electronic bidding platform not requiring~~

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~~verification by the financial advisor, and (iii) the financial advisor fee is separately disclosed and billed from the underwriting fee.~~

- ~~• In a publicly offered, negotiated sale, the financial advisor (*either*):~~
  - ~~• shall not be permitted to resign as financial advisor in order to underwrite an issue for which they are or have been providing advisory services; or~~
  - ~~• may resign as financial advisor in advance of negotiations in order to underwrite an issue for which they are or have been providing advisory services.~~
- Underwriter: ~~(If there is no financial advisor)~~ It is an underwriter, the Entity shall require the Underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the Entity with respect to that issue. The Underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the Entity. The ~~u~~Underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the governing body (or its designated official) in advance of the pricing of the debt.

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### 3. Conflicts

- Professionals involved in a debt transaction hired or compensated by the Entity shall be required to disclose to the Entity existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the Entity to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

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<sup>i</sup> The requirement for an engagement letter does not apply to any lawyer who is an employee of the Entity or any lawyer or law firm under a general appointment as counsel to the Entity and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the Entity in that transaction, the Entity will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- a. the party represented in the debt transaction; and
- b. the Entity's obligation with respect to the payment of such lawyer or law firm's fees and expenses.

<sup>ii</sup> For new issues of debt which constitutes a "security" for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1)(a)) occurs after November 27, 2011, It is anticipated that the role of the financial advisor will be clarified by the Municipal Securities Rulemaking Board in the next few years has prohibited broker, dealer or municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies will have to must be adjusted to comply with any such clarification amended Rule G-23 as it applies to securities, including exceptions to the prohibition.