Hawkins
DELAFIELD & WOOD LLP

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