

**PORT OF GALVESTON
REQUEST FOR DISCUSSION AND
TRUSTEES ACTION**

**BUSINESS
ITEM**

PREPARED BY: Anthony Brown

Port Attorney

September 26, 2023

SUBJECT: Discuss and Consider Approval of a proposed Bond Working Group Procedures Memorandum with the City of Galveston

BACKGROUND: Attorney Barron Wallace of Bracewell LLP serves as the City's Bond Counsel. Mr. Wallace also serves as Bond Counsel to the City of Houston, which has a number of component utilities for which it issues revenue bonds. In order to streamline and establish clear procedures and processes in connection with the issuance of these bonds, Mr. Wallace has assisted in preparing written memoranda for the City of Houston and its component utilities which document those processes and procedures.

At the request of City staff, Mr. Wallace has prepared an initial draft of a Memorandum for use by the City of Galveston and the Board of Trustees of the Galveston Wharves, should the Board request the City to issue revenue bonds in the future. (If approved, this Memorandum would not apply to the bond issue currently proposed relating to the improvements to Cruise Terminal No. 25, but would apply to any subsequent proposed bond issues.)

An initial draft of this Memorandum was included on the Agenda for the Board's September 6, 2023 Special Meeting; however, consideration was deferred at the request of Legal Counsel, due to some additional changes requested by the City Attorney. The Memorandum has now been finalized, and was approved by City Council at Council's September 14, 2023 Special Meeting.

A copy of proposed Memorandum is attached for Trustee review.

ADDITIONAL INFORMATION ATTACHED:

No _____

Yes Y

RECOMMENDATIONS: The Board of Trustees is respectfully requested to consider the information set out above and the attached initial draft, and then consider approval of the attached Memorandum.

Respectfully Submitted By:

 /s/ Anthony Brown
Anthony Brown, Legal Counsel



Debt Issuance Procedure
Galveston Wharves Board and City of Galveston
September 2023

I. General

a. Purpose

- i. It is the stated objective of the City of Galveston (the “City”) to ensure that any debt issued by the City on behalf of the Board of Trustees of the Galveston Wharves (the “Galveston Wharves”) complies with all applicable federal (inclusive of federal tax and securities laws) and state laws and promotes best practices relating to bond financings.
- ii. The procedure described herein is to take force effective immediately and applies to any subsequent sale in addition to debt management policies adopted separately by the City Council and Wharves Board. Where those policies may be in conflict with the procedures described herein, the Working Group will cooperate to reconcile said differences and revise policies accordingly.

II. Key Participants in Galveston Wharves Bond Financings

a. The “Working Group” consists of the following members:

- i. City Management Team – The City Manager, Deputy City Manager, Assistant City Manager, Executive Director for Financial Planning and Budgeting, Assistant Finance Director, and any other designee of the City.
- ii. City Attorney – The City Attorney and/or any other designee of the City Attorney.
- iii. City Financial Advisor – The financial advisor of the City at the time. The financial advisor has a fiduciary duty to act in the best interest of the City and provides advice to the City in connection with bond financings.
- iv. Bond Counsel – The current bond counsel to the City assists with the preparation of the documents related to any bond financings, ensures that the bond issue conforms to all pertinent legal requirements and delivers legal opinions in connection with such financings, among other things.
- v. Galveston Wharves Management – The Galveston Wharves consists of the Port Director and CEO and the Director of Finance, and any other designee of the Galveston Wharves.

- vi. Galveston Wharves Financial Advisor – The current financial advisor of the Galveston Wharves. The financial advisor has a fiduciary duty to act in the best interest of the Galveston Wharves and provides advice to the Galveston Wharves in connection with bond financings.
 - vii. Galveston Wharves General Counsel – The current general counsel of the Galveston Wharves. The general counsel assists with preparation of documents related to the Galveston Wharves (e.g., resolution requesting City approval), among other things.
- b. Key Participants to be Selected by the Working Group
- i. Underwriters – Underwriters are selected by the Galveston Wharves and approved by the City. This consists of registered broker-dealers that purchase bonds from the City for resale to investors.
 - ii. Underwriters’ Counsel – Underwriters’ counsel represents the interests of the Underwriters in connection with the purchase of the bonds and reviews the disclosure in the official statement, prepares the purchase contract, and delivers a negative assurance letter, among other things.

III. Working Group Meetings and Responsibilities

- a. Purpose
- i. The purpose of the Working Group is to produce a bond financing that is economical and efficient, that protects the interests of the City and the Galveston Wharves, and that is supported by financing documents which reflect favorably on the City and the Galveston Wharves.
- b. Meetings
- i. First Kick-Off Meeting
 - (i) The Working Group will review information available for any and all proposed projects and the plan of finance.
 - (ii) The Working Group will review the current financials of the Galveston Wharves.
 - (iii) The City Financial Advisor and the Galveston Wharves Financial Advisor will each present reports on the proposed project and plan of finance.

- (iv) The Working Group will select the Underwriters from lists resulting from a pre-established RFP process and/or recommendations by the financial advisors.
- (v) The Working Group will review key disclosure items that will be presented in the preliminary official statement and official statement.
- (vi) A management summary of the proposed sale will be prepared that reflects the parameters discussed in the Working Group for projects financed, financial support for payment of any long-term debt, for parameters unique to the specific sale in question, as well as underwriters, legal counsel and financial advisors taking part in the sale.
- (vii) The management summary will be presented to the Wharves Board and the City Council to gain approval for the sale process to proceed.

ii. Second Kick-Off Meeting

- (i) After City Council and Board approvals are secured, Galveston Wharves Financial Advisor will prepare a detailed timeline for the bond financing which will include the date offering documents will be posted, the sale date and closing date for the transaction.
- (ii) The Working Group and those accountable to it will work cooperatively to meet target dates and will establish and implement task responsibility and a work schedule, if necessary.

c. Tasks to be Performed include the following, among others:

- i. Prepare Bond Documents;
- ii. Diligence;
- iii. Rating Agency Meetings (after First Kick-Off Meeting);
- iv. Diligence Call;
- v. Investor Presentation;
- vi. Sign Bond Purchase Agreement;
- vii. Receive Attorney General Approval;
- viii. Closing Documents Delivered; and

ix. Close Bond Financing.

IV. Galveston Wharves Bond Financings Process - Resolution and Ordinance

a. Initial Process

i. Galveston Wharves Resolution

- (i) The Galveston Wharves must take formal action by resolution to request that the City issue bonds, such resolution should include the material financial terms of the proposed bond financing.

ii. City Council Meetings

- (i) The Galveston Wharves and the Galveston Wharves Financial Advisor will present the proposed bond financing to the City's Finance Committee.
- (ii) The City's Finance Committee will make a recommendation regarding the proposed bond financing and present it to City Council for discussion.
- (iii) Bond counsel will prepare an ordinance regarding the proposed financing.

iii. City Council Ordinance

- (i) The Ordinance will authorize the issuance and sale of the bonds, approve the execution and delivery of certain documents, and authorize the Working Group to complete the sale and delivery of the bonds, among other things.
- (ii) If City Council approves the ordinance, the Working Group will be directed to take all actions reasonably necessary to provide for the issuance of the bonds.
- (iii) All documents required to be placed before the City Council in its approval with the bond shall be filed with the City Secretary two weeks prior to the City Council meeting at which the issuance will be considered.

V. Use of 3rd Party Providers

b. The City may use certain 3rd party providers that are required in connection with any bond financing, including the following, if approved by City Council:

- i. Disclosure Counsel;

- ii. Special Tax Counsel;
- iii. Verification Agent;
- iv. Accountant and/or Engineer for Additional Bond Tests; and
- v. Feasibility Consultant.

VI. Galveston Wharves Bond Issuance Costs

i. All costs incurred in the issuance of bonds for the use by the Wharves Board shall be paid by the Wharves Board. In the event the decision is made not to issue bonds for the Wharves Board, any costs incurred in making that determination shall be paid by the Wharves Board.