



MEMORANDUM

September 3, 2010

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator *ES*
Russ Truell, Assistant City Administrator/CFO

SUBJECT: Agreement with Standard & Poor's Rating Services

Purpose

The purpose of this memorandum is to provide information to the Board of Mayor and Aldermen (BOMA) to consider an agreement with Standard & Poor's Rating Services for a financial rating on the City's upcoming bond issue.

Background

Standard & Poor's now requires an agreement that lists the "terms and conditions" under which they will issue a bond rating. This practice has been instituted since our last rating review.

Financial Impact

There is no difference in the cost of the rating due to this agreement. Failure to obtain the additional bond rating could result in slightly higher interest rates on the proposed bond issue.

Recommendation

Staff recommends approval of the Agreement, subject to suggestions or modifications made by the City Attorney.

Russell Truell

From: Russell Truell
Sent: Tuesday, August 31, 2010 3:25 PM
To: Shauna Billingsley
Subject: FW: Standard & Poor's - City of Franklin, Tennessee

Last bond issue, it was Moody's asking for an agreement. This time it's Standard & Poor's. would you mind looking over these "terms and conditions"?

From: Hearne, Felecia [mailto:felecia_hearne@standardandpoors.com]
Sent: Tuesday, August 31, 2010 3:03 PM
To: lowel@pfm.com; Russell Truell
Cc: Smaardyk, Sarah; Walton, Kathryn
Subject: Standard & Poor's - City of Franklin, Tennessee

Alexander M. Fraser
Managing Director
500 North Akard Street
Lincoln Plaza, Suite 3200
Dallas, TX 75201
tel 214 871-1406
alexander_fraser@standardandpoors.com

issueno.:1141031

The McGraw Hill Companies

**STANDARD
& POOR'S**

August 31, 2010

City of Franklin
109 Third Avenue South
Franklin, TN 37064
Attention: Mr. Russ Truell, Chief Financial Officer

Re: *US\$16,380,000 City of Franklin, Tennessee, General Obligation Refunding Bonds, Series 2010, dated: Date of Delivery, due: March 1, 2024*

Dear Mr. Truell:

Thank you for your request for a Standard & Poor's rating for the above-referenced obligations. In accepting a Standard & Poor's rating, you agree to accept and comply with this letter and the enclosed Terms and Conditions.

We will make every effort to provide you with the high level of analytical performance and knowledgeable service for which we've become known worldwide. The analytic team from Standard &

Poor's is Sarah Smaardyk and Theodore Chapman. If you have any questions at any time, please feel free to contact Sarah at 214-871-1428 or by email at sarah_smaardyk@standardandpoors.com. Theodore can be reached at 214-871-1401 or by email at theodore_chapman@standardandpoors.com.

If you have not already done so, please forward a set of all pertinent information to each analyst at the following address:

*Standard & Poor's Ratings Services
Public Finance Department
500 North Akard Street
Lincoln Plaza, Suite 3200
Dallas, TX 75201*

Please feel free to call or contact me at nypublicfinance@standardandpoors.com if you have any questions or suggestions. In addition, please visit our web site at www.standardandpoors.com for our ratings definitions and criteria, research highlights and related information. We appreciate your business and look forward to working with you.

Sincerely yours,

Standard & Poor's Ratings Services
a Standard & Poor's Financial Services LLC business

fh

enclosure

cc: Ms. Lauren Lowe, Senior Managing Consultant
Public Financial Management

**Standard & Poor's Ratings Services
Terms and Conditions Applicable To Ratings**

You understand and agree that:

General. The ratings and other views of Standard & Poor's Ratings Services ("Ratings Services") are statements of opinion and not statements of fact. A rating is not a recommendation to purchase, hold, or sell any securities nor does it comment on market price, marketability, investor preference or suitability of any security. While Ratings Services bases its ratings and other views on information provided by issuers and their agents and advisors, and other information from sources it believes to be reliable, Ratings Services does not perform an audit, and undertakes no duty of due diligence or independent verification, of any information it receives. Such information and Ratings Services' opinions should not be relied upon in making any investment decision. Ratings Services does not act as a "fiduciary" or an investment advisor. Ratings Services neither recommends or will recommend how an issuer can or should achieve a particular rating outcome nor provides or will provide consulting, advisory, financial or structuring advice.

All Rating Actions in Ratings Services' Sole Discretion. Ratings Services may assign, raise, lower, suspend, place on CreditWatch, or withdraw a rating, and assign or revise an Outlook, at any time, in Ratings Services' sole discretion. Ratings Services may take any of the foregoing actions notwithstanding any request for a confidential rating or a withdrawal of a rating, or termination of this Agreement. Ratings Services will not convert a public rating to a confidential rating.

Publication. Ratings Services reserves the right to use, publish, disseminate, or license others to use, publish or disseminate the rating provided hereunder and any analytical reports, including the rationale for the rating, unless you specifically request in connection with the initial rating that the rating be assigned and maintained on a confidential basis. If, however, a confidential rating or the existence of a confidential rating subsequently becomes public through disclosure other than by an act of Ratings Services or its affiliates, Ratings Services reserves the right to treat the rating as a public rating, including, without limitation, publishing the rating and any related analytical reports. Any analytical reports published by Ratings Services are not issued by or on behalf of you or at your request. Notwithstanding anything to the contrary herein, Ratings Services reserves the right to use, publish, disseminate or license others to use, publish or disseminate analytical reports with respect to public ratings that have been withdrawn, regardless of the reason for such withdrawal. Ratings Services may publish explanations of Ratings Services' ratings criteria from time to time and nothing in this Agreement shall be construed as limiting Ratings Services' ability to modify or refine its ratings criteria at any time as Ratings Services deems appropriate.

Information to be Provided by You. For so long as this agreement is in effect, in connection with the rating provided hereunder, you warrant that you will provide, or cause to be provided, as promptly as practicable, to Ratings Services (i) all information requested by Ratings Services in accordance with its published ratings criteria, and (ii) any other information relevant to the rating and, if applicable, surveillance of the rating, including, without limitation, information on material changes to information previously provided by you, your agents or advisors to Ratings Services, other than information you reasonably believe is not material to the rating or such surveillance. The rating, and the maintenance of the rating, may be affected by Ratings Services' opinion of the information received from you or your agents or advisors. You further warrant that all information provided to Ratings Services by you or your agents or advisors regarding the rating or, if applicable, surveillance of the rating, contains no untrue statement of material fact and does not omit a material fact necessary in order to make such information, in light of the circumstances in which it was provided, not misleading. A material breach of the warranties in this paragraph shall constitute a material breach of this Agreement. To the extent permitted by applicable law, you will be liable to Rating Services and its affiliates for all losses, damages, liabilities, judgments, costs, charges and expenses (including reasonable attorneys' fees) ("Losses") (x) resulting from a material breach of the warranties in this paragraph, including but not limited to all Losses arising from claims asserted by any third party against Ratings Services, or (y) that arise out of or relate to any claim that the information provided by you or your agents or advisors infringes or violates the intellectual property rights of a third party, except in either case, to the extent such Losses are judicially determined to result from gross negligence or willful misconduct of Ratings Services.

Confidential Information. For purposes of this Agreement, "Confidential Information" shall mean information that you or your agents or advisors have provided to Ratings Services and, in a specific and particularized manner, have marked or otherwise

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Ratings Services’ Use of Information. Except as otherwise provided herein, Ratings Services shall not disclose Confidential Information to third parties. Ratings Services may use Confidential Information to assign, raise, lower, suspend, place on CreditWatch, or withdraw a rating, and assign or revise an Outlook, and may share Confidential Information with its affiliates engaged in the ratings business, provided that, in each case, the Confidential Information is not presented publicly in a way that can be attributed to you and such affiliates are bound by appropriate confidentiality obligations. Ratings Services may also use, publish and share Confidential Information with any of its affiliates or agents engaged in the ratings or other financial services businesses who are bound by appropriate confidentiality obligations (“Relevant Affiliates and Agents”), for modelling, benchmarking and research purposes, provided that, in each case, Confidential Information is not presented publicly in a way that can be attributed to you. With respect to structured finance ratings not maintained on a confidential basis, Ratings Services may publish data aggregated from Confidential Information, excluding data that is specific to and identifies individual debtors (“Relevant Data”), and share such Confidential Information with any of its Relevant Affiliates and Agents for general market dissemination of Relevant Data; you confirm that, to the best of your knowledge, there are no third parties whose rights would be adversely affected by any such publication. Ratings Services and its affiliates reserve the right to use, publish, disseminate, or license others to use, publish or disseminate any non-Confidential Information provided by you, your agents or advisors.

Ratings Services Not an Expert, Underwriter or Seller under Securities Laws. Ratings Services has not consented to and will not consent to being named an “expert” or any similar designation under any applicable securities laws or other regulatory guidance, rules or recommendations, including without limitation, Section 7 of the U.S. Securities Act of 1933. Ratings Services is not an “underwriter” or “seller” as those terms are defined under applicable securities laws or other regulatory guidance, rules or recommendations, including without limitation Sections 11 and 12(a)(2) of the U.S. Securities Act of 1933. Rating Services has not performed the role or tasks associated with an “underwriter” or “seller” under the United States federal securities laws or other regulatory guidance, rules or recommendations in connection with this engagement.

Office of Foreign Assets Control. Neither you nor the issuer (if you are not the issuer) is subject to economic, trade, or transactional sanctions imposed by the United States Government or any state government. None of you, the issuer (if you are not the issuer), or any of your or the issuer’s owners, directors, officers, employees, or group companies appears on any list of known or suspected terrorists, terrorist organizations or other prohibited persons maintained by any agency of the United States Government or of any other jurisdiction in which you or the issuer or any of your or the issuer’s group of companies are doing business, including but not limited to the List of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury. Neither you nor the issuer (if you are not the issuer) is owned or controlled, directly or indirectly, by any entity subject to such sanctions or appearing on such lists. For so long as this agreement is in effect, you will promptly notify Ratings Services if any of these circumstances change.

Ratings Services’ Use of Confidential Ratings. Ratings Services may use confidential ratings in its analysis of the debt issued by collateralized debt obligation (CDO) and other investment vehicles. Ratings Services may disclose a confidential rating as a confidential credit estimate to the managers of CDO and similar investment vehicles. Ratings Services may permit CDO managers to use and disseminate credit estimates on a limited basis and subject to various restrictions; however, Ratings Services cannot control any such use or dissemination.

Entire Agreement. Nothing in this Agreement shall prevent Ratings Services from acting in accordance with applicable laws, regulations and Ratings Services’ policies as published from time to time. Subject to the prior sentence, this Agreement constitutes the complete and entire agreement between the parties regarding its subject matter. The terms of this Agreement supersede any other terms and conditions relating to information provided to Ratings Services by you or your agents and advisors, including without limitation, terms and conditions of websites through which you or your agents and advisors make such information available to Ratings Services, and such terms and conditions shall not apply to Ratings Services.

only to the extent provided by law
To the extent provided by law
Limitation on Damages. Ratings Services does not and cannot guarantee the accuracy, completeness, or timeliness of the information relied on in connection with a rating or the results obtained from the use of such information. RATINGS SERVICES GIVES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. Ratings Services, its affiliates or third party providers, or any of their officers, directors, shareholders, employees or agents shall not be liable to you, your affiliates or any person asserting claims on your behalf, directly or indirectly, for any inaccuracies, errors, or omissions, in each case regardless of cause, actions, damages (consequential, special, indirect, incidental, punitive, compensatory, exemplary or otherwise), claims, liabilities, costs, expenses, legal fees or losses (including, without limitation, lost income or lost profits and opportunity costs) in any way arising out of or relating to the rating provided hereunder or the related analytic services even if advised of the possibility of such damages or other amounts except to the extent such damages or other amounts are judicially determined to result from gross negligence or willful misconduct of Ratings Services. In furtherance and not in limitation of the foregoing, Ratings Services will not be liable to you, your affiliates or any person asserting claims on your behalf in respect of any decisions alleged to be made by any person based on anything that may be perceived as advice or recommendations. ~~In the event that Ratings Services is nevertheless held liable to you, your affiliates, or any person asserting claims on your behalf for monetary damages under this Agreement, in no event shall Ratings Services be liable in an aggregate amount in excess of three times the aggregate fees paid to Ratings Services for the rating giving rise to the cause of action during the twelve-months preceding the date the alleged claim has arisen, up to a maximum of US\$1,000,000 except to the extent such limitation is unenforceable by law.~~ The provisions of this paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise. Neither party waives any protections, privileges, or defenses it may have under law, including but not limited to, the First Amendment of the Constitution of the United States of America.

Termination of Agreement. This Agreement may be terminated by either party at any time upon written notice to the other party. Except where expressly limited to the term of this Agreement, these Terms and Conditions shall survive the termination of this Agreement.

No Third-Party Beneficiaries. Nothing in this Agreement, or the rating when issued, is intended or should be construed as creating any rights on behalf of any third parties, including, without limitation, any recipient of the rating. No person is intended as a third party beneficiary of this Agreement or of the rating when issued.

Binding Effect. This Agreement shall be binding on, and inure to the benefit of, the parties hereto and their successors and assigns.

Severability. In the event that any term or provision of this Agreement shall be held to be invalid, void, or unenforceable, then the remainder of this Agreement shall not be affected, impaired, or invalidated, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law.

Amendments. This Agreement may not be amended except in a writing signed by authorized representatives of both parties.

Governing Law. This Agreement and the rating letter shall be governed by the internal laws of the State of ^{Tennessee} New York. The parties irrevocably agree that the state and federal courts of ^{Tennessee} New York located in the County of ^{Tennessee} New York shall be the exclusive forums for any dispute arising out of or relating to this Agreement and the parties hereby consent to the personal jurisdiction of such courts.

Standard & Poor's: Empowering Investors and Markets for 150 Years

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