

# Contributions From Underwriters

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Los Angeles City Charter § 609

*Effective April 8, 2011*

Los Angeles City  
ETHICS COMMISSION

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**Los Angeles City Charter  
ARTICLE IV – PROPRIETARY CITY  
DEPARTMENTS**

**SEC. 609. REVENUE BONDS AND  
OTHER JURISDICTIONS.**

**(a) Power to Issue Debt.**

Each Proprietary Department shall have the power to borrow money and to issue bonds, refunding bonds, notes and other evidences of indebtedness (collectively referred to in this section as “Revenue Bonds”) for any lawful purpose relating to the department payable from the revenues of the department and from any other money lawfully available to the department or under its control, in the form and manner approved by the board of the department. The Council shall adopt procedural ordinance(s) (each a “Procedural Ordinance”) which shall set forth the procedures under which Revenue Bonds may be issued. The Procedural Ordinance(s) shall require that a resolution of the board authorizing the issuance of Revenue Bonds be transmitted to the Council and Mayor for their approval or disapproval in the manner set forth in the Procedural Ordinance(s).

**(b) No Obligation of the General Revenues of the City.**

No Revenue Bond issued or incurred by any department under this section shall constitute or evidence an indebtedness of the City or a lien or charge on any property or the general revenues of the City, but shall constitute and evidence an obligation of the applicable department payable only from the specified revenues and

other money of the applicable department and the face of each Revenue Bond shall contain a legend to this effect.

**(c) Payment of Revenue Bonds.**

As long as any Revenue Bonds issued or incurred under this section and payable out of all or a portion of the revenue of a department shall be outstanding and unpaid, the board of the department shall fix rates for service from the municipal works to which that revenue pertains. It shall collect charges to provide revenue which, together with the other available funds of the department, shall be at least sufficient to pay, as the same shall become due, the principal and interest on all Revenue Bonds so outstanding payable out of revenue, including premiums, if any, due upon the redemption of any of the Revenue Bonds, in addition to paying, as it shall become due, the necessary expenses of operating and maintaining the works, and all other obligations and indebtedness payable out of the revenue of the department. If at any time during the life of Revenue Bonds issued under this section, the Council is required to review any rates adopted by a board, the Council shall approve rates in an amount sufficient to meet all the revenue requirements of this section.

**(d) Competitive Bidding or Private Sale.**

Revenue Bonds shall be sold pursuant to a competitive bidding process; however, Revenue Bonds may be sold by private sale or in any other manner acceptable to the

department and the Council as authorized by a Procedural Ordinance, subject to the following conditions:

(1) The board of a department has authorized the sale of Revenue Bonds pursuant to private sale after written recommendation of the chief financial officer of the department stating the reasons why a private sale will benefit the department.

(2) Council, after receiving a report of the Director of the Office of Administrative and Research Services, has approved the private sale.

(3) Council has been provided an opportunity, as set forth in a Procedural Ordinance, to disapprove the selection by a department of the underwriting firm(s) for the private sale of Revenue Bonds.

**(e) Prohibition of Underwriters Gifts and Political Contributions.**

(1) No underwriting firm which, within the prior 12 months, made one or more gifts totaling fifty dollars (\$50) or more, or one or more political contributions totaling one hundred dollars (\$100) or more, to any City elected official, any member of the board of the department whose bonds are the subject of the sale, or any other City official having the authority to make or participate in making decisions concerning the sale, shall be selected by the Council or by a department as the

underwriter for a sale of Revenue Bonds where the selection of the underwriting firm is made on a basis other than by competitive bidding (referred to hereafter as "noncompetitive sale"). In addition, no underwriting firm, its principals, subcontractors and subcontractor's principals shall make any contribution to or engage in prohibited fundraising on behalf of elected City officials or candidates for City office as further provided by ordinance. An underwriting firm seeking selection shall cause one of its officers to certify under oath that no such gifts or contributions were made and will comply with and notify its principals and subcontractors of the prohibitions in this subsection and disclose the name of its principals, subcontractors of at least \$100,000 and those subcontractor's principals and any other information determined necessary by ordinance. That certification shall be filed prior to the date on which a selection is made. If the selected underwriting firm made any of the gifts, fundraising or contributions specified above, but the certification was nevertheless made, the underwriting firm and any other person responsible for the error in the certification shall be subject to the penalties provided for violation of Section 470.

(2) No underwriting firm selected as the underwriter for a noncompetitive sale of Revenue Bonds including its principals and subcontractors and

subcontractor's principals shall make one or more gifts totaling fifty dollars (\$50) or more or lower amount set by ordinance, or any political contributions to any official referenced in subsection (e)(1) or candidate for such office during the 12 months after the contract is signed. In addition, no selected underwriting firm, its principals, subcontractors and subcontractor's principals shall engage in prohibited fundraising on behalf of those officials or candidates as further provided by ordinance. Any person violating the provisions of this subsection shall be subject to the penalties provided for violations of Section 470 and 470(c)(12).

- (3) A gift or contribution shall be considered as having been made by an underwriting firm if that gift or contribution was made by the firm itself; by any other business entity related to the firm as a parent, subsidiary or other related business entity; by any political action committee controlled or primarily financed by the firm or by a business entity related to the firm as a parent, subsidiary or other related business entity; by the president, chairperson of the board, chief executive officer, or chief operating officer of the firm; by any vice president, assistant vice president or managing director employed in the public finance unit of the firm; by any other individual who communicates with one or more City officers or employees for the purpose of influencing the City's selection of an underwriter for a

particular bond issue; or by any person owning a 20% or greater investment in the firm. These persons are also the underwriter's principals. A subcontractor that is expected to receive at least \$100,000 as a result of performing a portion of the contract obligations of the underwriter and its principals shall be subject to the limitation described above. A subcontractor's principals shall include the firm or individual itself; the subcontractor's board chair, president, chief executive officer, chief operating officer, or the functional equivalent of those positions; any individual who holds an ownership interest in the subcontractor of 20 percent or more; and any individual who communicates with one or more City officers or employees for the purpose of influencing the City's selection of an underwriter for a particular bond issue.

- (4) A contribution and prohibited fundraising shall be considered as having been made to or on behalf of any of the officials referenced in subsection (e)(1) if it is made to the official or to any City controlled committee of the officer or candidate for that office.
- (5) Any term used herein which is defined in the California Political Reform Act of 1974, as amended, or in the regulations of the California Fair Political Practices Commission, as amended, shall have the meaning set forth in those provisions unless otherwise provided by ordinance.

(6) No provision of subsection (e) shall require any person to do or refrain from doing any act which would violate federal law.

**(f) Investment of Proceeds.**

Proceeds of the Revenue Bonds may be invested in those obligations set forth in the applicable financing documents, if those obligations are authorized for the investment of money of the City, as provided in a Procedural Ordinance.

**(g) Effect of Section on Issuance of Bonds.**

(1) *Complete Authority to Issue Bonds.* This section and the Procedural Ordinance shall be complete authority for the issuance of Proprietary Department Revenue Bonds. No action or proceeding other than those required by this section or the Procedural Ordinance shall be necessary for the valid authorization and issuance of the Revenue Bonds.

(2) *No Council Veto.* After the Council and Mayor approve the issuance of Revenue Bonds for a department as described in subsection (a), and subject to Council disapproval of a department's selected underwriter for a noncompetitive sale as provided in subsection (d), the issuance of Revenue Bonds for a Proprietary Department shall not be subject to any further Council review including the veto provided in Section 245.

(3) *Validity of Revenue Bonds.* The validity of Revenue Bonds reciting that they have been issued pursuant to this section shall not be affected by any provision or limitation contained in any other section of the Charter. Any required signatures to the Revenue Bonds issued pursuant to this section may be by facsimile or by autograph. Charter Sections 146, 146.1, 229, 229.1 and 239 existing on June 1, 1996 shall remain in full force and effect after the adoption of this section until the Council has adopted the Procedural Ordinance(s) provided for in this section.

(4) *Section Applies Only to Proprietary Revenue Bonds.* The provisions of this section apply only to Revenue Bonds issued by Proprietary Departments under authority of this section.