

ADMINISTRATIVE REGULATION 2020-04

MAYOR JOHN SUTHERS

DATE: May 4, 2020

TOPIC: Private Activity Bond Fees

LEGAL AUTHORITY: City Charter §§ 3-10(b) and 15-30
City Code §§ 1.2.314

1.0 Purpose and Scope: This Administrative Regulation sets the "Private Activity Bond Fees" assessed for the review of application and inducement resolutions, along with issuance fees related to the par amount of the debt taken on by a developer for privately developed affordable housing projects.

2.0 Terms Defined: "Private Activity Bonds (PAB)" – a form of tax-exempt financing in which the City acts as the conduit issuer, but assumes no debt responsibility. Annually, the City receives an amount of volume cap for tax-exempt bonds, determined by population, from the CO Department of Local Affairs (DOLA). The PAB program funds privately developed projects related to affordable housing under IRS Code.

3.0 Procedures:


3.1 In General: Pursuant to City Charter § 3-10(b), the Mayor shall perform all executive and administrative functions of the City, including promulgation of administrative regulations. Fees and charges set by the Mayor shall be implemented by administrative regulation as set forth in City Code § 1.2.314. The review, inducement and issuance activities related to Private Activity Bonds of the City's Community Development Division are an administrative function of the City government.

3.2 Establishment of Fees and Charges: The Private Activity Bond (PAB) fees are established as set forth in Exhibit A, the Private Activity Bond Policy, which is attached and incorporated hereto.

4.0 Miscellaneous

4.1 This Administrative Regulation shall be effective as of **May 4, 2020**, and shall remain in effect until amended or rescinded.

4.2 This Administrative Regulation shall be filed with the City Attorney and made available for public inspection on the City's website.



John W. Suthers, Mayor

APPROVED AS TO FORM:



Office of the City Attorney

EXHIBIT A

Private Activity Bond Policy

I. Overview

Each year, the City of Colorado Springs (“City”) receives an amount of volume cap for tax-exempt bonds, determined by population, from the Colorado Department of Local Affairs. The Private Activity Bond (PAB) program funds privately developed projects. The bonds are tax-exempt and the amount of the bonds issued are limited by the IRS. Underwriters use investor money called “bond proceeds,” to make a loan to a project. The project then pays back the loan and the investors are repaid, plus interest. This program allows the City to issue these bonds for qualifying projects, summarized as:

- New construction or acquisition/rehabilitation of housing for low- to moderate-income people
- Single-family mortgage revenue bonds (“SFMRB”) sold by local and state agencies for mortgages to low- and moderate-income people
- Mortgage Credit Certificates (“MCC”) which is a bond allocation for qualified homebuyers
- Manufacturing "small issue" industrial development bonds (not to exceed \$10,000,000) for construction of manufacturing facilities that produce goods.
- Qualified redevelopment bonds for acquiring property in blighted areas, prepare land for redevelopment, and relocate occupants of structures on the acquired property.
- Exempt facility bonds for hazardous waste facilities, solid waste disposal facilities, water and sewer facilities, mass commuting facilities, local district heating and cooling facilities, local electric energy or gas facilities and multifamily housing bonds.
- Qualified 501(c) (3) bonds for use by non-profit hospitals and private universities.

II. Applications

- a. Written applications for inducement and issuance of PAB are accepted when bond cap is available. The City may choose to set-aside a portion of its PAB to be made available for projects applying for the State of Colorado LIHTC. Applications are to be submitted to the City’s Planning and Community Development Department, Attn: Community Development Division Manager.
- b. At a minimum, applications will include:
 - i. Description of the applicant’s previous experience utilizing PAB, including previous issuer, date of issuance, purpose, amount, and maturity schedule
 - ii. Expected bond issuance date
 - iii. Name and contact information of Bond Counsel for the applicant if known

- iv. Name and contact information of the proposed underwriter or lender if known
- v. Estimated bond redemption and interest payment schedule if known
- vi. Type of instrument utilized to secure the debt if known
- vii. Description of current or pending litigation involving the applicant which may affect the validity or repayment of bonds, if applicable
- viii. Applications for qualified affordable rental housing projects must include a narrative providing the following information:
 1. Type of housing
 2. Location
 3. Population served
 4. Bedroom mix
 5. Unit and project amenities
 6. Energy efficient design
 7. Project timeline
 8. Service commitments if applicable
 9. Non-residential uses if applicable
 10. Partnership structure if known
 11. Development and property management experience
 12. Local, State, and Federal subsidies committed
- ix. Project pro-forma
- x. Market study if available

NOTE: Please contact the Office of Economic Development for application requirements for projects other than qualified affordable rental housing.

III. Fees

The following fees apply to applications for PAB inducement and issuance from the City of Colorado Springs:

- a. Non-refundable fees of \$1,000 and \$5,000 for application and inducement resolution, respectively.
- b. Issuance fee equal to 0.40% of the par amount of the debt. The application and inducement fees will be credited toward the issuance fee. The balance of the issuance fee will be due at closing on the tax-credit financing for the project.
- c. No annual compliance fee.

IV. Review Process

Applications for PAB will be evaluated according to the following criteria:

- Project readiness (max 15 points)
- Experience with PAB financing (max 5 points)
- PAB request = 52% - 55% of eligible basis (max 5 points)
- Project % of new affordable units (max 10 points)

- AMI levels of proposed occupants (max 10 points)
- Priority for special needs populations (max 5 points)

Completed applications will be scored and reviewed by an ad hoc committee consisting of Planning Department staff assigned to the project, the Community Development Division Manager, a representative from the City Attorney's Office or bond counsel, and one or more representatives from the City Finance Department. The committee may request input from PAB staff at the Colorado Housing Finance Authority (CHFA) or the Colorado Department of Local Affairs, Division of Housing. The committee's evaluation will result in one of the following:

- A recommendation to refer the applicant to another PAB issuer;
- A conditional commitment to issue PAB for the project; A recommendation to introduce a preliminary inducement resolution at an upcoming regularly scheduled meeting of the City Council.