

# CITY OF MAYER

## POLICY ON CONDUIT FINANCING SERVICES

**SUBJECT:** Providing procedures for City involvement in conduit financing arrangements.  
**DATE COUNCIL APPROVED:** October 23, 2006

### I. PURPOSE

Periodically the City is asked by not-for-profit agencies and other entities, referred to in this Policy as the "Applicant", to issue pass-through or conduit debt. These issues are not projects of the governmental unit but of that separate entity. The purpose of this policy is to expedite the assistance that the City can offer and to avoid a demand on City resources for which there is no compensation.

### II. PROCEDURE

1. **City Administrator review.** The Applicant must first request that the City Administrator review their proposal and provide information about the entity requesting the assistance, the project, and the proposed financing method. The City Administrator, in his/her sole discretion, may consult with the City's bond counsel regarding the proposal. After the City Administrator reviews the proposal the Applicant may then request that the City Council review their proposal and grant permission to move forward to the public hearing stage.
2. **City Council review.** The Applicant should be prepared to demonstrate to the City Council how the proposed project will benefit the community by submitting a brief written summary outlining the request, and appearing before the City Council when the request is heard.
3. **Initial fee.** Once the City Council has authorized the Applicant to proceed, they must make a non-refundable deposit with the City in the amount of three thousand dollars (\$3,000.00). This amount shall be deducted from the total fee due under this policy, when it is paid in full at closing.
4. **Tasks prior to public hearing.** If permission is granted by the City Council to proceed, the Applicant must complete the following tasks.
  - A. Inquire as to when City Council meetings are scheduled, and to verify those dates as necessary because meeting dates may change without notice.
  - B. Ensure that drafts of all necessary documents are delivered in order to be accepted for the intended meeting.
  - C. At the direction of the City Administrator, make all arrangements for any notices requiring publication to the "Official Newspaper" or appropriate publication; including payment for the publication, and obtaining any signed affidavits necessary.
  - D. Provide a copy of all of the documents in the format(s) specified by the City Administrator.
  - E. Provide the City Council with a written statement of Applicant's legal counsel indicating that the documents have been appropriately prepared, all concerns of the City and the requirements of this Policy have been addressed, and it is acceptable for the City Council to adopt the needed resolutions. No documents will be adopted by the City Council or signed by City officials without this statement from the legal counsel of the Applicant.
  - F. Prepare a contract obligating the Applicant to repay to the City any interest margin for bank-qualified bonds that the Applicant uses and the City later needed on debt it issues for its own purposes, unless this requirement is specifically waived by the City.
  - G. Assure that the Official Statement, if any, prominently displays in large, bold type that the City does not have any obligation to repay the debt and what the rating is of the bond issue.
  - H. Attend all necessary City Council meetings to answer questions about the issue and the documents that are being considered.

- I. When the issue is complete and closed, the Applicant must provide on a timely basis one complete copy of the transcript and amortization schedule of the issue to the City Administrator.
5. **Tasks following final approval.** The City Administrator shall be responsible for the placement of items on the City Council's agenda and obtaining signed documents from the City Council. It is the responsibility of the Applicant to do the following.
    - A. Arrange for the execution of the necessary documents by City officials, after they have been approved by the City Council.
    - B. Payment to the City upon closing of the issue of the fee due under this policy, less the amount previously deposited.
    - C. Arrange to have any other necessary documents delivered for signature by other City officials such as the City Attorney. The officials should be notified in advance, by telephone, that documents are being sent for signature.
    - D. Arrange for all IRS and Federal or State filings and or fees.
    - E. Arrange to have all necessary professional fees paid directly to the professionals who did the work either out of bond proceeds or make other acceptable arrangement with the professionals providing the service.

### III. GENERAL REQUIREMENTS

1. **Risk Protection.** The debt instrument issued must not place the City at risk in any way, financially or legally, in appearance or in fact. The Federal Government has also placed the burden of weighing the balance of "public purpose versus private benefit" upon the City Council for these conduit debt issues. The City Council will consider risk, the public purpose versus private benefit, and the recommendation of its staff. Because of the subjective nature of the issues it must weigh, the City Council retains the right to refuse to authorize any issue at its sole discretion and without need to give cause. The Applicant must indemnify the City against all future costs including, but not limited to, law suits, findings that the issue was not tax-exempt eligible, or penalties of any kind. The documents must clearly reflect the indemnification of the City.
2. **Continuing disclosure & arbitrage.** The City will not be responsible for any continuing disclosure or arbitrage calculations or rebate and the documents must clearly reflect that the Applicant is responsible for these matters.
3. **Marketing.** Unless otherwise authorized by the City Administrator, the debt may only be marketed: (i) in amounts of \$100,000 or more to sophisticated investors; (ii) be credit enhanced by a bank or insurance company to at least an "A" rating; or (iii) rated by one of the national bond rating agencies as at least "A" rated.
4. **Logistics.** The Applicant and their advisors must arrange for the logistics of all document movement, timing, signature, publication, and the like. It is important to assure that the necessary individuals will be available for signatures on documents well in advance of needing the signatures.

### IV. FEE

The City requires that the Applicant assume all of the direct expenses incurred by the City in examining the legal and fiscal aspects of the project, as well as any extraordinary expenses related to the ongoing monitoring and reporting of outstanding bonds once issued. In addition, the Applicant must pay a fee of one half of one percent (½%) of the proposed issuance amount with a minimum fee of \$5,000 and a maximum of \$25,000. This fee is intended to offset the costs incurred by the City for staff time, indirect costs of consultants, and any other expenses caused by the proposal. The collection of this fee is arranged such that if the application is denied by the City Council or other entity, or withdrawn by the Applicant, the initial deposit amount is intended to cover some of the City's up-front expenses. If the application is approved, the full deposit will be retained to additionally cover costs of issuance and future monitoring. In the event the City's actual costs exceed the deposit amount, the Applicant will be required to reimburse these additional amounts.