

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: FRANK KASIMOV, PROGRAM SPECIALIST
HOUSING AND COMMUNITY SERVICES
SUBJECT: AMENDMENT OF COUNCIL POLICY 000-15 – POLICY
STATEMENT TAX-EXEMPT REVENUE BOND REQUESTS

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Housing and Community Services Department that the Council, by resolution, amend Council Policy 000-15 – Policy Statement Tax-Exempt Bond Requests.

EXECUTIVE SUMMARY

At the direction of the California Debt Limit Allocation Committee (“CDLAC”) and the City’s outside bond counsel, Jones Hall, the City must adopt updated bond issuance procedures and post-issuance compliance procedures to be eligible to receive bond allocations for multifamily rental housing and certain other purposes. The policies guide the process of issuing private activity bonds and ensuring post-issuance compliance including a description of the fee structure, application and approval process, and monitoring and compliance practices.

This action relates to Council Goal: “Meet Housing Needs - Santa Rosa actively supports housing for all, through protection, preservation and production of housing” in that tax-exempt bonds help support the production, rehabilitation and preservation of affordable housing.

BACKGROUND

Tax-exempt bonds support public purpose developments which require below market interest rate financing to meet community needs. Council Policy 000-15 Policy Statement – Tax-Exempt Revenue Bond Requests, addresses tax-exempt bond activities in five areas: (1) Multifamily Rental Housing, (2) Single Family Mortgage Revenue Bonds and Mortgage Credit Certificates, (3) Mobilehome Park Acquisition and Rehabilitation, (4) Life Care Facilities for the Elderly, and (5) General Acute Care Hospitals.

The 1986 Federal Tax Reform Act limits the amount of certain types of tax-exempt debt a state can issue in a calendar year for private projects that have a qualified public benefit

(the "Volume Cap"). CDLAC was established to administer the allocation of the Volume Cap in California and to make certain that the total amount of the tax-exempt debt issued statewide does not exceed the limits established under federal law.

CDLAC amended its regulations on December 15, 2016, requiring, in part, that tax-exempt bond issuers adopt bond issuance procedures and post-issuance compliance procedures by December 31, 2017, to be eligible to receive a subsequent CDLAC allocation. Due to the wildfires, Santa Rosa was granted an extension to May 31, 2018.

CDLAC's objective of this regulation is to ensure compliance with state and federal law in a fair, flexible and streamlined manner, to improve issuer accountability with baseline compliance standards and to provide a record of the bond issuance activity.

CDLAC also modified many other parts of its regulations in 2016. For example, starting in 2017:

- The CDLAC resolution must be referenced in and made an attachment to the bond regulatory agreement;
- There are several new or modified compliance forms, and one form is now submitted every three years rather than annually for new bond issues; and
- Issuers must perform audits of 20% of the tenant initial occupancy files, including lease, every three years to ensure compliance with the long-term CDLAC obligations of the Federally Bond-Restricted units. Staff performs similar audits on projects funding by the federal HOME Investment Partnerships Program.

PRIOR CITY COUNCIL REVIEW

On September 29, 1981, the Council adopted Resolution No. 15323 Council Policy 000 -15 entitled "Policy Statement - Tax-Exempt Revenue Bond Requests," providing guidelines for tax-exempt revenue bond requests received by the City which may be considered by the Council for three bond activity areas: Multifamily Rental Housing, General Acute Care Hospitals and Life Care Facilities for the Elderly.

On March 30, 1982, the Council adopted Resolution No. 15577, amending Policy 000-15 to add a tax-exempt bond activity, Single Family Mortgage Revenue Bonds.

On June 5, 1984, the Council adopted Resolution No. 16741, amending Policy 000-15 to allow consideration for the Council to adopt a tax-exempt bond inducement resolution for a multifamily housing project prior to completion of entitlement approvals, such as zone change, conditional use permit and design review approvals, provided the Council conducts a public hearing giving the same notice as is required for a proposed change of zone. The inducement resolution is a preliminary step in the tax-exempt bond issuance process and does not commit the Council to approve the bond issuance.

On February 11, 1986, the Council adopted Resolution No. 17753, amending Policy 000-15 to address a projected oversupply of multifamily rental housing. The amendment added criteria for issuance of multifamily housing revenue bonds.

On October 9, 2007, the Council adopted Resolution No. 26947, amending Policy 000-15 to add a fifth activity, Mobilehome Park Acquisitions and Rehabilitation to preserve rental spaces within such parks.

ANALYSIS

Since 1999, the City has issued \$145 million of tax-exempt bonds to assist production, rehabilitation and/or preservation of approximately 1,200 affordable housing units.

The primary purpose for amending Council Policy 000-15 Policy Statement - Tax-Exempt Bond Requests is to incorporate policies and procedures as Exhibit A thereto (the "Multifamily Housing Bond Policies") to comply with the new CDLAC requirement so that the City may continue to issue multifamily housing tax-exempt bonds.

The Multifamily Housing Bond Policies guide the process of issuing private activity bonds and ensuring post-issuance compliance including, for example, a description of the fee structure, application and approval process, and monitoring and compliance practices.

The Multifamily Housing Bond Policies were prepared by the City's bond counsel, Jones Hall, and reviewed by the City's Housing and Community Services Department, Finance Department, and the City Attorney's Office. In addition, CDLAC staff reviewed and approved the policies and procedures.

The main categories of the Multifamily Housing Bond Policies include:

- Definitions
- General Debt Policies
- Issuance Policies
- Issuance Procedures
- Post Issuance Tax-Exempt Bond Compliance
- Post Issuance Project Compliance
- Default Procedures

These policies provide City staff and the borrower more definitive criteria for bond issuance and post issuance compliance policies and procedures. In order for a multifamily housing project to remain in compliance with bond laws, Santa Rosa compliance staff must collect, review and monitor documents to ensure that the project is maintaining its tax-exempt status.

In addition, the issuance fee is proposed as a flat fee, consistent with other bond issuers, rather than a fee based upon a cumbersome time and materials cost approach, which is the current practice. The flat fee provides the borrower a known cost upfront rather than a final cost of issuance determined after close of escrow. The proposed fee is 25 basis points (0.25%) of the principal amount of the bonds issued with a minimum fee of \$20,000, payable at bond closing. It includes a \$5,000 non-refundable application fee. These fees cover administrative costs relating to the bond issuance, including the Council's TEFRA

(Tax Equity and Fiscal Responsibility Act of 1982) public hearing and, subsequently, a bond issuance resolution.

The annual compliance monitoring fee for administration of outstanding bonds, including compliance with regulatory restrictions, is a flat fee of 12.5 basis points (0.125%) of the principal amount of the bonds originally issued. No change is proposed to this fee. Both fees are within the range charged by other tax-exempt bond issuers.

In addition to the proposed Multifamily Housing Bond Policies to be attached as Exhibit A to Council Policy 000-15, modifications are proposed to the body of the Council Policy. The modifications fall into the following four categories:

- 1) CDLAC's role under the 1986 Federal Tax Reform Act and CDLAC's amended regulations requiring the new Multifamily Housing Bond Policies are summarized.
- 2) A new section called General Provisions and Requirements incorporates items that apply to all five bond activity areas, for example, definitions; costs and fees; consistency with the General Plan, zoning and other land use and environmental policies; application requirements; sponsoring entity requirements; and minimum bond ratings including provisions for private placements, consistent with the new CDLAC policy.
- 3) Certain items are clarified, for example:
 - Single Family Mortgage Revenue Bonds and Mortgage Credit Certificates are explained concisely.
 - Bond Ratings are clarified to include private placement bond issues, which may be done without a rating or with a rating less than AA, in accordance with the new Multifamily Housing Bond Policies.
- 4) Statements that are not material to the issuance or administration of bonds are removed.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

This activity is exempt from the provisions of the California Environmental Quality Act (CEQA) under section 15061(b)(3) in that there is no possibility that it may have significant effects on the environment since the activity is a general policy amendment and does not involve a commitment to any specific project. Furthermore, this activity is not a project defined in CEQA Guidelines section 15378(b)(5) since it is an organizational or administrative activity of government that will not result in the potential for either a direct physical change or a reasonably foreseeable indirect physical change in the environment.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Redlined Existing Council Policy 000-15 Policy Statement - Tax-Exempt Bond Requests
- Resolution/Exhibit A – Amended Council Policy 000-15 Policy Statement - Tax-Exempt Bond Requests and its Exhibit A: Multifamily Housing Bond Policies

CONTACT

Frank Kasimov, fkasimov@srcity.org, (707) 543-3465