

# Chula Vista Housing Authority

## Multifamily Mortgage Revenue Bond Policies

The City of Chula Vista expands the supply of affordable housing by issuing multifamily mortgage revenue bonds through the Chula Vista Housing Authority (“Housing Authority”), as allocated by the California Debt Limit Allocation Committee (“CDLAC”). Since 1993, the Housing Authority has issued mortgage revenue bonds to private developers to finance low- and moderate-income housing for families. Pursuant to CDLAC Regulation 5031(c), as an Issuer of bonds, the Housing Authority must have written policies setting forth its bond issuance procedures and post-issuance compliance procedures in conformance with the governing laws and regulations.



# Chula Vista Housing Authority

## Multifamily Mortgage Revenue Bond Policies

### Summary

Federal, state, and local legislation authorizes issuance of mortgage revenue bonds ("Bonds") by local governments to finance the development, acquisition, construction and rehabilitation of multifamily housing rental projects (a "Project" or "Projects") by a private property owner/developer, also known as the "Project Sponsor". The interest on the Bonds is exempt from federal and state taxation. As a result, Bonds provide below market financing for qualified multifamily rental projects located in the City of Chula Vista (the "City"). This program is administered by the Housing Authority and uses tax-exempt mortgage revenue bonds ("Bonds") issued by the Housing Authority.

There is no direct liability of the City or the Housing Authority in connection with the issuance or repayment of the Bonds. There is no pledge of the City's or Housing Authority's faith, credit, or taxing power and the Bonds do not constitute general obligations of the City or Housing Authority because the security for repayment of the bonds is limited to Project revenue and other sources specified in the documentation for the financing of the Project. Project loans are, in most cases, structured as a real estate loan, with the obligation to repay the bonds secured by a first deed of trust on the Bond-financed property. The program is self-supporting with the owner responsible for the payment of all costs of issuance and other costs and repayment of the obligations.

### Mission

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Our mission is to build strong families and to strengthen the social and physical fabric of the Chula Vista community by creating and sustaining decent, safe and affordable living environments to foster stability in the home and the neighborhood and empowering our diverse residents as change agents for their quality of life.





The goals of the Bond financing program include:

- ☐ Preserving and increasing availability of quality affordable rental housing;
- ☐ Encouraging economic integration within residential neighborhoods; and
- ☐ Maintaining and enhancing a quality living environment for residents of affordable housing communities and the surrounding properties.

**All Projects requesting mortgage revenue Bond issuance are subject to the requirements in these guidelines. The Housing Authority reserves the right to make exceptions, at its sole discretion when deemed necessary.**

**The Housing Authority guidelines and policies are subject to change.**

## Issuer

The Chula Vista Housing Authority (the “Housing Authority”) shall be the issuer of all Bonds financing Projects within the City, except as provided below. Bonds for Projects are intended to be non-recourse conduit financing in which the Housing Authority or the City will not be responsible for the repayment of debt.

The Housing Authority and City will consider other issuing agencies as follows:

### CSCDA and Other Conduits

Project Sponsors considering the use of any issuers other than the Housing Authority should contact Housing Authority staff prior to proceeding with the Project. The Housing Authority may agree to the issuance of Bonds by the [California Statewide Community Development Authority](#) (“CSCDA”) or a similar issuing conduit provided that the Housing Authority is not making a loan or grant to the Project *and* the Project is one of multiple projects being financed by the Project Sponsor through such issuing conduit agency in the same [California Debt Limit Allocation Committee](#) (“CDLAC”) round under a similar financing program so as to result in economies of issuance or financial feasibility of the projects.

### Special Circumstances

Another agency may issue Bonds when merited by special circumstances of the Project and attendant financing. Where the Housing Authority is not the issuer of Bonds for a Project, it shall be the Housing Authority’s policy to require the issuer to assume full responsibility for issuance and on-going compliance of the Bond issue with federal tax and state laws. Where feasible, however, the City of Chula Vista/Housing Authority shall seek to hold a “The Equity and Fiscal Responsibility Act of 1986” hearing, better known as the “TEFRA Hearing” for such Project.

## Public Benefit

Each Project to be financed must demonstrate tangible public benefits to the community in which it resides before the Housing Authority is willing to act as an issuer for tax-exempt multifamily mortgage revenue Bonds. These benefits must conform to all federal and state requirements for tax-exempt multifamily mortgage revenue Bonds.

### Affordability for Rental Projects

To ensure a public benefit, Project Sponsors must set aside a minimum number of the units in each project for lower income households. These units must be rented to, or held available for rent to, very low-income or low-income tenants. The restricted units must proportionately reflect the mix of all units in the project, be distributed throughout the project, and have the same floor area, amenities, and access to project facilities as market-rate units.

To be eligible for tax-exempt financing, Projects must provide a minimum of:

#### Federal

- ☐ Twenty percent (20%) affordable to those very low-income households at fifty percent (50%) or below the Housing Authority Median Income, adjusted for household size

**OR**

- ☐ Forty percent (40%) of the units affordable to those low-income households at sixty percent (60%) or below the Housing Authority Median Income, adjusted for household size.

#### State

- ☐ A minimum of ten percent (10%) of the units affordable to those very low-income households at fifty percent (50%) or below the Housing Authority Median Income, adjusted for household, at specified rent levels.

Project owners must certify their tenants' eligibility annually or as otherwise required by the Housing Authority in the applicable Regulatory Agreement. If a tenant is no longer eligible, the next available unit (if federal tax credits apply to the project, in the building in which the unit was located) must be rented to a new eligible tenant and the current tenant's rent can be raised to a market level. A unit occupied only by students may not count towards the very low and low-income unit set-aside requirement.

Affordability definitions are based on the AMI for the County of San Diego as established by the U.S. Department of Housing and Urban Development. The median income is subject to change annually.

### *Rent Restrictions*

For purposes of the Housing Authority's Bond Program, the maximum rent calculations for those units required as the minimum set-aside for very low or low-income households and those required by the adopted CDLAC Resolution may not exceed one-twelfth of 30% of 50% of Area Median Income ("AMI") for very low-income households or one-twelfth of 30% of 60% of AMI, adjusted for appropriate household size, as further defined in [Section 50053 of the California Health and Safety Code](#). "Appropriate households size" is determined under [Section 34312.3](#) (c)(1)(B) and (c)(2)(B) of the California Health and Safety Code consistent with [Section 42](#) (g)(2)(C) of the Internal Revenue Code (the "Code"). [Section 42](#) (g)(2)(C) requires that in calculating rents, occupancy of units is assumed to be one person in the case of a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, and five persons in a four-bedroom unit. Maximum rents are further reduced by a utility allowance for tenant-paid utilities in the amounts determined by the Housing Authority.

In the event tax-exempt bonds are used with Low-Income Housing Tax Credits, or any public funds, the more restrictive rents apply. The maximum rent amounts will also apply to the contract rent if Housing Choice Voucher (HCV) tenants occupy the set-aside units.

### *Term of Rental and Affordability Restrictions*

The Project must remain as rental housing and continuously meet the affordability requirements for the longest of (a) the Qualified Project Period (as defined in Internal Revenue Code of 1986), (b) such period as may be required by CDLAC (typically, 55-years from the date of the original issuance), (c) as long as the Bonds remain outstanding, or (d) such period as may be required, in the opinion of the City's or Housing Authority's Bond Counsel, to meet federal or state law. The City and/or Housing Authority reserve the right to impose additional affordability restrictions if the City or Housing Authority determines it is necessary to be competitive in the state allocation process or in compliance with applicable State laws.

The affordability covenant remains in effect for not less than the agreed upon term, which may continue beyond the Qualified Project Period. It is intended that the affordability term will remain in effect beyond the retirement of the Bonds and expiration of any loan agreements.

Projects that are financed with Low-Income Housing Tax Credits or any other public funds will be required to meet the requirements of TCAC or the more restrictive requirements of the applicable financing sources.

A Bond Regulatory Agreement ("Regulatory Agreement") containing the rental and affordability restrictions will be recorded against the property and must be complied with by subsequent owners, as the Regulatory Agreement is a covenant that runs with the land. The Regulatory Agreement will be



terminated upon expiration of restrictions or in the event of casualty loss or foreclosure, and the subsequent retirement of Bonds as a result of foreclosure.

Project Sponsors must regularly verify compliance with the affordability terms outlined within the applicable Regulatory Agreement(s). The Housing Authority reserves the right to impose additional restrictions.

State law requires advance notice and other requirements upon the termination of the affordability requirements. Some requirements also place restrictions on the sale of previously affordable housing projects. In addition, at the conclusion of the required affordability period, the rent of those “in-place” tenants will continue to be governed by the applicable affordability restriction, so long as those tenants continue to live in the development.

## *Priority Projects*

Projects must consist of complete rental units, including kitchens and bathrooms. Projects are considered on a priority basis. They include Projects that will be instrumental to neighborhood turn-around, provide significant public benefit and preserve existing affordable housing.

### *Affordable housing priorities:*

#### *☐ Preservation*

Preservation of projects which are currently publicly subsidized, but at risk of losing affordability restrictions due to sale, termination, or public subsidy reductions.

#### *☐ Recapitalization*

Substantial rehabilitation of projects with affordability restrictions, including Projects that have reached the expiration of their 15-year tax credit compliance period, but only in conjunction with new mortgage revenue bonds, tax credits, and/or other affordable housing resources to the greatest extent feasible.

#### *☐ Balanced Communities Housing*

New construction to meet the Balanced Communities Policy of the City of Chula Vista's Housing Element.

#### *☐ Rehabilitation and new production*

Substantial rehabilitation of other projects and new construction of affordable housing including low-income, mixed income, or workforce housing, with preference to projects in census tracts where the poverty rate is less than 30 percent; projects that meet revitalization goals.



## Loan Terms & Conditions

The terms and conditions of mortgage revenue bond loans shall be in accordance with CDLAC and TCAC requirements and the requirements of the lending institution specific to the Project. The following represents general terms.

### Maximum/Minimum Loan Amount

The bond issuance and related loan amounts for individual projects are based upon project costs, interest rates, revenues available to pay debt service and the appraised value of the Project being financed. The Housing Authority may consider multiple properties as part of a single bond financing on a case by case basis.

### Interest Rate

The effective Mortgage Rate is the aggregate of the applicable bond rate and the add-on fees charged under the program, such as lender, trustee, issuer's fee, etc. The bond rate, for fixed rate bonds, is determined at the time of a bond sale and the resulting mortgage is typically below conventional mortgage rates.

### Loan Term

The Project loans generally reflect a 30-year amortization schedule, although the bond maturity may be shorter.

### Affordability Term

The affordability term is the lesser of 55 years or the longest affordability period of other financing sources, and is enforced through a recorded regulatory agreement

## Application Requirements

The Housing Authority requires each Project Sponsor complete a Housing Authority application. Applications must be submitted for all Projects seeking Bond financing where the Housing Authority will act as issuer or where the Housing Authority will sponsor or hold a TEFRA hearing. This includes all new money issuances requiring an allocation of bond authority from the [California Debt Limit Allocation Committee](#) (CDLAC), new 501(c)(3) issues, and refunding of existing bond issues.

Applications must be submitted at least 90 days before the relevant CDLAC application deadline to allow enough time for Housing Authority review and approval. Applications that do not need CDLAC approval must be submitted at least 90 days before the desired Bond closing date. Any information provided in the application must be considered public information by State law.

- ☐ [Chula Vista Affordable Housing Application](#)
- ☐ Relocation Plan, if applicable – As required by [CDLAC regulations](#) (Section 5211 “Tenant Relocation”) if low-income tenants will receive a rent increase exceeding five percent (5%) of their current rent, then a relocation plan is required to address economic displacement. The relocation plan should be consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act ([42 U.S.C. 61](#)).

## Project Sponsor Qualifications, Experience and Performance

Project Sponsors, or its general partners, including administrative and managing general partners, or a principal in each, are required to have previous experience in the development and ownership of multifamily rental affordable housing projects. Housing Authority staff will review and approve the qualifications of the Project Sponsor and all partners in the ownership entity.

As part of the Affordable Housing Application, Project Sponsors are required to submit:

- ☐ Proposed or executed organizational documents of the Project Sponsor and ownership entity, including a detailed description of the role of each, if separate entities, throughout the regulatory period of the Project; and
- ☐ Evidence of successfully participating in at least two projects over ten units in size and subject to a recorded regulatory agreement for at least three years prior to the application.

The Housing Authority may require evidence projects have maintained positive operating cash flows and that all required reserves have been funded throughout the ownership period.

Project Sponsors who are unable to meet qualifications and experience requirements will be required to partner with an entity that does have the necessary experience.



The Housing Authority will NOT consider an application from a Project Sponsor if the following conditions exist:

- ☐ Failure to use an allocation from CDLAC;
- ☐ Out of compliance with or in default of the terms of any other City/Housing Authority financings or loans.

## Bonds & Tax Credits

Due to Internal Revenue Service (IRS) limitations applicable to the fees charged by issues of tax-exempt bonds where the bond purchaser and the tax credit investor are the same or related entities, the Housing Authority will not issue bonds for Projects where the tax credit investor is all the same or a related entity to the bond purchaser. Exceptions may be granted on a case-by-case basis, at the discretion of the Housing Authority.

## The Process

### Application

Applications must be submitted for all Projects seeking Bond financing where the Housing Authority will act as issuer or where the Housing Authority will sponsor or hold a TEFRA Hearing. Housing staff will review the application for feasibility. The Housing Authority reserves the right to require an independent study of any proposed Project, with all associated costs to be borne by the Project Sponsor.

### *Determination of Readiness*

In its review of the submitted application, Housing staff shall determine if the project is in a state of sufficient “readiness” to proceed with the CDLAC application process. This includes the status of the Project in terms of the development process. All Projects must be in compliance with the City’s land use requirements and adopted plans. In general, a Project will be deemed “not ready” if the administrative or discretionary planning approvals will not be completed by the time of the CDLAC application.

### *Issuance Deposit*

At the time of application, the Project Sponsor must pay an “Issuance Deposit” of \$3,500 to fund preliminary costs incurred by the Housing Authority and its consultants. The remaining balance of the Issuance Fee shall be paid upon the closing of the Bonds.

The Issuance Deposit is nonrefundable, unless the Housing Authority declines the proposed financing. If the financing goes forward, the fee will be applied to offset the Issuance Fee as a required cost of issuance at Bond closing. The Issuance Deposit may be waived by the Housing Authority Director or his designee.

The Housing Authority Director or his designee may issue a waiver of the issuance deposit upon written request by the Project Sponsor along with evidence or other information establishing payment of such fee would impact the financial feasibility of the Project. The Housing Authority Director may approve, partially approve or deny such waiver within 10 business days of such request by providing written notification to the Project Sponsor.

### Project Sponsor’s Development Team

Project Sponsors must submit a [Disclosure Statement](#), identifying of all parties authorized to negotiate on behalf of the development entity, and identification of the development team responsible for the Project and credentials provided for the development team. The development team must include team members with a successful record of accomplishment in developing at least one affordable rental housing project of the type and scale proposed. Bonds should be placed with investors who are experienced in municipal securities investing and analysis or real estate credit underwriting.

To the extent that consultants/contractors will be providing services on behalf of a Project Sponsor related to the requirements of these Policies, the Project Sponsor shall provide the Housing Authority with a written statement describing their relationship with the consultant/contractor and any rights the consultant/contractor has to income and obligations generated from any proposed bond issuance activity.

Project Sponsors must not have a record of violation of Fair Housing and Employment Practice laws or regulations or of affordability clauses in recorded regulatory agreements of the City or other housing agencies or of discrimination. The Housing Authority shall approve each team member proposed by the borrower and reserves the right to require an independent study of the Project, at the sole cost of the Project Sponsor.

### *Housing Authority Bond Counsel & Financing Team*

The Housing Authority shall reserve the right to select and approve the municipal advisor, underwriter (if applicable), and bond counsel for the financing. The Housing Authority's municipal advisor, underwriter, and bond counsel shall be selected as provided for by the City's Charter and attendant Municipal Code and City requirements. Bond counsel and the municipal adviser specifically represent the interests and concerns of the Housing Authority and the City in ensuring the integrity of the bond transaction. The Project Sponsor will reimburse these costs at bond closing.

The Project Sponsor may, at its own expense, add additional members to the finance team to represent its interests.

### *Housing Authority Municipal Advisor*

The municipal advisor for each transaction will prepare a feasibility study considering the economics of the financing, including: evaluation of the financial strength of the project; assumptions regarding income and expense; sources of security bonds in addition to a mortgage on the project; the Project Sponsor's financial situation and experience in operating and managing multifamily rental projects; marketability of the bonds; and rights and resources of parties to the transaction in the event of default. Further, the municipal advisor will provide finance advice on all relevant issues to best protect the interests of the Housing Authority and the City.

### *Housing Authority Bond Counsel*

Bond counsel will prepare the necessary legal documentation for the bonds, including provisions regarding compliance with any applicable continuing disclosure requirements, provide an opinion regarding compliance with any applicable continuing disclosure requirements, provide an opinion regarding the validity of the bonds and their tax-exempt status (if applicable), and provide legal advice on relevant issues to best protect the interest of the Housing Authority and the City, including but not limited to the project monitoring requirement for federal tax, State Law and CDLAC purposes.

### *Bond Underwriter/Remarketing Agent/Private Placement Purchaser*

The Project Sponsor shall select the construction and permanent lender/bond purchaser and the method of selling bonds for a given transaction subject to the requirements set forth herein and the approval of the Housing Authority. Except as provided in these Policies the Housing Authority will not allow a bond transaction where the tax credit investor is also the bond purchaser or a related party thereto. The practice of allowing the Project Sponsor to propose the lender and bond structure is intended to create an incentive for qualified financial firms to actively work the Project Sponsor to structure and present feasible financing proposals that meet program requirements.

In the event the Project Sponsor has not identified a proposed financing structure for a given transaction, the Housing Authority will select an underwriter, lender or private placement purchaser through a request for proposals process.

### *Bond Trustee/Fiscal Agent*

The Housing Authority shall select the Bond Trustee or fiscal agent (a financial institution designated by the Housing Authority as the custodian of funds and official representative of bondholders).

## Housing Authority Consideration

In consideration of an application to CDLAC for a Bond allocation and the issuance of Bonds by the Housing Authority, the City and the Housing Authority must complete certain actions.

### *Inducement Resolution*

A Bond inducement resolution (“Inducement Resolution”) will be drafted and approved by the Housing Authority. This is a conditional expression through the public record of the Housing Authority’s “official intent” to issue Bonds for a Project in order to induce others to provide project financing and is required for tax-exempt financing under [Treasury Regulation Section 1.150-2\(e\)](#). Adoption of the inducement resolution establishes, through the public record, the date from which project costs incurred may be determined to be eligible for financing under the Program with proceeds of tax-exempt bonds. Additionally, the Inducement Resolution authorizes the filing of an application to CDLAC on behalf of the Project Sponsor. Adoption of the Inducement Resolution does not represent any commitment by the Housing Authority, City, or the Project Sponsor to proceed with the financing. The Housing Authority retains absolute and unfettered discretion over the issuance of Bonds through adoption of a resolution authorizing such issuance.

Adoption of the inducement resolution does not authorize any subordinate financing by the Housing Authority of the City. Furthermore, the adoption of the inducement resolution shall not be construed to signify the Project complies with the planning, zoning, subdivision and building laws and ordinances of the City or suggests that the Housing Authority or the City will grant any such approval, consent or permit that may be required in connection with the development of a given project.

### *TEFRA Hearing and Approval*

In accordance with the [Tax Equity and Fiscal Responsibility Act \(TEFRA\) of 1982](#) and [Section 147\(f\) of the Internal Revenue Code](#) of 1986, the issuance of Bonds must be approved by representatives of the governmental unit with jurisdiction over the area in which the project is located. The TEFRA Hearing will be conducted as a public hearing by the City Council on a date specified in a notice published at least 14 days in advance of the TEFRA hearing in a newspaper of general circulation within the City. The purpose of the public hearing is to provide an opportunity for interested persons to express their views on the proposed Bond issuance and on the nature and location of the Project.

### *City's Disclosure*

As a related entity of the City, the Housing Authority will adhere to the City's Debt Issuance Policies (City Council Policy 220-05) as it may be amended from time to time, which applies to publicly offered bonds. The Housing Authority will present offering statements and disclosure documents for review and approval, as appropriate, by the City.

### *Final Approval Staff Report*

If recommended for financing by CDLAC, the City's Housing Department and Housing Authority's Legal Counsel (including Bond Counsel) will proceed with a recommendation and all necessary documents for final approval of the Bond issuance by the Housing Authority. The report to the Housing Authority shall specify the approvals that are recommended, provide background on the project being financed, describe the financing structure, indicate any exceptions to the City's investment policy, and describe the financing documents to be approved. The staff report should indicate if a separate City or Housing Authority financial assistance is being provided. However, the terms of that loan should be discussed in a separate staff report which, whenever possible, shall be submitted for the same agenda. The staff report may note that the Bond issue is contingent upon certain other approvals and may identify certain issues to be resolved at a later time.

### *Substantially Final Documents*

The Housing Authority shall approve documents that are "substantially final" documents. Documents are in "substantially final" form if they identify the final security provisions and financing structure for the transaction. The Housing Authority's Legal Counsel (including Bond Counsel) shall determine whether documentation is in substantially final form.

### *CDLAC Applications for Bond Allocation*

Tax-exempt bonds (except 501(c)(3) bonds) require an allocation of Bond authority from CDLAC. To receive the allocation, the Housing Authority must submit an application to CDLAC on behalf of the Project Sponsor. The Inducement Resolution authorizes the submission of an application to CDLAC. The application must demonstrate readiness to proceed with Bond financing and compliance with applicable CDLAC regulations. Project Sponsors approved by CDLAC to receive an allocation of the

State ceiling on qualified tax-exempt bonds must be prepared to use those allocations to issue Bonds within 90 days. The Project Sponsor must pay all required CDLAC fees in advance of application submittal.

#### *Housing Authority to File*

The Housing Authority is the applicant to CDLAC for each Project to be financed with tax-exempt Bonds issued by the Housing Authority. Submittal of the application is at the discretion of the Housing Authority, not the Project Sponsor. The Housing Department will submit all applications to CDLAC on behalf of Project Sponsors. The Housing Authority will not file a Project Sponsor's CDLAC application unless the Project Sponsor had provided the Housing Authority with the CDLAC Performance Deposit and the Housing Authority's Issuance Deposit.

#### *Project Sponsor to Prepare Application*

Each Project Sponsor shall take responsibility for preparing the CDLAC application for its Project with input from Housing Authority representatives, including its financing team and bond counsel.

#### *Performance Deposit*

At the time of application to CDLAC, the Project Sponsor must deposit with the Housing Authority one half of one percent (0.05%) of the requested allocation (or such other amount as may be required by CDLAC) as a performance deposit. The deposit will be returned to the Project Sponsor according to CDLAC procedures; the deposit is subject to reversion to CDLAC should the financing not close accordingly. Project Sponsors are advised to read CDLAC regulations.

### **Bond Sale and Closing**

#### *Timing*

The Bond sale and closing may commence only after the Housing Authority authorizes the Bond issue, including the distribution of a Preliminary Official Statement, if applicable.

#### *Investment Agreements*

If authorized by the Housing Authority, the Project Sponsor, through its representative, which may include the underwriter or municipal advisor, may solicit investment agreement providers for the purpose of reinvesting Bond proceeds and revenues. The investment agreement providers must meet the Housing Authority's requirements and the requirements in the Bond resolution and trust indenture for the Bonds. The Housing Authority's Bond counsel and the municipal advisor shall review the investment agreement solicitation forms, the eligible providers, and the investment agreements.





## Housing Authority Indemnity

The Project Sponsor shall be required to provide to the Housing Authority, as a part of Bond documentation, an indemnity agreeing to defend and indemnify the Housing Authority, its members, officers, agents, employees, against any claim, judgment or settlement costs arising out of or involved in the financing, or in any of the documentation related thereto and the Project and volunteers to reimburse for all costs, expenses and attorney fees, in issuing the bonds and monitoring the Project.

## Types of Bonds

The Housing Authority may issue either tax-exempt or taxable bonds (which includes notes or other debt instruments), or both. Taxable bonds would generally be issued only in combination with tax-exempt bonds.

### Tax-Exempt Private Activity Bonds

For all tax-exempt financing, bond and related loan amounts will be subject to the procedures of CDLAC.

#### *Private Activity Bonds*

Private activity bonds require an allocation of bond authority from CDLAC. To get the allocation, the Housing Authority must submit an application to CDLAC on behalf of the Project Sponsor. Submittal of the application is at the discretion of the Housing Authority, not the Project Sponsor. The Project Sponsor must pay all required CDLAC fees in advance of application submittal.

#### *501(C)(3) Private Activity Bonds*

The Housing Authority may issue bonds described in [Section 145 of the federal tax code](#) on behalf of qualified not-for-profit organizations ("501(c)(3) bonds"). The interest on these 501(c)(3) bonds are tax-exempt and the bonds do not require an allocation from CDLAC. However, 501(c)(3) bonds cannot be used with the Low-Income Housing Tax Credit Program (LIHTC).

#### *Taxable Bonds*

The interest on taxable bonds is not exempt from either federal or state taxation. These bonds are not subject to federal volume "cap" limitations and therefore do not require an allocation from CDLAC. Taxable bonds can be used in combination with LIHTC. Taxable bond issues must meet all applicable requirements of State law requirements governing the Housing Authority's authority to issue bonds and these Policies and Procedures (including rating requirements) and any such added regulations which may, from time to time, be promulgated by the Housing Authority.

### Bond Rating and Credit Enhancement

The Authority requires that bonds for which it acts as issuer have a minimum rating in the "A" category, or its equivalent, or better by Standard and Poor's (equivalent Moody's or other bona fide agency rating also acceptable), except as noted below, OR the bonds be privately placed with a "sophisticated investor" as defined by the Housing Authority. The Housing Authority reserves the right to impose these minimum requirements on bond issues for which the Housing Authority issues bonds, or the Housing Authority or City holds a TEFRA hearing.

A preferred way of obtaining the required rating on the Bonds is through credit enhancement. Additional outside credit support may be provided in a number of forms, including a letter of credit



(LOC), mortgage backed security (MBS), collateral pledge, bond insurance, etc., by rated, financial strong private institutions, such as government sponsored entities (including the Federal National Mortgage Association [Fannie Mae] or Federal Home Loan Mortgage Corporation [Freddie Mac]), other government insured mortgage programs, or other qualified credit enhancement providers. The form of credit enhancement must provide for a minimum rating in the “A” category by Standard and Poor’s (or the equivalent). The bond rating must be obtained by the closing of the bond issue.

As the primary source of security for the repayment of the bonds, the credit enhancement provider will review and approve the borrower (credit, financial capability, experience, etc.) and the Project and its feasibility, including the size of the loan and the terms or repayment, using their own underwriting criteria.

Fixed rate bonds can be issued without credit enhancement if the proposed financing structure results in the required minimum rating on the bonds. However, bonds issued without credit enhancement will only be sold to Qualified Institutional Buyer (“QIBs”) as defined under Rule 144A of the Securities Act of 1933 and in minimum \$250,000 denominations, unless waived by the Housing Authority Director in his sole discretion.

The Housing Authority Director or his designee may issue a waiver of the requirements of a QIB or minimum denominations upon written request by the Project Sponsor along with evidence or other information establishing justification. Upon consultation with its municipal advisor and legal counsel, the Housing Authority Director may approve, partially approve, or deny such waiver within ten (10) business days of such request by providing written notification to the Project Sponsor.

#### *Private Placement*

The bond rating requirement is waived if the entire bond issue is privately placed with QIBs or institutional “accredited investors,” (as defined in [Sections 501\(a\)\(1\), \(2\), \(3\) or \(7\) of Regulation D](#) promulgated under the Securities Act of 1933 or an entity in which all of the equity owners meet the requirements of at least one such subsection). It is the Housing Authority’s intent that bonds are placed with those investors who are experienced in investing in unrated municipal securities and can conduct their own analysis of real estate credit underwriting.

Bonds must be sold in minimum \$250,000 denominations, unless waived by the Housing Authority Director in his sole discretion. Unless approved by the Housing Authority, the bonds may not be held at any time by more than 15 investors. The Housing Authority reserves the right to require that a trustee or fiscal agent participate in privately placed bond transactions.

All purchasers (including purchasers of participation interest in the bonds) would be required to sign an investor letter (“Investor Letter”) certifying the investor’s sophistication to understand the risk associated with the purchase of the debt instrument and restricting transfer of the bond issue to other



accredited or qualified investors in denominations of \$250,000 and greater. While the note remains unrated, its transferability will be restricted to QIBs or institutional accredited investors who sign an Investor Letter and who would represent to the Housing Authority that they are accredited investors or QIBs, are buying for investment and not for resale, and have made due investigation of the information they would deem material in connection with the purchase of the bonds.

## *Use of Bonds*

Bonds issued may be used for both construction or rehabilitation and permanent financing. Bond proceeds may be used for costs of land acquisition (up to twenty-five percent (25%) of tax-exempt bond proceeds), construction rehabilitation, improvements, architectural and engineering services, construction interest, loan fees and other capital costs of the project incurred up to sixty days prior to the bond inducement date.

### *Limitations on Use of Bonds*

Bond proceeds cannot be used to acquire property from a related party, as defined in CDLAC Regulations Section 5000, to the buyer. No more than 2 percent (2%) of the tax-exempt bond proceeds can be used to finance costs of issuance, such as the services of the financing team members, rating and printing of bonds, costs related to bond allocation, etc.

Pursuant to federal tax-exempt requirements, if bonds are used for acquisition and rehabilitation, an amount equal to at least 15 percent (15%) of the portion of the acquisition costs of the building and related equipment financed with the proceeds of the bonds must be used for rehabilitation of the Project.

The loans are assumable upon transfer of the Project with the approval of the credit enhancement provider or bond purchaser, and the Housing Authority Director or Assistant Director.

## Costs of Issuance

The Multifamily Revenue Bond program is self-supporting. Project Sponsors must pay all costs of issuance at bond closing, including, but not limited to, bond counsel, underwriter, trustee and municipal advisor fees, as well as rating agency fees. Any deposits will be credited toward the cost of issuance at closing.

Only two percent (2%) of the proceeds of a tax-exempt bond issue may be used to pay costs of issuance. Costs over two percent (2%) must be paid from other sources secured by the Project Sponsor including, potentially, the proceeds of taxable bonds.

## Housing Authority Fees

### *TEFRA Hearing Fee*

The City of Chula Vista shall charge a fee of \$3,500 for the administrative costs associated with holding a TEFRA hearing relating to a Project. The fee shall be payable prior to the date that notice of the TEFRA hearing is published. No separate TEFRA hearing fee shall be charged if the City or Housing Authority is issuing the bonds for the Project.

### *Issuance Fee*

The Housing Authority provides its services to a limited segment of the public, more specifically housing developers, to obtain unique services and substantial economic benefits available to them only under the State of California's tax-exempt bond program to issue the debt, not the least of which may be financing at interest rates substantially lower than conventional financing interest rates, if such rates are available, and/or the ability to obtain financing without equity compensation to the lender. In consideration of its application to the State and issuance of tax-exempt bonds for the financing of such private projects that have a qualified public benefit and economic benefit to the Project Sponsor, the Housing Authority receives compensation for its services in preparing bond issuances by charging an up-front fee payable at bond closing. The Issuance Fee shall be in an amount equal to 20 basis points (0.20%) of the total original principal amount of the bonds (both tax-exempt and taxable) to be issued, with a minimum fee of \$15,000. The Issuance Fee shall not exceed the amount otherwise allowed by the Internal Revenue Service ("IRS") for tax-exempt bonds.

An Issuance Deposit of \$3,500 will be collected at the time of application submission. The Issuance Deposit is nonrefundable unless the Housing Authority or CDLAC declines the proposed financing. The Issuance Fee Deposit is applied to the Issuance Fee at closing. The Issuance Deposit shall be applied to the Issuance Fee at closing.

All remaining Issuance Fees will be collected at the closing of the bond issue except for issues requiring State of California volume cap. Issuance Fees for applications requiring State volume cap will be collected at the time of application submission to the State.

No other fees will be collected unless and until the project financing closes, with the exception of projects requiring allocation of State volume cap. For projects requiring volume cap, the entire Issuance Fee is forfeited if the financing fails once the volume cap has been awarded by the State. If the application is withdrawn by the Project Sponsor, after submission to the State, but prior to the award of allocation, all fees except the Issuance Fee Deposit are refundable.

#### *Annual Administrative Fee*

The Housing Authority shall charge an annual fee (“Annual Administrative Fee”) to cover its ongoing costs associated with administration and oversight of outstanding bond issues and monitoring of regulatory restrictions (e.g. financial and site monitoring, and annual reporting) for bond issues required throughout the Qualified Project Period and until expiration of the CDLAC Compliance Period. The Annual Administrative Fee shall be in an amount equal to \$13,000 for those Projects with 50 units or less, \$17,000 for projects of 51 to 199 units and \$21,000 for those projects of 200 units or more. Under no circumstances shall the Ongoing Issuer Fee exceed any limitation under [Section 148 of the federal tax code](#).

The first year Annual Administrative fee shall be paid at bond closing. Thereafter, the ongoing Annual Administrative will be due and payable, without the requirement for any invoice to be delivered to the Project Sponsor, in advance in equal semi-annual installments by January 15<sup>th</sup> and July 15<sup>th</sup> each year. The Annual Administrative fee will be paid throughout the CDLAC Compliance Period and as specified within the Regulatory Agreement, even if bonds are fully repaid prior to the expiration of the compliance period.

The Housing Authority Annual Administrative fee shall be paid “above the line,” i.e., on a parity with bond debt service and trustee fees. This parity provides the greatest assurance that the Housing Authority’s fee will be paid, although it may reduce the amount that the Project Sponsor’s lender may be willing to underwrite.

Additional monitoring fees may be charged for monitoring affordable housing units not governed by the Regulatory Agreement.

#### *Other Fees*

Additional fees may be applicable on a case-by-case basis for certain issues that arise that are outside the normal bond issuance process. Examples of such fees are, but not limited to, an IRS audit associated with bond issuance. The Housing Authority shall not be liable for any such fees and the sole responsibility of these other fees that may arise shall be the sole responsibility of the Project Sponsor.

For staff time incurred, including legal counsel, the Project Sponsor may be charged for such time according to the then current hourly full cost recovery rate charged by the Housing Authority or legal counsel.

Table 1: Summary of Housing Authority Fees	
TEFRA Hearing	\$3,500
Issuance Fee	20 basis points (0.20%) of the total original principal amount of bonds issued
Issuance Deposit	\$3,500
Annual Administrative Fee	\$13,000 for 50 units or less \$17,000 for 51-199 units \$21,000 for 200 units or more
Other Fees	Full cost recovery



## *Refunding/Restructuring/Remarketing*

On occasion, a Project Sponsor may ask the Housing Authority to refund its bonds to lower the interest rate, to remarket the bonds with a new credit enhancement, and/or to remarket the bonds as fixed rate bonds. The Project Sponsor will be responsible for all costs and fees related to the refunding.

### *Optional Refunding*

#### *Reasons to Refund Outstanding Bonds*

A Project Sponsor may ask the Housing Authority to refund its outstanding bonds for one of several reasons:

- Lower the interest rate on fixed rate bonds at the call date (through the issuance of fixed rate or variable rate refunding bonds);
- Substitute a new credit structure that was not expressly provided for in the existing documents; or
- Restructure the existing debt.

#### *Bond Counsel & Financing Team*

The Housing Authority shall reserve the right to select and approve the municipal advisor, underwriter (if applicable), and bond counsel to implement the refunding. Where possible and if desired by the Housing Authority, the financing team shall consist of the bond counsel, municipal advisor and, if applicable, underwriter that were retained for the original financing. The Project Sponsor will reimburse these costs at bond closing.

#### *Legal/Documentation*

New documents shall be prepared to meet the Housing Authority's then-current legal, credit, financial, and procedural requirements and applicable then-current state or federal requirements. The Housing Authority shall follow the documentation process applicable to new bonds.

Because the Housing Authority's primary purpose in issuing multifamily housing bonds is to preserve and increase the supply of affordable housing in the Housing Authority, additional public benefit in the form of deeper income targeting, additional rent restrictions, including additional rent restricted units, the extension of the existing term of restrictions, or any combination therefore may be negotiated. The level of additional restrictions for public benefit will be determined in the context of the overall financial feasibility of each financing.

Additionally, if federal or state affordability, income, and/or rent restrictions have changed between the time of the original financing and the refunding bonds, the more restrictive provisions shall apply. If new requirements are more restrictive than existing requirements, the new requirements shall be

applied in phases to new tenants over a period of time, not to exceed five (5) years, as determined by the Housing Department staff and it's Attorney.

The provisions of [Section 52080\(g\) the California Health and Safety Code](#) shall apply to projects financed under this Program, which requires that low-income units remain affordable, except in certain circumstances, until thirty (30) years after the commencement of the Qualified Project Period. Except in limited circumstances, the provisions of Sections [65863.10](#) and [65863.11](#) of the California Government Code shall apply to projects financed under this Program and Project Sponsors are advised to review the requirements of these Sections.

### *Bond Maturity*

Subject to the approval of bond counsel, the final maturity of the refunding bonds may be later than the final maturity of the prior bonds so as to allow the Project Sponsor the longest possible period for repayment under federal law. A minimum of ten percent (10%) of the units in the Project will be required to be set aside for occupancy by very low-income households at fifty percent (50%) or below the Housing Authority Median Income, with rents set at the corresponding affordability level for the term of the restructured bonds.

### *Compliance*

The Housing Authority shall not proceed with a refunding if the Project is not in compliance with the current regulatory agreement, continuing disclosure reporting, or arbitrage rebate reporting and payment.

### *Fees*

The Project Sponsor shall pay the following Housing Authority fees in connection with the refunding:

- Issuance Fee

The Housing Authority shall charge an Issuance Fee in accordance with the Housing Authority's current policy on Issuance Fees for new projects.

- Annual Monitoring Fee

The Housing Authority shall continue to charge the same annual fee for monitoring the Project as for the original bonds. Such fee shall not be reduced even if the refunding bond size is lower.

The Project Sponsor is also responsible for all other costs of the Housing Authority to cover the issuance of bonds to refund outstanding bonds (e.g. costs of municipal advisor, bond counsel and trustee, if applicable).

### *Cash Flow Savings*

Cash flow savings from refunding fixed rate bonds at a lower fixed interest rate or a variable rate shall be applied as follows:

- Projects with a Housing Authority or City Loan

A portion of the projected cash flow savings, to be determined by the Housing Division, shall be used to accelerate the repayment of the Housing Authority loan, subject to restrictions in existing documents.

- Projects with No Housing Authority or City Loan

The Housing Authority Housing Department shall require the Project Sponsor to provide affordability or other financial concessions to the Housing Authority as a condition for refunding. Such concessions may include increasing the percentage of affordable units and extending the term of affordability restrictions.

### *Housing Authority Approval*

All refunding bonds and related legal documentation must be approved by the Housing Authority in accordance with the procedures set for the issuance of new bonds.

## Default Refunding

In the event of a default on the bonds or the underlying mortgage, a fixed rate bond issue may be refundable in advance of the call date without premium. The issue does not arise with variable rate bonds, as such bonds are callable at any time. Default refunding bonds are an area of potential sensitivity for the Housing Authority as it will not want a Project Sponsor to manufacture a default to take advantage of more favorable interest rates.

### *Bond Counsel & Financing Team*

The Housing Authority shall reserve the right to select and approve the municipal advisor, underwriter (if applicable), and bond counsel to implement the refunding. Such selection shall be made in compliance with the City's Charter and attendant Municipal Code requirements. Where possible and if desired by the Housing Authority, the financing team shall consist of the bond counsel, municipal advisor and, if applicable, underwriter that were retained for the original financing. The Project Sponsor will reimburse these costs at bond closing.

### *Confirming the Default*

To confirm a default, the Housing Authority must receive a notice from an independent party, such as the bond trustee. If applicable, notice of cash flow insufficiency is then filed as part of the Continuing Disclosure Certificate. In addition, the Housing Authority shall retain, at the expense of the Project Sponsor, an independent feasibility consultant to review the default. The Housing Authority will proceed with the transaction only if a review by staff and the independent consultant indicates that:

- ☐ Net cash flow from the Project is currently insufficient to pay debt service on the outstanding bonds and is unlikely to do so within a reasonable period;
- ☐ The Project is being operated in accordance with reasonable real estate management practices and the net operating income has not been artificially reduced by failing to rent units actively, inflating operating expenses, or other reasons within the control of the Project Sponsor; and
- ☐ The Project Sponsor has provided audited operating statements, Continuing Disclosure filings (if applicable), and arbitrage rebate reports for all years, has cooperated in providing requested information, and has used operating income and other resources to pay debt service.

### *Additional Requirements*

- ☐ Indemnification

The Housing Authority shall be indemnified as to any costs incurred as a result of the refunding, under terms approved by the Housing Authority's Legal Counsel. Such indemnification shall come from a party or parties with adequate net worth or other financial capacity and whose assets are not limited to ownership of the Project.

☐ Future Debt Coverage

The analysis of the feasibility consultant shall show that, upon the refunding, the Project's current net operating income will be at least sufficient to pay the revised debt service plus a reasonable coverage ratio (or adequate non-bond proceeds will be available to cover such deficiencies). In other words, *the Housing Authority shall not proceed with the refunding if it will not cure the cash flow problem.*

☐ Bond Counsel Review

Bond counsel shall have determined that the original bond and disclosure documents provided adequate disclosure of such a potential redemption and that the provisions of the prior documents have been satisfied.

☐ Compliance

The Housing Authority shall not proceed with a refunding if the Project is not in compliance with the current regulatory agreement, continuing disclosure reporting, or arbitrage rebate reporting and payment.

### *Fees*

The fees and expenses of the feasibility consultant, municipal advisor and bond counsel shall not be contingent on their findings or completion of a refunding. The Housing Authority shall require that the Project Sponsor deposit the estimated fees and expenses with the Housing Authority prior to the commencement of any analysis.

### *Affordability Restrictions*

The affordability requirements for a default refunding shall be the same as those listed under "Legal/Documentation" for an optional refunding.

### *Housing Authority Approval*

The Development Services Department's Housing Division, in conjunction with the Finance Department and Housing Authority's Legal Counsel, shall obtain final Housing Authority approval authorizing the bond issue and execution of the relevant documentation. A recommendation of default refunding by Housing Authority staff shall only be given after an initial analysis of feasibility is performed, a default is confirmed, and it is determined that a refunding will cure the cash flow problem.

### *Housing Authority Fees*

The Housing Authority shall charge the same Issuance Fee and annual monitoring fee that it otherwise would in conjunction with a new bond issue.

## REMARKETING

A Project Sponsor may ask the Housing Authority to remarket outstanding bonds under one of three basic scenarios: (1) converting variable rate bonds to fixed rate bonds; (2) a mandatory tender of bonds; or (3) substituting a new credit enhancement for the bonds in accordance with existing documentation.

### *Bond Counsel & Financing Team*

The Housing Authority shall reserve the right to select and approve the municipal advisor, underwriter (if applicable), and bond counsel to implement the refunding. Where possible and if desired by the Housing Authority, the financing team shall consist of the bond counsel, municipal advisor and, if applicable, underwriter that were retained for the original financing. The Project Sponsor will reimburse these costs at bond closing.

### *Legal/Documentation*

A remarketing of fixed rate bonds will not require new legal documentation. However, the Housing Authority's Legal Counsel, in conjunction with bond counsel, may require a new disclosure document. A remarketing of bonds with a new credit enhancement may require amended documentation, as well as a new disclosure document, as determined by the Housing Authority's Legal Counsel and bond counsel.

### *Fees*

A remarketing will not result in the payment of additional or revised Housing Authority issuance or annual fees. However, the Housing Authority shall recover its actual remarketing administrative costs incurred (estimated to range from \$10,000 to \$25,000) from the Project Sponsor.

### *Housing Authority Approval*

All remarketed bonds and any related documentation shall be approved by the Housing Authority prior to any remarketing.

## Post-Issuance Compliance Procedures

As an issuer of Bonds awarded allocations from CDLAC, the Housing Authority must attest to the adherence with CDLAC requirements for each development that is still in its monitoring period to ensure that Bond funds are spent appropriately and to ensure that rents assessed to tenants meet the terms of the Bond Regulatory Agreement. The Housing Authority performs Bond compliance monitoring duties for CDLAC as defined under Section 5220 of the CDLAC regulations. The Housing Authority shall maintain documents related to its issuance of the Bonds, loan, and ongoing monitoring of the Project in compliance with the City's Document Retention Policy.

## Use of Bond Proceeds and Bond-Financed or Refinanced Assets

The Project Sponsor shall be responsible for:

- Monitoring the use of bonds proceeds and the use of bond-financed or refinanced assets (e.g. facilities, furnishings or equipment) throughout the term of the bonds to ensure compliance with covenants and restrictions set forth in the documents relating to the bonds;
- Maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of bonds, including a final allocation of bond proceeds;
- Consulting with bond counsel and other legal counsel and advisors in the review of any contracts or arrangements involving use of bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the documents related to the bonds;
- Maintaining records for any contracts or arrangements involving the use of bond-financed or refinanced assets;
- Conferring at least annually with personnel responsible for bond-financed or refinanced assets; and,
- The extent that the Project Sponsor discovers than any applicable tax restrictions regarding use of bond proceeds and bond-financed or refinanced assets will or may be violated, consult promptly with Bond Counsel and other legal counsel and advisors to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.

## Record Keeping

The Project Sponsor shall be responsible for maintaining the following documents for the term of each issue of bonds (including refunding bonds, if any), and at least three additional years:

- A copy of the bond closing transcript(s) and other relevant documentation delivered to the Project Sponsor or in connection with the closing of the bond issue;

- A copy of all material documents relating to capital expenditures financed or refinanced by bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, draw request for bond proceeds and evidence as to the amount and date of each expenditure of bond proceeds, as well as documents relating to costs paid or reimbursed with bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with bond proceeds, including a final allocation of bond proceeds;
- A copy of all contracts and arrangement involving the use of bond-financed or refinanced assets; and
- With respect to any investment of bond proceeds or collateral securing the repayment of the bonds, a copy of all records of investments, investment agreements, arbitrage reports and underlying document, including trustee or fiscal agent statements, in connection with any investment agreements, and copies of all bidding document, if any.

For housing bond financings subject to the requirement of [Section 142](#) (d) of the Code, as amended, the Project Sponsor shall be responsible for maintaining, until the end of the qualified project period within the meaning of [Section 142](#) (d)(2)(A) of the Code, and at least three (3) additional years a copy of all records evidencing compliance with the requirements of [Section 142](#) (d) of the Code, including tenant income verifications, leases and tenant records. Such records shall be made available to the Housing Authority at its reasonable request. Records for the current year and preceding two (2) years shall be available at the Project site at such time the Housing Authority provides notification of a monitoring of the Project at the site.

The Project Sponsor, in the document relating to the bonds and/or other documents finalized at or before the issuance of the bonds, shall agree to the forgoing records retention requirements and procedures.

### Annual Certification of Public Benefits and On-going Compliance

As required by CDLAC regulations, all projects that receive a CDLAC bond allocation and are within an existing regulatory period and/or compliance period, shall be monitored by the Housing Authority for compliance with the terms and conditions of the CLDAC resolution. The Housing Authority may choose to hire an outside compliance monitoring firm to assist with such requirements. The Housing Authority utilizes [FOCUS®](#) a housing compliance monitoring and reporting software for submittal of Project rent rolls.

It is acknowledged that the Housing Authority is required to collect, review, and submit to CDLAC the Certification of Compliance I, Certification of Compliance II and CDLAC Completion Certificate for each issuance bonds, when applicable. Each year, by March 1st, the Housing Authority submits such



certifications to CDLAC in such format as required by CDLAC, and must certify as the issuer that all of its Bond-funded developments are complying with the features originally identified in application to CDLAC and contained in Attachment A to the CDLAC resolution.

Annually, on or before February 1st of each year until the expiration of the later of the qualified project period or compliance period under the applicable CDLAC Resolution and Regulatory Agreement, Project Sponsor and/or their representatives, are required to submit to the Housing Authority the following information and forms as follows:

- ☐ Certification of Delivery of Public Benefits and Continuing Program Compliance (*attach validating back-up information on services contracts, services types, and services frequency*)
- ☐ Annual QRRP Certification of Compliance I or II form, as applicable (*Must be submitted and signed on project sponsor letterhead*)
- ☐ [IRS Form 8703](#) Annual Certification of a Residential Rental Project
- ☐ If property did not already submit its rent roll for this previous year via [FOCUS®](#), the City's/Housing Authority's housing compliance monitoring and reporting software, then submit rent roll as of December 30th. Else, resubmission of September 30<sup>th</sup> rent rolls is not required.
- ☐ If CDLAC adopted a new Exhibit A to its CDLAC resolution in the most recent year, the most recent Exhibit A
- ☐ If the project ownership has changed since the Bonds were first issued, provide:
  - Completed Legal Status Questionnaire (attached to Certification of Delivery of Public Benefits form)
  - W-1 Attachment
  - Partnership organizational chart with principals and officers of each entity of the new partnership identified (see sample forms attached).

Project Sponsors and/or representatives are required to maintain the above records and any other records required by the Housing Authority or CDLAC for the term prescribed in the Bond, Regulatory Agreement, or any other legal requirement (including applicable period which may be subject to audit) whichever is the longest.

**All required forms for submittal to the Housing Authority for monitoring purposes can be found on the City of Chula Vista Rental Housing Compliance website at**

<http://www.chulavistaca.gov/departments/development-services/housing/building-affordable-housing/rental-housing-compliance>.

The Housing Authority shall review the Project Sponsor's Certificate of Compliance, all other documents submitted and may request additional supporting documents that evidence compliance as necessary in the sole reasonable discretion of the Housing Authority.

#### [\*IRS Form 8703\*](#)

The Project Sponsor is required to submit [IRS Form 8703](#) annually to the IRS on or before each March 31<sup>st</sup> as long as the bonds are outstanding. [Form 8703](#) provides annual information to the IRS to help them determine whether a project continues to be a qualified residential rental project under [Section 142](#) (d) of the Code, as amended.

#### [\*Monitoring\*](#)

For projects receiving an allocation of bond authority from CDLAC after December 31, 2016, CDLAC requires that a review of twenty percent (20%) of all management files associated with federally bond-restricted units either on-site or electronically be performed upon project completion and a minimum of every three (3) years thereafter.

#### [\*Non-Compliance\*](#)

For projects which are not satisfying the terms and conditions stated in the CDLAC Resolution, the Housing Authority will provide written notification of such non-compliance to the Project Sponsor and provide two (2) weeks for Project Sponsors to provide any further information or documentation that may demonstrate continuing compliance. Should the Housing Authority determine such non-compliance continues to exist, the Housing Authority will work with its legal counsel and CDLAC staff to institute remedial action, as necessary, including an action for specific performance or other available remedy, as may be specified within the Regulatory Agreement, Loan Agreement or other loan related documents. The Housing Authority may disqualify a bond application from any Project Sponsor or member of the development partnership who is not in compliance with the Housing Authority's or CDLAC's post issuance compliance requirements, guidelines, policies as determined by the Housing Authority and/or by CDLAC.

#### [\*Transfer of Ownership\*](#)

The Housing Authority reserves the right to approve any voluntary change in ownership of a bond-financed project (i) to another owner; (ii) that results in a transfer of fifty percent (50%) or more of the total equity interests in a project owner or (iii) that results in a transfer of any general partner or managing member interest in the project owner. Such approval of transfer ownership shall be at the discretion of the Housing Authority subject to any additional requirements set for in the applicable tax certificate or Regulatory Agreement. The Housing Authority shall review management practices of the

proposed transferee's current and previously owned multifamily housing rental properties. Any proposed transferee (including individuals with an ownership) whose currently owned multifamily housing rental properties have been found by the Housing Authority to have deficiencies that have not been resolved within the time frame prescribed by the City, Housing Authority, or other local government authorities, may not assume ownership of or an ownership interest in an any bond-financed project. The Housing Authority may initiate additional inspections to verify findings.

### Carryforward Election

With respect to each allocation of tax-exempt private activity bond issue authority to the Housing Authority in a given calendar year for which less than all of the allocation volume cap was used, the Housing Authority staff shall contact CDLAC requesting confirmation of the amount, if any, of carryforward election the Housing Authority shall make under [Section 146\(f\)](#) of the Code and the Housing Authority will timely file a [Form 8328](#) with the IRS.

### Arbitrage Rebate Compliance

The Project Sponsor shall comply with all applicable federal tax laws set forth in the tax or arbitrage certificate and bond documents, including arbitrage rebate compliance. Upon request, the Project Sponsor shall provide the Housing Authority documentation that verifies the Project Sponsor's compliance with federal tax laws set forth in the tax or arbitrage certificate and bond documents, including rebate compliance reports.

### Other Required Disclosures

The Project Sponsor shall be solely responsible of any and all disclosures under any applicable Securities and Exchange Commission and any Municipal Securities Rulemaking Board (MSRB) rules, requirements and regulations, including but not limited to fixed rate bond issuance with Fannie Mae and/or Freddie Mac involvement.

## SAMPLE FORMS TO FOLLOW



Our mission is to equip Chula Vista's diverse residents with information and the resources to build strong families and to strengthen the social and physical fabric of the community.

### MULTIFAMILY HOUSING REVENUE BOND PROJECTS Directions for 2018 Bond Compliance Submissions

As an issuer of bonds that were awarded allocations from the California Debt Limit Allocation Committee ("CDLAC"), the Chula Vista Housing Authority ("Housing Authority") must attest to the adherence with CDLAC requirements for each development that is still in its monitoring period to ensure that bond funds are spent appropriately and to ensure that rents assessed to tenants meet the terms of the bond regulatory agreement. The Housing Authority performs bond compliance monitoring duties for CDLAC as defined under Section 5220 of the CDLAC regulations.

Each year by March 1st, the Housing Authority submits a certification to CDLAC that all of its bond-funded developments are complying with the features originally identified in application to CDLAC and contained in Attachment A to the CDLAC resolution. For the Authority to report, it must rely on information that owners and their representatives send each year.

Owners and/or their representatives of bond-funded developments still in their "qualified project period", as defined in the Bond Regulatory Agreement, are required to submit monitoring information per the directions and on the forms below, **no later than 5 p.m. on Friday, February 9, 2018:**

- ☐ Certification of Delivery of Public Benefits and Continuing Program Compliance (*attach validating back-up information on services contracts, services types, and services frequency*)
- ☐ Annual QRRP Certification of Compliance I or II form, as applicable (*Must be submitted and signed on project sponsor letterhead*)
- ☐ [IRS Form 8703](#) Annual Certification of a Residential Rental Project
- ☐ If property did not already submit its rent roll for this previous year via [FOCUS®](#), the City's/Housing Authority's housing compliance monitoring and reporting software, then submit rent roll as of December 30th. Else, resubmission of September 30<sup>th</sup> rent rolls is not required.
- ☐ If CDLAC adopted a new Exhibit A to its CDLAC resolution in 2017, most recent Exhibit A
- ☐ If the project ownership has changed since the bonds were first issued, provide:
  - Completed Legal Status Questionnaire (attached to Certification of Delivery of Public Benefits form)
  - W-1 Attachment
  - Partnership organizational chart with principals and officers of each entity of the new partnership identified (see sample forms attached).

## Delivery of Public Benefits &amp; Continuing Program Compliance

## Page 2

6. The Project met its income/rent requirements to provide [REDACTED] units for Very Low Income residents and [REDACTED] units for Low Income residents as set forth in Exhibit A to the CDLAC Resolution No. [REDACTED];
7. The submitted Rent Roll for (date) [REDACTED] completed via FOCUS®, the City's/Housing Authority's housing compliance monitoring and reporting software, is accurate to the best knowledge of the Owner, and the Project's occupancy as of the final day of this compliance period is:

Unit Description	Occupied	Required by Agreement/CDLAC Reso
Total Units in Project	_____	_____
Extremely Low Income Units	_____	_____
Very Low Income Units	_____	_____
Occupied – Low Income Units	_____	_____
Total Units Held Vacant for Low Income Residents	_____	_____

8. That, as set forth below, the income-qualified tenants who commenced or terminated occupancy or swapped unit designations (i.e. from very low to low income units) during the preceding month are as follows:

Unit #	Resident Name
--------	---------------

*Commenced Occupancy*

*Terminated Occupancy*

*Swapped Unit Designations*

## Delivery of Public Benefits &amp; Continuing Program Compliance

## Page 2

6. The Project met its income/rent requirements to provide [REDACTED] units for Very Low Income residents and [REDACTED] units for Low Income residents as set forth in Exhibit A to the CDLAC Resolution No. [REDACTED];
7. The submitted Rent Roll for (date) [REDACTED] completed via FOCUS®, the City's/Housing Authority's housing compliance monitoring and reporting software, is accurate to the best knowledge of the Owner, and the Project's occupancy as of the final day of this compliance period is:

Unit Description	Occupied	Required by Agreement/CDLAC Reso
Total Units in Project	_____	_____
Extremely Low Income Units	_____	_____
Very Low Income Units	_____	_____
Occupied – Low Income Units	_____	_____
Total Units Held Vacant for Low Income Residents	_____	_____

8. That, as set forth below, the income-qualified tenants who commenced or terminated occupancy or swapped unit designations (i.e. from very low to low income units) during the preceding month are as follows:

Unit #	Resident Name
--------	---------------

*Commenced Occupancy*

*Terminated Occupancy*

*Swapped Unit Designations*



**Delivery of Public Benefits & Continuing Program Compliance**  
**Page 3**

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9. The Project Owner, or an entity acting on its behalf, has completed an annual Tenant Income Certification for each unit and has received sufficient documentation to support that certification, both at the resident's initial occupancy and on the anniversary of the occupancy;
10. As specified in the CLDAC resolution, Exhibit A, the Project has committed to and is currently providing the following service amenities for a minimum of 10 years, on a regular and ongoing basis, which are provided free of charge (with the exception of day care services) and with required hours of services, as applicable.

*Please check the services that apply:*

- ☐ After-school Programs
- ☐ Educational, Health and Wellness or skill development classes
- ☐ Health and Wellness services and programs (not group classes)
- ☐ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)
- ☐ Bona-Fide Service Coordinator/Social Worker

*Please provide evidence (e.g. MOU's, contracts, schedules, calendars, flyers, sign-up sheets, etc.) to confirm that the above listed services are being provided and have met the requirements of Exhibit A of the Resolution. Please label the documents provided to indicate clearly which services are being evidenced by the supporting information. If the compliance period for the provision of services has expired, please indicate so and when the requirement expired.*

11. There have been no changes to the ownership entity or its principals. The Owner acknowledges that transfer of ownership, in part or whole, requires Issuer's prior written consent and the provision of all required documents per the Issuer's Regulatory Agreement and as requested in annual bond monitoring;
12. No unremediated default has occurred under the Regulatory Agreement or the Loan Agreement. **[OR CHOOSE A default under the Regulatory Agreement or the Loan Agreement has occurred. The nature of the default and the measures being taken to remedy such default are as follows: [DESCRIBE]]**
13. The Project's current asset management contact information is provided below:

Owner's Firm:  
Asset management director:  
Title:  
Address:  
Phone:  
Email:

Asset manager:  
Title:  
Address:  
Phone:

**Delivery of Public Benefits & Continuing Program Compliance**

**Page 4**

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Email:

14. The Project's current property management contact information is provided below:

Property Management Firm:

Regional property manager:

Title:

Address:

Phone:

Email:

Property manager:

Title:

Address:

Phone:

Email:

This certification, along with the Rent Rolls and other information submitted, is herewith attested to be true, accurate and complete information to the best of the undersigned's knowledge and belief. Furthermore, that the undersigned is authorized to sign this certification as the Property Owner or on behalf of the Property Owner.

\_\_\_\_\_  
Submitted by: Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Officer

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Title of Officer

\_\_\_\_\_  
Organization



## LETTERHEAD

### MULTIFAMILY HOUSING REVENUE BOND PROJECTS

#### Certification of Compliance

**APPLICABILITY:** All issuances

**INSTRUCTIONS:** The following certification must be submitted by the Project Sponsor (on Project Sponsor letterhead) to the Applicant (Issuer) who will then forward it to the California Debt Limit Allocation Committee annually on March 1<sup>st</sup> (or at such other time as requested by CDLAC) and retain the document for a minimum of three years.

Project Name: \_\_\_\_\_

(If project name has changed since the award of allocation, please note the original project name and request a change in the CDLAC resolution.)

Original Name: \_\_\_\_\_

Name of Bond Issuer: Housing Authority of the City of Chula Vista

CDLAC Application No.: 00-00

(If more than one award was awarded please list all the applications numbers)

Pursuant to Section 13 of Resolution No. 00-00 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on (Meeting date) I, \_\_\_\_\_

\_\_\_\_\_, an Officer of the Project Sponsor, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with all of the terms and conditions set forth in the Resolution.

I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A, shall be enforceable by the Committee through an action for specific performance, negative points, with holding future allocation or any other available remedy.

*Please check or write N/A to the items listed below:*

\_\_\_\_\_ The project is currently in the Construction or Rehabilitation phase (i.e. the project is not placed in service).

\_\_\_\_\_ The project has incorporated the minimum specifications into the project design for all new construction and rehabilitation projects as evidenced by the attached applicable third party certification (HERS Rater, Green Point Rater or US Green Building Council). For projects under construction or rehabilitation, the information is due following receipt of the verification but in no event shall the documentation be submitted more than two years after the issuance of bonds.

\_\_\_\_\_ For projects that received points for exceeding the minimum requirements, please attach the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate standards. The compliance form must be signed by a California Association of building Consultants, Certified Energy Plans Examiner or HERS Rater as applicable.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Officer

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Title of Officer

*Revised: 07-03-17*



LETTERHEAD

**MULTIFAMILY HOUSING REVENUE BOND PROJECTS**

**Certification of Compliance II**

**for Qualified Residential Rental Project**

**APPLICABILITY:** All issuances

**INSTRUCTIONS:** The following certification must be submitted by the Project Sponsor (on Project Sponsor letterhead) to the Applicant (Issuer) who will then forward it to the California Debt Limit Allocation Committee annually on March 1<sup>st</sup> (or at such other time as requested by CDLAC) and retain the document for a minimum of three years.

1. Project Name Change: No ☐ Yes ☐

*(If project name has changed since the award of allocation, please note the new project name as well as the original project name.)*

New:

Original:

2. CDLAC Application No.: \_\_\_\_\_

3. Bond Issuer Change: No ☐ Yes ☐

*(If Bond Issuer has changed since the award as a result of refinancing or refunding of an allocation, please note the new Issuer as well as the original Issuer.)*

New:

Original:

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

4. Has a termination of the Regulatory Agreement occurred or is a termination planned in the next year? Has proper noticing occurred?

No ☐

Yes ☐

*(If yes, please describe and explain.)*

*If you answer "Yes" to question #4, there is no need to complete the rest of the form. Please submit the form completed through questions #4.*

5. Change in Borrower: No ☐ Yes ☐

*(If Borrower has changed since the award affecting the CDLAC resolution, please note the new Borrower as well as the original Borrower.)*

New:

Original:

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## LETTERHEAD

6. Change in Management Company: No ☐ Yes ☐

*(If yes, please provide the following information for the New Management Company)*

New:

Original:

Address:

Phone:

Email:

7. Has the Qualified Project Period commenced?

No ☐

Yes ☐

*(If yes, please submit the Certificate of Qualified Project Period - one time only.)*

*Already Submitted Certification* ☐

8. Has the project been completed and placed in service?

No ☐

Yes ☐

*(If yes, please submit the Completion Certificate - one time only.)*

*Already Submitted Certification* ☐

9. Has any of the following events occurred associated with the bond allocation including but not limited to:

- Notices of defaults associated with rents and income requirements
- Bond default or a qualified bond default

No ☐

Yes ☐

*(If yes, please describe and explain.)*

10. Federally Bond Restricted Units <i>(Reflected in PSR)</i>	Other Restrictions <i>(Reflected in PSR)</i>	Total Units <i>(Reported in CDLAC Resolution)</i>
_____ DUs at 50% AMI	_____ DUs at 50% AMI	_____ DUs at 50% AMI
_____ DUs at 60% AMI	_____ DUs at 60% AMI	_____ DUs at 60% AMI

*Please attach a copy of the project's TCAC Project Statute Report (PSR) or equivalent documentation.*

## LETTERHEAD

11. Please indicate the distribution of the CDLAC restricted 10% of the 50% AMI units.

<u>Bedroom Type</u>	<u># of Units in PSR</u>	<u># of Units in CDLAC Resolution</u>
1 Bedroom	_____	_____
2 Bedrooms	_____	_____
3 Bedrooms	_____	_____

12. If the Project has committed to and is currently providing the service amenities for a term as specified in the CLDAC resolution, please verify the services are being provided: on a regular and ongoing basis, which are provided free of charge and all hour requirements are being met:

- ☐ After-school Programs
- ☐ Educational, Health and Wellness or skill development classes
- ☐ Health and Wellness services and programs (not group classes)
- ☐ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)
- ☐ Bona-Fide Service Coordinator/Social Worker

Is the service being offered on an ongoing basis and provided free of charge (childcare excluded)?

No ☐ Yes ☐

Are all hour requirements being met?

No ☐ Yes ☐

*Attach evidence demonstrating that the above listed services are being provided and have met the requirements in the CDLAC Resolution. Including, but not limited to, MOUs and/or contracts associated with the services rendered, a 12-month schedule (current reporting year) of the services offered, flyers, sign-up sheets, etc.*

***Please note, if you have indicated any changes listed above, redeemed the bonds, or a notice/event of default or foreclosure has occurred, you will need to request a revision to the CDLAC resolution.***

Has a revised CDLAC resolution been requested?

No ☐ Yes ☐

*(If yes, please submit the revised CDLAC resolution - one time only.)*

Already Submitted revised CDLAC resolution ☐



**LETTERHEAD**

“Pursuant to Section 13 of Resolution No. 00-00 (the “Resolution”), adopted by the California Debt Limit Allocation Committee (the “Committee”) on (Meeting date), \_\_\_\_\_, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with all of the terms and conditions set forth in the Resolution, as outlined above. I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A, shall be enforceable by the Committee through an action for specific performance, negative points, with holding future allocation or any other available remedy.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Officer

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Title of Officer

## Chula Vista Housing Authority



Form **8703**  
(Rev. September 2013)  
Department of the Treasury  
Internal Revenue Service

**Annual Certification of a Residential Rental Project**

(Complete a separate Form 8703 for each project.)

For calendar year \_\_\_\_\_

► Information about Form 8703 and its instructions is at [www.irs.gov/form8703](http://www.irs.gov/form8703).

OMB No. 1545-1038

**Part I General Information**Check if Amended Return ☐

Operator of project		Taxpayer identification number of operator	
Street address, city or town, state or province, country, ZIP or foreign postal code			
Owner of project		Taxpayer identification number of owner	
Street address, city or town, state or province, country, ZIP or foreign postal code			
Address of building/project (Do not use P.O. box.)		Report number (For IRS Use Only) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<b>1</b> Check the box for the test elected for the project:			
<b>a</b> <input type="checkbox"/> 20-50 test <b>b</b> <input type="checkbox"/> 40-60 test <b>c</b> <input type="checkbox"/> 25-60 test (NYC only)			
<b>d</b> <input type="checkbox"/> 20-60 test (GO Zone, Midwestern disaster areas, and Hurricane Ike disaster areas only) <b>e</b> <input type="checkbox"/> 40-70 test (GO Zone, Midwestern disaster areas, and Hurricane Ike disaster areas only)			
<b>2</b> Date (MM/DD/YYYY) the qualified project period began . . . . . ► / /			
<b>3a</b> Was a low-income housing credit allocation issued by a housing credit agency for this project? . . . . . ► <input type="checkbox"/> Yes    ► <input type="checkbox"/> No			
<b>b</b> If "Yes," enter the building identification number (BIN) assigned to the building by the housing credit agency (see instructions) . . . . . ►			
<b>4</b> Check "Yes" if during the year reported on this form, there were no residential units in the project that were occupied by a new resident whose income exceeds the applicable income limit. If otherwise, check "No." ► <input type="checkbox"/> Yes    ► <input type="checkbox"/> No			
If "Yes," complete lines 5, 11, 12, and 13 in Part II, and skip lines 6 through 10.			

**Part II Annual Determinations**

<b>5</b> Total number of residential rental units in project . . . . .	<b>5</b>	
<b>6</b> Number of units actually occupied by individuals whose income does not exceed the applicable income limit (see instructions) . . . . .	<b>6</b>	
<b>7</b> Number of units occupied by continuing residents whose income is treated as not exceeding the applicable income limit (see instructions) . . . . .	<b>7</b>	
<b>8</b> Total number of low-income units in project (add lines 6 and 7) . . . . .	<b>8</b>	
<b>9</b> Divide line 8 by line 5 and enter the percentage (If the line 9 percentage is less than the percentage for the test elected in Part I, item 1 (i.e., 20%, 40%, or 25%), see instructions.) . . . . .	<b>9</b>	%
<b>10</b> Deep-rent skewed project election (see instructions):		
<b>a</b> Number of 40%-and-under low-income units . . . . .	<b>10a</b>	
<b>b</b> Divide line 10a by line 8 and enter the percentage . . . . .	<b>10b</b>	%
<b>11</b> Number of low-income units vacated during the calendar year . . . . .	<b>11</b>	
<b>12</b> Number of low-income units vacated during the calendar year and occupied by new residents who were low-income residents at the time of occupancy . . . . .	<b>12</b>	
<b>13</b> Number of low-income units that were vacated but were held available for low-income residents as of the end of the calendar year . . . . .	<b>13</b>	

For Privacy Act and Paperwork Reduction Act Notice, see back of form.

Cat. No. 64650C

Form **8703** (Rev. 9-2013)

**Part III Issuer and Description of Bonds** (see instructions)

<b>14</b>	Name of issuer	_____
<b>15</b>	Issuer's EIN	_____
<b>16</b>	Name of bond issue	_____
<b>17</b>	Date of bond issue	____ / ____ / ____
<b>18</b>	CUSIP number	_____
<b>19</b>	Issue price	_____
<b>20</b>	Final maturity date	____ / ____ / ____

**Part IV Certification** (see instructions)

<b>Sign Here</b>	Under penalties of perjury, I certify that the above project (check one) <b>continues to meet</b> <input type="checkbox"/> <b>does not meet</b> <input type="checkbox"/> the requirements of subsection 142(d) of the Internal Revenue Code and that I have examined this form, and to the best of my knowledge and belief, the information is true, correct, and complete.				
	Signature of Project Operator		Date	Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name		Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Firm's name ▶		Firm's EIN ▶		
	Firm's address ▶		Phone no. ▶		

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