

City and County of Denver,
Colorado

Debt Policy

10/1/2014



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Exhibits

- Exhibit A: [DRMC, Sections 20-90 et al.](#)
Exhibit B: [Executive Order No. 8](#)
[Executive Order No. 90](#)
[Executive Order No. 101](#)
[Executive Order No. 114](#)
Exhibit C: [Criteria for Establishing Title 31 & 32 Districts in the City and County of Denver](#)
Exhibit D: [Special Facility Revenue Bond Review and Processing Procedure](#)
Exhibit E: [Multi-Family Housing Development Revenue Bond – Policies & Procedures](#)
Exhibit F: [Industrial Development Bond Program – Policy and Criteria](#)
Exhibit G: [Master Derivatives Policy](#)
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Exhibit I: [Post Issuance Compliance Procedures](#)
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Exhibit K: Private Use Questionnaire

I. GLOSSARY OF TERMS*

“Accredited Investor”	Shall have the meaning as defined by Rule 501 under Regulation D Promulgated by the SEC under the Securities Exchange Act of 1934.
“Charter”	Means the Home Rule Charter of the City.
“City”	Means the City and County of Denver, Colorado.
“CPP”	Capital Planning and Programing Division
“C.R.S”	Means the Colorado Revised Statutes.
“Development Council”	The City’s decision making body that recommends funding of capital projects
“DIA”	Means the Denver International Airport.
“District”	Means entity organized by the City for the purpose of financing the acquisition, construction or operation of public improvements or facilities.
“DRMC”	Means the Denver Revised Municipal Code, as the same is amended or recodified from time to time.
“EMMA”	Means Electronic Municipal Market Access, the official source for market disclosures and data. The website is a service of MSRB.
“Enterprise”	As defined under Article X, § 20 of the Colorado Constitution
“Gateway”	Means land located to the southwest of DIA, as generally bound by I-70, Pena Boulevard and Dunkirk.
“Manager”	Means the Manager of Finance.
“MSRB”	Means the Municipal Securities Rulemaking Board.
“New Money”	Means an increase to the City’s current amount of Obligations outstanding, excluding the increase in principal amount of debt due to a refunding.
“Obligations”	Means bonds, notes, certificates of participation and other securities issued by the City.
“Red Book“	Means the then most recent version of The Bond Buyer’s Municipal Marketplace Directory.
“SEC”	Means Securities and Exchange Commission. The federal agency responsible for supervising and regulating the securities industry. The SEC

also has responsibility for the approval of MSRB rules, and has jurisdiction, pursuant to SEC Rule 10B-5, governing the sale of municipal securities.

“SFRMB”

Means Single Family Mortgage Revenue Bonds.

**Terms not otherwise defined in the Glossary of Terms are as defined in the MSRB’s Glossary of Municipal Securities Terms.*

II. STATEMENT OF PURPOSE

The issuance of bonds, notes, certificates of participation and other securities (“Obligations”) by the City has significant impact upon its citizens. The Manager will determine which type of financing Obligation will be issued after considering the following principles.

- Equity – Those that benefit from the item financed should pay for it;
- Effectiveness – Once the transaction is completed, it accomplishes its intent and the identified revenue source for repayment is adequate to meet debt service; and
- Efficiency – The relative cost of obtaining funds; - including the costs of the financing and the costs of collecting pledged revenues, is better than competing alternatives.

In order to provide a fair, orderly and understandable process for the issuance of such Obligations, the Department of Finance will consistently apply this Debt Issuance Policy (the “Policy”). The Policy has been established by the Department of Finance, and adopted by the Manager, to serve as a guideline for the issuance of Obligation(s), mitigate risk to the City and to facilitate the compliance of federal, state and local securities law. Its purpose is not to regulate the issuance of any such Obligation(s).

III. LEGAL AND REGULATORY REQUIREMENTS

The Manager and City Attorney shall coordinate their activities to ensure that the City Attorney may issue an opinion that all Obligations issued by the City comply with applicable laws and regulations of the City, state, and federal governments. All Obligations issued shall comply with applicable Obligation covenants.

- A. The Department of Finance shall engage legal counsel through the City Attorney’s Office on every financing to ensure that all appropriate documents related to the issuance of Obligations by the City comply with applicable laws and regulations, which include, but are not limited to:
 1. Section 103 of the Internal Revenue Code
 2. Articles X and XX of the Colorado Constitution.
 3. City of Denver Charter Sections 2.5.1, 7.2.2, 7.51, 7.52 and 7.53.

4. Denver Revised Municipal Code Sections 20-1 and 20-97.
 5. Executive Order 114
- B.** Documents and opinions relating to the issuance or execution of Obligations will be prepared by nationally recognized Bond Counsel, as retained by the City Attorney pursuant to Section A10.5 of the Charter. Such Bond Counsel shall have extensive experience in public finance, securities regulation and tax issues. Listing in the “Red Book” is evidence of nationally recognized experience.

IV. PLANNING AND CONDITIONS OF ISSUANCE OF OBLIGATIONS

A. Evaluation Factors

The Manager shall evaluate and consider factors, such as the following when analyzing, reviewing and recommending the issuance of Obligations:

1. Capital improvement plan;
2. Purpose and feasibility of the project;
3. Public benefit of the project;
4. Quantification of and control mechanisms for capital costs;
5. Impact on debt ratios generally accepted by rating agencies;
6. Impact on the General Fund;
7. Availability of appropriate revenue stream(s) including stress testing analysis;
8. Requirements for and costs of a vote for approval of the financing;
9. Debt Service requirements including credit implications;
10. Aggregate debt burden upon the City’s tax base, including other entities’ tax supported debt;
11. Analysis of financing and funding alternatives, including interfund borrowing and available reserves from other City funds and use of credit enhancement;
12. Opportunity costs of City Resources and competing capital needs;
13. Political and policy implications;
14. True interest cost of the proposed financing;
15. Impact of redemption features on pricing and cost benefit analysis of any non-standard call features; and

16. If undertaking a refunding:
 - a. current refunding
 - 1) The net present value savings and absolute dollar savings
 - 2) Financial policies and objectives
 - 3) Bond structure and escrow efficiency; and
 - 4) Number of years remaining on outstanding Obligations
 - b. additionally for an advanced refunding
 - 1) Number of years to call date
 - 2) Amount of negative arbitrage
 - 3) Overall level of market interest rates

B. Conditions of Issuance

The issuance of all Obligations are subject to the following conditions:

1. Obligations shall comply with all applicable federal, state and local laws, regulations, and covenants and shall not be issued so as to jeopardize the tax status of outstanding Obligations;
2. Obligations shall not be incurred to fund operations;
3. Capital improvements to be financed should first be developed and approved in accordance with the City's capital planning policy and process as determined by CPP;
4. Principal and interest payment schedules should generally be structured to result in level debt service payments, but may vary when circumstances warrant;
5. Obligations incurred will generally be limited to current interest serial or term maturities, but may be sold in the form of capital appreciation bonds or other structures, including short term securities, if circumstances warrant;
6. The average life of the incurred Obligation should generally be no greater than the projected average life of the assets being financed;
7. Reasonable expectation that Obligation proceeds will be utilized within 3-5 years, in compliance with IRS regulations. Any issuance of Obligations should be done in accordance with DRMC, Section 20-90 et al.
8. Consideration of impact Obligations has on debt metrics,

If an Obligation does not adhere to the guidelines set out in this Policy, approval by the Manager and the reasoning supporting the deviation from the Policy should be documented by the Department of Finance.

V. OUTSIDE PROFESSIONAL SERVICES

A. Finance Professionals

1. Financial Advisors

Pursuant to DRMC Section 20-90 et al., the City may retain a Financial Advisor to assist in the issuance and administration of Obligations. Financial Advisors retained by the City shall also comply with all applicable rules and regulations promulgated by the SEC and MSRB (e.g., MSRB Rule G-17 and G-42). Assistance to be provided by a Financial Advisor may include, but is not limited to:

- a. Analyzing the costs and benefits of various funding sources, including the strengths and weaknesses of debt issuance alternatives;
- b. Assisting in the development of requests for proposal for other professional services and the evaluation of responses;
- c. Monitoring market opportunities;
- d. Evaluating proposals submitted to the City;
- e. Advising on the structuring, method, and conditions of sale;
- f. Providing Obligation repayment schedules;
- g. Advising on terms and conditions of credit and liquidity facilities;
- h. Assisting in preparing documents necessary for issuance, such as debt service schedules, sale notices, bond documents, closing memoranda and disclosure materials;
- i. Assisting in the application for ratings, credit and/or liquidity facilities;
- j. Upon request, providing advice on investment of proceeds;
- k. As appropriate, providing an option for disclosure;
- l. Providing a written post-transaction assessment.
- m. Providing analysis of secondary market trades reported on EMMA from the pricing date of the bond issue to the closing date of the bonds compared to the most relevant bond index (eg; MMD); and

- n. Providing a written opinion upon transaction completion

Upon the selection of a financial advisor by the City, the financial advisor shall evidence in writing prior to the inception of the advisory relationship with the City, the following:

- a. Confirmation and proof the financial advisor is registered with the SEC
- b. Representation the financial advisor will serve as a financial fiduciary to the City
- c. Disclose any conflicts of interest
- d. Each municipal advisory relationships
- e. Compensation

2. Qualified Independent Representative (QIR) for Derivative transactions

The City shall independently evaluate the risk of any swap transaction prior to executing it. The City shall either name a qualified employee of the Department of Finance or contractually engage an outside advisor that meets the requirements for a qualified independent representative as described in 17 CFR §23.450, the regulations implementing Title VII of the Dodd-Frank Act. If the City names an outside advisor, as a part of any such engagement the outside advisor shall represent to the City that the outside advisor:

- a. Has sufficient knowledge to evaluate the transaction and risks;
- b. Is not subject to “statutory disqualification” as defined in 17 CFR §23.450;
- c. Is independent of the swap dealer or major swap participant;
- d. Is not and was not, within the last year, an “associated person” of the swap dealer or major swap participant as defined in Section 1a (4) of the Act;
- e. Undertakes a fiduciary duty to act in the best interests of the City;
- f. Has policies in place reasonably designed to ensure compliance with 17 CFR §23.450(b);
- g. Will evaluate fair pricing and the appropriateness of the swap consistent with the City’s swap policy; and
- h. Will exercise independent judgment in evaluating any recommendations of a swap dealer with regard to the relevant swap

3. Other Professionals

Except for legal counsel which will be appointed by the City Attorney; and outside consultants appointed by an Enterprise for the purpose of determining rates and charges, the Manager will retain other professionals associated with the Obligation issuance process which are deemed to be in the best interests of the City. Such professionals may include, but are not be limited to: bond trustees, registrar and paying agents, escrow agents, financial printers, underwriters, tender/remarketing agents, credit and liquidity facility providers, and other professional services associated with capital financings.

B. Selection Process

The selection and retention of finance professionals shall be done by the Manager in conformance with the City's practices concerning the competitive selection process for professional service contracts. See Exhibit B- Executive Order 8 and 101

C. Criteria for Evaluating Selection of Financing Team Members

The criteria to be used in evaluating and selecting a financing professional may include, but is not limited to:

1. The firm's experience and capability to provide the requested services to major governmental issuers, including the City;
2. Experience and capability of assigned personnel and their familiarity with the City;
3. Fees and expenses;
4. Absence of conflicts of interest; and
5. Availability of key personnel to serve the City.
6. Other criteria to be considered by the City include:
 - a. References;
 - b. Knowledge of innovative approaches;
 - c. Demonstrated ability to meet deadlines;
 - d. Local office; and
 - e. Minority/Woman/Disadvantage Business Enterprise status.

VI. TYPES AND FEATURES OF OBLIGATIONS

A. Obligation Type

1. General Obligation (GO) Bonds

- a. No GO Bonds, including limited-tax GO Bonds, shall be issued until approved by a majority of those qualified electors voting, unless the GO bonds are being issued to refund a prior issue.
- b. The issuance of GO bonds should be carefully conserved and used only for projects clearly benefiting the broad public interest. True public projects of an essential nature and without associated revenue streams are the strongest candidates for GO financing.
- c. Per Section 7.5.2 of the Charter, the City shall not become indebted for GO bonds, to any amount which, shall exceed 3% of the actual value as determined by the last final assessment of the taxable property within the City. This limitation shall not include bonds issued by the Denver Water Board.
- d. General Obligation debt shall be prudently structured with respect to principal amortization. The City will target a combined principal pay-out rate that is within rating agencies guidelines for the desired credit rating level.
- e. The City's General Obligation debt per capita shall not exceed 80% of the median of comparable Cities to Denver. The City will also target a net direct debt level as a percentage of market value at a level within rating agency guidelines for the desired credit rating level.

2. Certificate of Participation (COPS)

- a. The City will follow the provisions set forth in C.R.S. 29-1-103 through 29-1-106, concerning budget issues and term restrictions of lease-purchase agreements. Financing of assets will be used only for expensive and long lived assets that, if financed with cash annually, would be disruptive to the City's capital planning program. In addition, the City should adhere to the following guidelines:
 - 1) Capital improvements and certain capital equipment will be eligible;

- 2) Capital improvements should provide new revenue stream or measurable cost efficiencies or savings which may be realized and dedicated to lease payments of COPs;
 - 3) Capital improvements financed should be for basic and essential City services;
 - 4) The useful life of the asset(s) being financed should not be shorter than the term of the lease, but the maximum term of the lease should not exceed 30 years for real estate assets and 15 years for all other assets. Useful life will be determined based upon industry standards and past experience with consideration given to technological obsolescence;
 - 5) Capital improvements may be new or replacement facilities.
- b. Total annual certificated lease payments should not exceed 5% of the acquiring fund's annual revenues. (i.e. General Fund, Capital Fund, Enterprise Fund)
 - c. Before proceeding with a COP financing, the City Attorney's Office and Real Estate Division will be consulted regarding issues associated with the transaction, such as cross collateralization, compulsion-to-pay, title work, and other matters.

3. Revenue Bonds

- a. As a general rule, revenue bonds will be used to finance assets that generate revenue which repay the Obligation issued.
- b. The use of revenue bonds is the favored form of Obligation if direct beneficiaries of a given improvement can be clearly identified and such beneficiaries can pay for a fair share of its costs.
- c. New Money non-Enterprise revenue bonds shall not be issued unless approved by Denver voters.
- d. Revenue bond covenants such as reserves and debt service coverage ratios will be structured to maintain or improve credit ratings.
- e. The use of a subordinate lien will be evaluated on a case by case basis using a cost/benefit approach.

- f. Prior to issuance of Enterprise revenue bonds, the Manager shall review the financial condition of the Enterprise and the contemplated debt to confirm that current and future Enterprise revenues are sufficient to:
 - 1) Comply with additional bonds test covenanted on existing Obligations
 - 2) Meet the rate maintenance covenant pursuant to governing bond ordinance; and
 - 3) Maintain or improve credit ratings.

4. Capital Leases (non-certificated lease purchase agreements)

The City will follow the policy it has developed and adopted for capital equipment lease purchase transaction undertaken for City agencies that are non-Enterprise funds, as defined by TABOR, to ensure that Capital Lease Financings for City agencies are accomplished in a manner that meets the agencies' needs and comply with all legal requirements. The Capital Lease policy statement is attached as Exhibit H to this debt policy.

5. Special Districts

- a. Local Public Improvement and Maintenance Districts

Pursuant to Sections 7.6.1 through 7.7.19 of the Charter, the City may create districts to enable assessing the costs of constructing or maintaining local public improvements. The financing of such costs can be accomplished through (i) the issuance of Obligations or (ii) the appropriation of revolving fund monies. Accordingly, the benefited properties will be assessed a proportionate share of the whole cost of the improvement in order to repay the principal of and interest due on any such funds advanced and any costs associated thereto.

- 1) The improvement must enhance the value of the property against which the assessment is levied in an amount at least equal to the amount of the assessment.
- 2) The term for repayment of the funds advanced should not exceed 15 years.
- 3) Voter authorization must be acquired to issue Obligations. An elector is defined as a person, qualified to register to vote in the general elections of the City, and (i) has been a resident of the district for not less than thirty

days or (ii) owns taxable real or personal property within the district – whether the person resides in the district or not.

- 4) If a revolving fund is the financing mechanism, the rate of interest to be charged for any funds advanced shall approximate the rate as if General Obligation bonds were issued. The expenditure of revolving funds requires an appropriation by the City Council.

b. CRS Title 31 and 32 Districts

For current policy and guidelines related to District financing of infrastructure see Exhibit C, Criteria for Establishing Title 31 and 32 Districts in the City and County of Denver. [The Development Team] is expected to formally adopt the criteria in order to govern the formation of such Districts in the City.

c. Tax Increment Financing Districts

Tax Increment Financing Districts currently administered by the Denver Urban Renewal Authority are appropriate only upon analysis demonstrating that the future revenue benefits exceed the aggregate tax increment to be pledged for debt service.

6. Non-recourse debt issued pursuant to Executive Order No. 90

a. Affordable housing

The City may, at its discretion, issue either single family mortgage revenue bonds or multi-family housing revenue bonds to stimulate the affordability of for sale and rental housing within the City. Pursuant to Executive Order No. 90, issuance of bonds for such purposes will be coordinated by the Department of Finance in collaboration with the Office of Economic Development which is responsible for establishing the guidelines and rules for such housing programs. See Exhibit B and E.

b. Industrial Development Revenue Bonds

The City may, at its discretion, issue private activity bonds for those private sector industrial facilities permitted to be financed under both federal and state statutes. Pursuant to Executive Order No. 90, issuance of bonds for such purposes will be coordinated by the Department of Finance in collaboration with the Office of

Economic Development which is responsible for establishing the policies and procedures for such program. See Exhibit B and F.

c. 501(c)(3) Bonds

The City may, at its discretion, issue IRS Code Section 501(c)(3) Bonds to further the objectives of qualified non-profit entities consistent with City policies. Pursuant to Executive Order No. 90, issuance of bonds for such purposes will be coordinated by the Department of Finance in collaboration with the Office of Economic Development which is responsible for establishing the policies and procedures for such program. See Exhibit B.

d. Special facility revenue bonds

Procedures and guidelines for the issuance of special facility bonds have been established by the Manager and the Manager of the Department of Aviation. See Exhibit D.

B. Bond Features

1. Variable Rate Bonds (VRB). Interest rate savings can generally be achieved along the shorter end of the tax-exempt yield curve and provide benefits in structuring the City's debt portfolio. Advance refunding limitations placed on fixed-rate debt generally do not apply to VRBs as these bonds are generally redeemable at par on the interest reset dates and tender dates. Prior to structuring a financing with variable-rate obligations, the Manager will assess:

- a. Financial Flexibility
- b. Liquidity Sources
- c. Asset-Liability Management
- d. Interest Rate Risk
- e. Derivative Options
- f. Market Conditions
- g. Depth of the Market and Market History
- h. Third Party Risk
- i. VRB composition of total Obligation portfolio

The Manager may use commercial paper, a variable rate product, if an approved capital project warrants. Commercial paper can be issued incrementally as funds are needed to finance current construction and reduce the long-term cost of construction financing, and may then be refunded with a long-term financing.

2. Capitalized Interest

Interest may be capitalized as warranted.

3. Optional redemptions

If determined to be in the City's best interest, debt issued by the City may contain optional redemption features. The Manager will ultimately determine what is in the City's best interest in selecting appropriate dates and prices, taking into account such items as the costs of funds versus future financial flexibility.

4. Capital appreciation bonds

Capital appreciation bonds shall only be used if deemed to be in the City's financial interest considering current investor demand, future cash flows and expected interest rate advantages.

5. Liquidity and Credit Facilities

When judged prudent and advantageous to the City, agreements with municipal bond insurance companies, commercial banks or other financial entities for the purposes of acquiring letters of credit or bond insurance policies may be obtained.

- a. The net present value of the estimated debt service savings from the use of credit enhancement shall be greater than the fees and/or premium paid by the City to obtain such credit support.
- b. Credit ratings of the credit provider must be investment grade and preferably no less than Aa3.
- c. A competitive process shall be used to select credit enhancement providers.

Factors for considerations when analyzing a credit facility include, but are not limited to:

- a. Acceleration provisions
- b. Refinance/renewal risk
- c. Ratings triggers
- d. Collateral pledge
- e. Financial covenants
- f. Current exposure to credit facility provider

6. Debt Service Reserves

When economically beneficial, the City may obtain a surety policy, letter of credit, line of

credit, or similar arrangement in lieu of a cash funded debt service reserve.

7. City Credit Support (Moral Obligation)

Use of City's moral obligation pledge will be limited to projects deemed essential in nature that would not otherwise be financeable in the public capital market without the pledged support of the City. Factors evaluated when considering use of the City's moral obligation pledge will include:

- a. essentiality of the proposed project;
- b. economic benefit of the project versus cost not supporting the issue;
- c. existing use of the City's moral obligation pledge; and
- d. potential City credit rating implications by use of moral obligation pledge.

Moral obligation bonds do not carry the full faith and credit pledge of the City. The moral obligation pledge would be limited to annual replenishment of the debt service reserve funds at a specified reserve requirement. Any pledge of the City's moral obligation requires city Council approval and is subject to annual appropriation. The Manager will monitor Obligations with a moral pledge for opportunities to terminate such pledge if Obligations and market conditions warrant.

C. Derivative Products

The City's authority for using derivatives is based on Article XX of the Constitution of the State of Colorado and the City Charter and ordinances adopted by the City Council from time to time. Under this authority, the City may enter into derivatives in connection with the planned issuance of certain financing obligations before or concurrently with or after the actual issuance of such obligations.

Unless substantial economic benefit is proven, derivative products shall not be used with respect to the issuance of tax-supported debt. For non-tax supported debt, derivative products may be used to reduce the City's exposure to changing market conditions or to reduce interest costs, but shall not be used for speculative purposes. See Exhibit G.

The terms and provisions of any derivative will be developed by the Manager and will provide for,

among other matters, the procedures, permitted uses, counterparty credit standards, method of procurement, risk management, and reporting requirements. The Manager will present any derivative proposal to City Council for approval through the adoption of a derivative ordinance. The derivative ordinance (or amended derivative ordinance) will also establish authorized parameters for notional amount, Swap maturity, source of payment, and other relevant requirements.

The City may retain the services of a Qualified Independent Representative/swap advisor, to assist in the process of structuring, documenting and pricing a transaction, and to verify that a fair price was obtained. In any negotiated transactions, the counterparty will be required to disclose all payments to third parties including brokers, lobbyists, and consultants in assisting the counterparty in procuring business with the City.

The City will review the following areas of potential risk for new and existing interest rate swaps:

Type of Risk	Description	Evaluation Methodology
Basis risk	The mismatch between actual variable rate debt service and variable rate indices used to determine Swap payments.	The City will review historical trading differentials between the variable rate bonds and the index.
Tax risk	The risk created by potential tax events that could affect Swap payments.	The City will review the tax events in proposed Swap agreements. The City will evaluate the impact of potential changes in tax law on LIBOR indexed Swaps.
Counterparty risk	The failure of the counterparty to make required payments. Multiple off-setting Swaps compounds counterparty risk.	The City will monitor exposure levels, ratings thresholds, and collateralization requirements.
Termination risk	The need to terminate the transaction in a market that dictates a termination payment by the issuer.	The City will compute its termination exposure for all existing and proposed Swaps at market value and under a worst-case scenario.
Amortization risk	The mismatch of the maturity of the Swap and the maturity of the underlying bonds.	The City will determine, in accordance with its Debt Policy, its capacity to issue variable rate bonds that may be outstanding after the maturity of the Swap.
Liquidity risk	The inability to continue or renew a liquidity facility.	The City will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt.
Credit risk	The occurrence of an event modifying the credit rating of the issuer or its counterparty.	The City will monitor the ratings of its counterparties and insurers.

D. Redemptions and Refunding of Obligations

If determined to be in the City's financial interest, the City should consider prepaying or defeasing outstanding Obligations when resources are available to reduce the amount of debt outstanding. The Manager will consider refunding Obligations in order to generate interest savings, restructure debt service, provide General Fund relief, generate cash flow savings, mill levy reductions and/or eliminate burdensome covenants.

As a general policy, a fixed rate refunding transaction should target between 3-5% net present value savings of the aggregate amount of Obligations to be refunded with no negative savings in any given maturity, however in certain circumstances lower savings may be justified if there are significant overriding financial or policy objectives. An advanced refunding must demonstrate net present value savings at the higher range. The Manager shall evaluate and consider the factors detailed in Section IV Planning and Conditions of Issuance of Obligations – Evaluation Factors, when analyzing a refunding.

When structuring a refunding escrow, the Manager can purchase State and Local Government Securities (SLGS) or escrow securities in the open market with the goal of optimizing the effectiveness of the escrow.

E. Interfund Borrowing

Interfund borrowing, to the extent permitted by applicable laws, will only be allowed subsequent to predetermining a repayment schedule, including the payment of interest.

VII. CREDIT RATINGS

Unless otherwise justified, the City will seek a rating on all new issues which are being sold in the public market. The City recognizes the important of maintaining good relations with bond rating agencies in order to increase the financial markets' acceptance of Obligations, which impacts the City's cost of borrowing. However, exceptions to this requirement are permissible, such as when privately placing a security with an accredited investor, if warranted by the circumstances. Generally:

- A.** The City will obtain an underlying rating on Obligations which are credit enhanced.
- B.** The City will attempt to maintain a rating on those credits which have previously been rated by one or more of the rating agencies.
- C.** The City may obtain a rating on Obligations defeased through escrowed securities.
- D.** The City will report annually all financial information, including its Comprehensive Annual Financial Report and Disclosure Statement to agencies which provide credit ratings or credit or liquidity facilities for the City's outstanding Obligations.
- E.** The City will actively monitor its credit exposure and ratings of liquidity or insurance providers.
- F.** The City will promptly report any ratings events through EMMA consistent with an Obligations Continuing Disclosure Undertaking.

VIII. METHODS OF SALE

It is in the interest of the City to require the sale of its Obligations using the method of sale that is expected to achieve the widest distribution at the lowest cost, taking into account both short-range and long-range implications. The competitive sale of Obligations will be the presumed method of sale used by the City unless the proposed Obligations meet the negotiated sale conditions. If in the best interest of the City, the Manager may elect to use a direct placement method of sale if the conditions for a negotiated sale are generally met; and the City will use best efforts to ensure a competitive and fair pricing process. Before taking any action which could obligate the City financially with regard to the issuance or execution of Obligations, the Manager

will communicate the intent to the President of City Council consistent with DRMC, Sections 20-93 et al.

A. Criteria for Determining Method of Sale

1. Conditions which support a competitive sale process include:
 - a. The issue has an unenhanced credit rating of “A” or above or can obtain credit enhancement prior to the sale date;
 - b. The market is familiar and comfortable with the project being financed, the structure of the financing, any Obligation covenants, and the revenue pledged to the repayment of debt service;
 - c. The issue is appropriately sized to attract investors without a concerted effort; and
 - d. Interest rates are stable and market demand is strong.

2. Conditions which support a negotiated sale process include:
 - a. Whether the transaction is of significant size for the market;
 - b. Market timing will be a critical factor in garnering the lowest possible interest rate;
 - c. The financing requires a complex or innovative structure;
 - d. The market has concerns about the credit quality of the Obligation; and
 - e. The market is unfamiliar with the project, the structure of the financing, or the revenues pledged for debt service.

B. Parameters for a Competitive Sale

1. Notice of Sale

The Official Notice of Sale will be communicated in the most appropriate mean for the Obligation being offered. The Notice will announce the City’s intent to sell Obligations and will contain references to relevant security and structural information that interested bidders may require. The bid form shall clearly indicate the basis of award. The bid form shall also alert the bidder that by submitting a bid they are acknowledging compliance with applicable MSRB Rules.

2. Structure

The Official Notice of Sale will be designed to provide flexibility for prospective purchasers to enhance the attractiveness of the offering consistent with the City's desire to achieve the lowest true interest cost possible.

3. Basis of Award

Obligations priced by competitive bid will be sold to the bidder providing the lowest true interest cost provided the bid conforms to the Official Notice of Sale.

4. Good Faith Deposits/Surety

The City will provide conditional acceptance of a bid upon (i) the receipt of a good faith deposit from the winning bidder within a specified timeframe, or (ii) in advance of receipt of the bid, the receipt of a confirmation of a third party surety bond provider guaranteeing the payment of a good faith deposit from the winning bidder.

5. Permissible Discounts/Premiums

The City will permit discount or premium bids when it retains sufficient flexibility to compensate for the discount or premium by adjusting the par amount of the Obligations. Unless the need is demonstrated for economic purposes, original issue discounts shall not be at such a level to detrimentally affect the City's ability to refund such debt in the future.

6. Term Bonds

The Official Notice of Sale should be designed to provide flexibility for prospective purchasers to include term bonds with mandatory sinking fund installments, and other features that may enhance the attractiveness of the offering consistent with the receipt of the lowest true interest cost possible.

C. Parameters for a Negotiated Sale

When the Manager determines that a negotiated sale of Obligations is in the best interest of the City, the Department of Finance may provide for the negotiated sale of Obligations. A competitive

selection process to select the underwriter(s) will be undertaken with the assistance of a Financial Advisor.

1. Co-Managers and Selling Groups

If co-managers and/or a selling group are deemed appropriate to a negotiated sale of Obligations, those participants shall be engaged by the City.

2. Pricing and Allocation of Negotiated Sales

a. The negotiation of terms and conditions will include, but are not limited to: prices, interest rates, underwriting or remarketing fees and commissions. Guidelines will be based on prevailing terms and conditions in the marketplace for comparable issuers in addition to the City's recent experience.

b. If more than one underwriter is included in the financing, the Manager will establish the general guidelines of the allocation of fees, liability and underwriting in a manner consistent with the objectives of the City.

c. Criteria to be used in determining the allocation amongst underwriter(s) of Obligations sold will include, but are not limited to:

- 1) Demonstrated performance in the sale of previous issues of City Obligations;
- 2) The capitalization of each underwriter relative to the size of the transaction and any potential loss on the transaction;
- 3) Demonstrated commitment to the inclusion of underwriters who have historically been denied equal access to the financial marketplace; and
- 4) Demonstrated commitment to the inclusion of selling group members who have significant ownership or operations in the State of Colorado.

3. Senior Manager Responsibilities

Contemporaneous with the execution of a purchase contract for Obligations, the senior manager of a financing will:

- a. Provide for the fair allocation of Obligations to underwriters and selling group members, consistent with the previously negotiated terms and conditions of allocation, as referenced in the Agreement Among Underwriters;
- b. Provide affirmation of compliance with all Municipal Securities Rulemaking Board (MSRB) regulations such as G-11 and G-17 governing order priorities and allocations, and standards of fair practice; and
- c. Agree to submit to the City a complete and timely account of all orders, allocations, and underwriting activities related to the sale of Obligations under its management.

D. Direct Placement

If determined to be in the City's financial interest, the Manager may consider a direct placement structure in order achieve financing cost savings or to diversify and offset risk with respect to its variable rate securities portfolio (basis risk, counterparty risk, remarketing risk).

The Manager may use a bank placement structure as an alternative to a traditional public offering of Obligations to directly place:

1. Line of credit for interim financing
2. Short-term variable rate debt tied to an index (index put bonds)
3. Fixed rate Obligations
4. Or as an alternative to a letter of credit for variable rate Obligations

Although not legally required, the City will provide voluntary disclosure via EMMA of any direct placement facility it enters into.

Factors for considerations when analyzing a direct placement include, but are not limited to: (also include this in credit facilities section)

1. Acceleration provisions
2. Refinance/renewal risk
3. Transferability of the direct placement
4. Ratings triggers

5. Collateral pledge
6. Financial covenants
7. Current exposure to bank

IX. POST ISSUANCE COMPLIANCE

It is the policy of the City and County of Denver to comply with all applicable federal tax rules related to its tax-exempt Obligations. This includes compliance with all applicable federal tax documentation and filing requirements, yield restriction limitations, arbitrage rebate requirements, use of proceeds and financed projects limitations and recordkeeping requirements. This policy along with the City's Post Issuance Compliance Procedures, attached as Exhibit I, will serve as a guide to facilitate the compliance of federal tax law applicable to outstanding tax-exempt Obligations. This policy will supplement the City's Executive Order No. 114 related to ongoing disclosure of Obligations, and the tax certificate for each outstanding series of tax-exempt Obligations. In the event the this policy, or the Post Issuance Compliance Procedures conflict, in whole or in part with the tax certificate, the terms of the tax certificate shall control.

The Manager of Finance, who is also the City's Compliance Officer under Executive Order 114, or his/her designee in the City's Cash, Risk & Capital Funding Division (the "Compliance Officer"), is responsible for reviewing compliance under all existing Obligations on an annual basis. The purpose of the Annual Compliance Review is to identify any non-compliance or possible violation of federal tax requirements or SEC regulations in order to ensure the timely correction of those violations with remedial action.

A. Arbitrage Compliance

The City shall comply with the applicable arbitrage regulations mandated by the Federal Government.

1. The City shall retain appropriate technical expertise to assist in monitoring the compliance of its Obligations with the rebate and yield restriction requirements of Section 148 of the Internal Revenue Code in appropriate circumstances.
2. The Compliance Officer will conduct arbitrage compliance reviews of each issue of tax-exempt Obligations issued by the City (i) on or prior to each five-year anniversary date

- of the issue date of the bonds; (ii) on or within 30 days of the date the bonds are retired, defeased or refunded; (iii) on or prior to the date of any rebate payment made if that date is not within 60 days of one of the dates mentioned in (i) or (ii); (iv) at the time of any change in use of any asset that was funded with a material amount of bond proceeds; and (v) at the time of the occurrence or non-occurrence of any other event that could affect the tax status of the bonds as indicated in the tax certificate (e.g., the occurrence of an event which the tax certificate represents will not occur or is not expected to occur, or the non-occurrence of an event the tax certificate represents will or is expected to occur).
3. If any event of non-compliance is discovered by the Compliance Officer, by the rebate consultants, or otherwise, the Compliance Officer will consult with a City Attorney and if appropriate, bond counsel as to the appropriate action to take to remedy the non-compliance, including payment of late payment interest, penalties on rebate and yield reduction payments through use of the Tax-Exempt Bond Voluntary Closing Agreement Program.

B. Accounting and Monitoring of Bond Proceeds

The Compliance Officer will conduct annual compliance checks of the current status of the proceeds of each issue for tax-exempt Obligations.

1. The City will account for Obligation proceeds in such a manner that it can actively monitor the investment of Obligation proceeds, the spend-down of Obligation proceeds, and the use of Obligation proceeds.
2. The investment of Obligation proceeds will be undertaken in accordance with the City's Investment Policy and the governing bond documents relating to its Obligations. The City will maintain investment allocations by source of funds and record pro rata interest income of any commingled bond funds monthly.
3. The City will take reasonable action to monitor the spend-down of bond proceeds and the use of tax-exempt financed facilities to ensure compliance with applicable federal tax regulations.
4. All invoices and records of payment will be retained by the Department of Finance.
5. Project cash flows will be carefully planned in advance of an issue to insure the applicability of rebate exceptions, if feasible.

C. Continuing Disclosure

1. The City acknowledges its disclosure responsibilities to the market and the underwriting community. The City will make reasonable efforts to comply with contractual continuing disclosure requirements and to assist underwriters in their efforts to comply with SEC Disclosure Rule 15c2-12 (the “Rule”) and MSRB Rule G-36 which requires the filing of an Official Statement within 10 days of Bond Purchase Agreement execution.
2. Pursuant to federal securities law requirements and the City’s Executive Order 114, which is described in Section D, below, the City will file its official Disclosure Statement with the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access (EMMA) system, which can be accessed at <http://emma.msrb.org/>. The City publishes the Disclosure Statement annually.
3. A Continuing Disclosure Undertaking (CDU) will be executed and delivered by the City in connection with the issuance of Obligations. The City will provide a copy of its Comprehensive Annual Financial Report and other information the City deems pertinent to the market. Pursuant to the CDU, the City shall file or cause to be filed with the MSRB items listed below, in a timely manner not in excess of ten business days after the occurrence of the event, notice of any of the events listed below with respect to Obligations:
 - a. Principal and interest payment delinquencies.
 - b. Non-payment related defaults, *if material*.
 - c. Unscheduled draws on any debt service reserve relating to the Obligations reflecting financial difficulties.
 - d. Unscheduled draws on any credit enhancement relating to the Obligations reflecting financial difficulties.
 - e. Substitution of credit or liquidity providers or their failure to perform.
 - f. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.

- g. Modifications to rights of the Owners of the Obligations, *if material*.
 - h. Obligation calls, *if material*, and tender offers.
 - i. Defeasance of the Obligations or any portion thereof.
 - j. Release, substitution or sale of property securing repayment of the Obligations, *if material*.
 - k. Rating changes.
 - l. Bankruptcy, insolvency, receivership or similar event of the obligated person.
 - m. The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, *if material*.
 - n. Appointment of a successor or additional trustee or the change of name of a trustee, *if material*.
4. The City has adopted Executive Order No. 114 to establish policies and procedures related to ongoing disclosures. See Exhibit B, Executive Order No. 114. Discussions between the Manager and representatives of the Denver Water Board (the “Board”) has resulted in the understanding that the Board will be responsible for complying with the Rule and will prepare its own ongoing disclosure statements.

D. Due Diligence - Annual Compliance Checks

1. The Compliance Officer will conduct annual compliance checks of the current status of the proceeds of each issue of tax-exempt Obligations and the current use of the facilities financed or refinanced by tax-exempt bonds. These reviews will be made for the purposes of identifying any possible violation of federal tax requirements and to ensure the timely correction of those violations with remedial action described in the regulations of the United States Department of the Treasury or through the Tax-Exempt Bonds Voluntary Closing Agreement Program. If a possible violation is identified, the Compliance Officer will consult with a City Attorney and if appropriate, bond counsel as to the appropriate course of action.

2. Private Use- The City will not knowingly take or permit to be taken, any action which would cause any of its outstanding tax-exempt obligations to become “private activity bonds”. The Compliance Officer will routinely review the use of tax-exempt proceeds for “private business use” via its Private Use Questionnaire. The City will take reasonable action to monitor the use of tax-exempt financed facilities to ensure compliance with federal regulations pertaining to the private use and payment of financed facilities. Any business activities by third parties are tracked and verified
3. Training-The City will consult regularly with bond counsel regarding tax rules applicable to its outstanding Obligations and will regularly update its debt policy and Post Issuance Compliance Procedures to reflect any changes. As part of the training of any successor, the Compliance Officer will review the requirements of post issuance compliance activities with the successor as part of the successor’s transition into Office.

E. Records Retention

1. The City will retain all governing bond documents relating to tax-exempt Obligations and compliance with the requirements of the Internal Revenue Code until at least three years after the last maturity of an issue (or any later issue that refinances the issue) is paid and discharged.
2. The City will maintain at least one physical transcript and one digital transcript of each Obligation series. A transcript (physical or digital) will be provided to the Clerk and Recorder’s office and the City Attorney’s office.