



CITY OF LENEXA  
Private Activity Conduit Financing & Tax Abatement  
Application

**This application is to be used to request the abatement of property taxes in conjunction with the issuance of Private Activity Conduit Debt for a specific project.**

**For additional information, please refer to the City's Private Activity Conduit Financing and Tax Abatement Policy for Economic Development – adopted November 20, 2007 by the City Council.**

**Version date: November, 2007**

## Finance Team

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#### **SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:**

Applicant’s Certified Financial Audits or compilations (Last three years)  
Applicant’s most recent annual/quarterly financial report  
Applicant’s interim financial statement (Year to Date)  
Current financial statement for personal guarantors (if applicable)

#### **Submission of application and supplemental information:**

Return one signed copy of the application and three copies of the Supplemental Information, along with the application fee, to:

City of Lenexa  
Attn: Doug Robinson, Finance Director  
12350 W. 87 Street Parkway  
Lenexa, Kansas 66215  
PH: (913) 477-7544  
FX: (913) 477-7586

The signed application form may also be e-mailed to [drobinson@ci.lenexa.ks.us](mailto:drobinson@ci.lenexa.ks.us).

## **Private Activity Conduit Financing Procedure**

Below is a list of the basic steps necessary to complete the typical Private Activity Conduit issue in Lenexa, Kansas. This list assumes proper zoning is in place at the time of making application. This is not intended to be a comprehensive list of all items but is merely intended to provide an overview of the process.

1. Applicant contacts the Finance Director to request a pre-application conference with the City's Finance Team. (Optional)
2. Applicant obtains an application form from the City's Finance Director. Applicant submits one copy of the application, three copies of the supplemental information, and the \$10,000 fee/retainer (made payable to the City) to the Finance Director. Applicant is responsible for all actual costs incurred by the City, including but not limited to, costs for bond counsel; financial advisor; legal fees incurred for services associated with any requests for document amendments; and other professional fees incurred.
3. City's Finance Team reviews application and, if necessary, requests other appropriate information.
4. If applicable, the Finance Team meets with applicant at applicant's proposed or existing project location for an on-site tour.
5. Finance Team recommends to the Governing Body whether or not the application should be favorably considered; and if so, the Governing Body adopts a Resolution of Intent authorizing the issuance of bonds and the City publishes notice of public hearing (publish two weeks before the public hearing), if applicable.
6. Governing Body holds public hearing, if applicable.
7. Bond Counsel files City's application for State allocation of Industrial Revenue Bonds, if applicable.
8. Bond Counsel drafts documents necessary for transaction including, ordinance, lease, trust indenture, etc. Underwriter or underwriter's counsel drafts official statement and bond purchase agreements, if applicable.
9. Bond Counsel arranges for printing of bonds and orders CUSIP numbers for bonds.
10. Bond Counsel, underwriter's counsel, and others distribute final drafts of documents.
11. Applicant or applicant's underwriter markets bonds.
12. Governing Body passes ordinance authorizing the issuance of the bonds.
13. City publishes ordinance authorizing the issuance of the bonds.

14. Applicant's underwriter distributes final official statement, if applicable.
15. Bond Counsel drafts closing documents and the underwriter arranges closing details including delivery of bonds and payment.
16. All parties close transaction including making all necessary UCC filings, recordings and transfers, applicant pays origination fee to City and any other fees or costs outstanding.
17. Bond Counsel files City's certificate evidencing closing with the State.
18. Bond Counsel files Form 8038 with Internal Revenue Service.

The Governing Body meets on the first and third Tuesdays of the month. The above procedure normally requires 90 days assuming the application is timely filed for consideration at the appropriate meetings. The time required may be more or less depending on the complexity of the transaction, availability of participants, and other factors.

**Prior to the contractor commencing construction on the project, the applicant shall notify the Lenexa City Clerk on whether or not to proceed with an application for a sales tax exemption from the State of Kansas.**

**Prior to or at completion of the project, the applicant shall inform the Lenexa City Clerk to proceed with the appropriate filing with the State Board of Tax Appeals for tax abatement on the project.**

## Fee Schedule – Bond Counsel and City Legal Fees

City Bond Counsel fees are the responsibility of the applicant, and shall be paid whether or not the transaction closes once document drafting has commenced. Below is the schedule, which will be followed for most fixed rate, new money issues. Variations either upward or downward may be appropriate depending on the nature and complexity of the financing, the facilities to be financed, and other matters. The fee for issues involving a refunding, multimodal features, or multiple series is normally higher than the fee indicated on the schedule and will be specified when the structure for the transaction is determined. The preparation of an official statement or other offering material is not included in the following fees:

<b>Principal Amount</b>	<b>Fee</b>
Under \$1,000,000	\$15,000
\$1,000,000 to \$5,000,000	\$15,000 + \$2.50 per \$1,000 over \$1,000,000
\$5,000,000 to \$10,000,000	\$25,000 + \$2.00 per \$1,000 over \$5,000,000
Over \$10,000,000	\$35,000 + \$1.00 per \$1,000 over \$10,000,000

In addition to the fees set forth on the above schedule, reimbursement is also required for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, long distance calls, and similar items.

Responsibilities of Bond Counsel include the following:

- a. Negotiations with respect to and preparation of the following documents: Trust Indentures; Lease Agreement; Ordinances, Resolutions and other proceedings of the City; Closing certificates of the City, the Trustee, and the Company;
- b. Preparation of typed bonds or supervision of printed bonds;
- c. Preparation and examination of the bond transcripts;
- d. Assisting with the necessary filings and recordings with appropriate county, state, and federal agencies;
- e. Rendering an approving legal opinion on the validity of the bonds and the documents referred to in paragraph (a) hereof which will include, if applicable, a statement that under existing law, the interest on the bonds is exempt from federal and Kansas income taxation with certain customary exceptions; and
- f. Attending such conferences and meetings, including the closing, as may be necessary in connection with the transaction.

Applicant shall also be responsible for the City's actual legal fees incurred for services associated with any ongoing requests for document amendments during the term of the bonds, including but not limited to, assignments, assumptions, and redemptions.

## **Fee Schedule – Financial Advisor**

The applicant will be responsible for the City Financial Advisor's fees. Financial Advisor fees will be calculated on an hourly rate basis (maximum hourly rate of \$200 per hour), and will apply whether or not the transaction closes. The City's Financial Advisor will provide financial advice to the City on all private activity conduit financing and will assist the City in preparing bond and note issues for marketing and, in doing so, will perform these services customarily performed by financial advisors for comparable public authorities. Without limiting the generality of the foregoing, such services shall include:

- a. Consultation with the City relative to its role of assisting acceptable borrower through the issuance of debt for capital projects;
- b. Advising the City and participating borrowers relative to their particular financing needs;
- c. Consultation and communication with the City's staff, Bond Counsel, and other financing participants in regard to the terms and provisions of anticipated financing;
- d. Assisting the City in determining the credit quality of any borrowers & developing financial safeguards in the transaction structure;
- e. Assistance in developing new borrower financing programs, as requested by the City;
- f. Collection and review of pertinent financial information and other data relating to the City and the borrower;
- g. Review of documentation, as needed, for bond issues including official statements, loan agreements, indentures, and other appropriate documents;
- h. Review of materials and data for the rating agencies and meetings with such agencies, if requested;
- i. Review and oversee the method and procedures utilized in the sale of the securities by the borrowers, evaluation for the City of the process and pricing;
- j. Serving as the City's liaison to the private activity borrowing community;
- k. Attending City and Borrower's meetings, as appropriate; and
- l. Deliver to the City, if requested by the City, at the closing for a bond issue with respect to which the Financial Advisor rendered assistance, a written statement of the extent to which it has participated in the financing and a statement that nothing has come to its attention which would lead it to believe that there was a material misstatement or omission in any offering materials.

## **Origination Fee Schedule (Private Activity Conduit Financing)**

Origination fees assessed by the City (as authorized by K.S.A. 12-1742 as amended) are the responsibility of the applicant. This fee is due upon closing of the debt issue, and will be reduced by the amount of the application fee.

The fee is calculated as outlined in the tables below:

#### Commercial Property Debt Issues

Par Amount of Bond Issue	Fee Calculation
First \$10 million	.0025 of par amount
Second \$10 million	\$25,000 plus .0020 of par amount over \$10 million
Amounts in excess of \$20 million	\$45,000 plus .0010 of par amount over \$20 million
Refunding Bond Issues	Fee is 50% of the amount that would be calculated for a new money issue of the same par amount
MAXIMUM FEE is \$100,000 (including both new money and refunding portions of issue)	

#### Multi-Family Housing Debt Issues

Par Amount of Bond Issue	Fee Calculation
First \$10 million	.0040 of par amount
Second \$10 million	\$40,000 plus .0020 of par amount over \$10 million
Amounts in excess of \$20 million	\$60,000 plus .0010 of par amount over \$20 million
Refunding Bond Issues	Fee is 50% of the amount that would be calculated for a new money issue of the same par amount
MAXIMUM FEE is \$100,000 (including both new money and refunding portions of issue)	

#### Tax-exempt Organization Debt Issues

Par Amount of Bond Issue	Fee Calculation
First \$10 million	.0080 of par amount
Second \$10 million	\$80,000 plus .0040 of par amount over \$10 million
Amounts in excess of \$20 million	\$120,000 plus .0020 of par amount over \$20 million
Refunding Bond Issues	Fee is 50% of the amount that would be calculated for a new money issue of the same par amount
NO MAXIMUM FEE	



**Application for Private Activity Conduit Financing**

\*(If more space is required for answers, please attach separate sheets to this application).

**I. GENERAL INFORMATION**

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**Applicant's Name** SIC Code

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Applicant's Address Telephone Number

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Name & Title of Contact Person Telephone Number

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E-mail Address Fax Number

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**Applicant's Attorney**

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Attorney's Address Telephone Number

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Attorney's E-mail Address Fax Number

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**Bond Purchaser/Underwriter for Applicant**

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Bond Purchaser/Underwriter's Address Telephone Number

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**Applicant's Bond Counsel**

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Bond Counsel's Address Telephone Number

## **II. BUSINESS INFORMATION**

1. Is the applicant a proprietorship, partnership, or corporation? (Please indicate year the business was established)
  
2. List the names and titles of the principal owners, officers, and directors.
  
3. Describe the line or lines of business engaged in by the applicant.
  
4. Describe any pending or threatened litigation.
  
5. Are the applicant's debt instruments currently rated by a credit rating service? If so, please attach copies of the most recent credit rating reports.
  
6. Does the applicant currently have offices or operations located in the City of Lenexa? If so, please describe the current offices and/or operations.

### **III. PROJECT INFORMATION**

1. Describe the nature of the proposed project, including: size of facility; amount of land to be purchased (if applicable); whether the project is an expansion of an existing facility, construction of a new facility, or both; proposed use of the facility; reason(s) the applicant requires a new and/or expanded facility; estimated capital investment for facility (land acquisition & building improvements, excluding personal property).
  
2. Where is the project located? Please provide the street address and legal description, if available.
  
3. List the name, address, and phone number of the architect and construction contractor, if designated.
  
4. Describe the type of facility to be constructed.
  
5. Describe the current zoning for the proposed project. If a zoning change is pending, cite the application number and present status or proposed schedule for submitting an application.
  
6. Describe the anticipated start date for construction and the anticipated completion date for the project.
  
7. What percentage of the facility will be occupied by the applicant? If less than 100%, please specify other occupants and the corresponding occupancy percentage.

8. List the name, address, and phone number of the entity performing the environmental audit for the proposed site.

#### **IV. FINANCING INFORMATION**

1. List previous participation in private activity debt conduit financing (IRBs, etc.) by the applicant. Has the applicant ever been involved with transactions where the issuer ultimately defaulted on the repayment of the outstanding debt? If so, please describe the circumstances of the default.
2. Has the underwriter determined if the proposed debt issue will be marketable? If so, provide an explanation and description of the marketing plan from the underwriter as an attachment to this application. Also, indicate if the bonds will be publicly or privately placed, whether the applicant intends to purchase all or part of the proposed debt issue, and whether the transaction will be rated by a credit rating agency (including the entity providing the credit rating and the expected credit rating).
3. Describe the proposed dates for issuance of the debt and closing on the transaction.
4. What portion of the project will be financed from funds other than the private activity conduit debt proceeds? What is the source of these funds?
5. Please attach the anticipated sources and uses of the debt proceeds, the proposed debt service schedule and issue structure, and proposed security for the debt issue. For the refinancing of existing private activity conduit debt, describe the purpose of the proposed refinancing, the form of the proposed refinancing, anticipated sources and uses of the debt proceeds, and proposed security for the refinancing debt issue.

## V. INFORMATION FOR COST-BENEFIT ANALYSIS

State law requires the completion of a cost-benefit analysis prior to the approval of a requested property tax abatement. The information requested in this section is essential in order for the completion of the cost-benefit analysis.

1. What annual dollar amount of projected sales is expected to be generated by the project over the next 10 years (please estimate by year if possible)?
  
2. What percentage of the applicant's total projected annual sales is expected to be generated by the project over the next 10 years?
  
3. What percentage of sales will be sold locally? Is this percentage increasing, decreasing, or remaining stable from the current trend?
  
4. What is the estimated annual amount of merchandise and services purchased locally by the applicant over the next 10 years (please estimate by year if possible)?
  
5. Is there likelihood for expansion of the proposed facility within 3 years? If so, please describe the potential expansion, including estimated capital investment (excluding personal property) and estimated additional employment at the facility.
  
6. Provide attach the estimated number of existing employees and new hires to be employed at the proposed location over the next 10 years (please estimate by year), including the number by County of residence (i.e., indicate the number expected to reside in Johnson County vs. other counties). Also, list the number of employees to be employed by job classification (management, professional, technical, clerical, skilled and unskilled, etc.).

## **VI. OTHER INFORMATION**

1. Describe any economic benefits to the City's economy if the transaction is completed. Include any notable characteristics of the applicant.
  
2. Describe or attach any other information pertinent to the proposed project and/or project financing.

**VII. APPLICANT'S AGREEMENT**

In consideration for the City's acceptance, processing, and consideration of this Application, Applicant agrees, represents, and warrants as follows:

Applicant agrees and understands that a non-refundable application fee to the City of Lenexa of \$2,000 and a retainer of \$8,000 (total of \$10,000), which is due and payable at the time of making application, is required. Applicant further agrees and understands that Applicant shall be responsible for paying the following additional items:

1. An origination fee (authorized by K.S.A. as amended) as calculated according to the schedule on page 8, which is due at closing.
2. All expenses incurred by the City for professional services pertaining to this application and Applicant's project including, but not limited to, City Bond Counsel and Financial Advisor fees. These fees for professional services are due regardless of whether or not the project or transaction is approved or a closing on the sale of the contemplated bonds takes place.
3. All ongoing costs associated with the transaction including, but not limited to, professional fees associated with applicant requested amendments such as assignments, assumptions, and redemptions.

Applicant represents and warrants that all statements of fact contained in this application are true to Applicant's best knowledge and belief. Applicant has a continuing obligation to supplement its application when any new information is acquired. Applicant represents that it has reviewed the City's Private Activity Conduit Financing policy and agrees to be bound by the procedures described herein.

Partial completion of this application is permitted; however, prior to the adoption of the bond ordinance, the remaining supplementary information to complete this application (and additional information as requested by the City) must be furnished. It is understood and agreed the information required in this application or any other information will be disclosed to the Finance Team and may be disclosed to the public.

DATE: \_\_\_\_\_

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Applicant's Signature and Title