

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 4, 2021

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Council File No. 13-0413

Council District: Citywide

To: The Mayor
The Council

From: *for* Richard H. Llewellyn, Jr., City Administrative Officer 

Reference: Housing and Community Investment Department transmittal dated September 21, 2020; Received by the City Administrative Officer on October 13, 2020; Additional information received through June 2, 2021

Subject: **HOUSING AND COMMUNITY INVESTMENT DEPARTMENT REQUEST TO IMPLEMENT AND ADJUST FEES FOR THE AFFORDABLE HOUSING BOND PROGRAM BASED ON A FEE STUDY**

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Authorize the General Manager of the Housing and Community Investment Department, or designee, to implement and adjust fees for the Affordable Housing Bond Program as detailed on Table 1 and 2 of this report; and,
2. Instruct the City Attorney to prepare and present an Ordinance to the City Council to codify the recommended Affordable Housing Program fees.

SUMMARY

The Housing and Community Investment Department (HCID) requests authority to implement and adjust fees for the Affordable Housing Bond Program (AHBP) based on a fee study conducted by BAE Urban Economics (BAE). The current fees were established as part of HCID's Multi-Family Bond Policies and Procedures adopted by the Mayor and Council in 2005 (C.F. 04-2646) and continued under the HCID's Affordable Housing Bond Policies and Procedures adopted by the Mayor and Council in 2019 (C.F. 19-0334). The HCID executed a contract with BAE in March 2019 to conduct a fee study analysis in order to recover City staff costs related to the AHBP. As part of the fee study, the BAE analyzed the following: 1) the staff costs of the AHBP broken down by work activity categories; 2) the cost and fees charged by peer jurisdictions; 3) the fees and activities of statewide issuers; and, 4) the staff costs of accessibility compliance tasks performed by the HCID for bond projects during the predevelopment, construction, and in-service phases of their development. Additional information regarding the fee study analysis is included in HCID's transmittal dated September 21, 2020 (Report) and BAE's fee study attached to the HCID Report.

The HCID recommends adjustments to the fees charged for: 1) standard bond projects with bond allocations issued by HCID and 2) bond projects with bond allocations issued by outside issuers instead of the HCID. Subsequent to the BAE’s fee study analysis and the release of HCID’s Report, the Mayor and Council approved labor agreements that defer compensation adjustments in 2020-21 that impacted the average salary amounts included in the 2021-22 Proposed Budget. This Office updated BAE’s analysis spreadsheets in order to incorporate the revised 2021-22 salary amounts. This Office concurs with the Department’s recommendations as amended to propose reduced fee increases that reflect recently approved labor agreements. The HCID concurs with the alternative fee proposals listed in this report.

The HCID recommends fee adjustments for the following three AHBP fee categories for standard projects: 1) Annual Issuer Fee; 2) Application Processing Fee; and, 3) TEFRA Hearing Fee. The HCID is recommending adjustments to the latter two categories in order to support staff costs not recovered under the current fee levels. The HCID is proposing an adjustment to the Annual Issuer Fee in order to subsidize what is not being recovered under the Initial Issuer Fee category. The Initial Issuer Fee is currently calculated as 25 basis points or 25 percent of the bond amount, but the actual cost of the work is about \$30,000. The HCID explored the possibility of increasing the calculation to 30 basis points or 30 percent of the bond amount to more closely align with actual costs, but ultimately proposes to leave the fee unchanged so the City can stay competitive with peer cities. The Office of the City Attorney did not express any concerns with HCID's proposal since it's difficult to calculate the Initial Issuer amount as it varies by bond deal and the proposed fee adjustments are all within the range of peer cities. Additional information regarding each fee category can be found in HCID’s Report. The CAO proposed fee amounts are listed in the table below:

Table 1: Comparison Between Current and Proposed Fees for Standard Projects			
Fee Category	Current Fee Amount	CAO Proposal	Fee Increase
Costs of Issuance Fee	3rd Party costs covered by borrower	3rd Party costs covered by borrower	No Change
Initial Issuer Fee	25 basis points (0.25%) of the bond amount	25 basis points (0.25%) of the bond amount	No Change
Annual Issuer Fee	> of 12.5 basis points (0.125%) or \$2,500	> of 12.5 basis points (0.125%) or \$3,000	\$500
Consent, Approval, Transfer, Amendment, & Waiver Fees	\$5,000 or .125% of the permanent principal amount	\$5,000 or .125% of the permanent principal amount	No Change
Application Processing Fee	3,000 per application	4,447 per application	1,447
TEFRA Hearing Fee	3,000 per project	3,902 per project	902
Totals	\$8,500	\$11,349	\$2,849

The CAO proposed fee adjustments will result in a net increase of \$2,849 per bond project. Based on an average of 22 bond applications per year, the HCID estimates that the proposed fees could potentially generate an average of \$62,678 in additional revenue to the City per year compared to

the current fee amounts.

Fees for Projects Utilizing Outside Issuers

The HCID also recommends fee adjustments for the following three AHBP fee categories for bond projects with bond allocations issued by outside issuers instead of the HCID: 1) Outside Issuer Application Processing Fee; 2) Outside Issuer TEFRA Hearing Fee; and, 3) Outside Issuer Accessibility Compliance Monitoring. The HCID is recommending adjustments to the Application Processing and TEFRA hearing fee categories in order to recoup costs not recovered under the current fee levels. Subsequent to the release of its Report, the HCID clarified that it is proposing to discontinue the annual accessibility monitoring fee of \$2,500 memorialized in the HCID’s Affordable Housing Bond Policies and Procedures. Instead, the HCID proposes to implement a new fee in order to recover the one-time costs related to the following Accessible Housing Program activities related to bond projects: 1) audit and monitoring during predevelopment and construction, and 2) predevelopment design review and construction monitoring to ensure that accessibility features are built in compliance with HCID accessibility standards. The HCID indicates that the one-time costs were not considered when the existing annual fee was memorialized and the new proposed fee structure better reflects actual costs. Also subsequent to the release of its Report, the HCID noted that the accessibility monitoring time and associated costs can potentially decrease over time once developers build their capacity to plan for and implement the required accessibility features. The Outside Issuer fee categories are further described in HCID’s Report. The CAO proposed fee amounts for projects utilizing outside issuers are listed in the table below:

Table 2: Comparison Between Current and Proposed Fees for Projects Utilizing Outside Issuers			
Fee	Current Fee Amount	CAO Proposal	Fee Increase / (Decrease)
Outside Issuer Application Processing Fee (one-time)	\$3,000	\$4,111	\$1,111
Outside Issuer TEFRA Hearing Fee (one-time)	-	624	624
Outside Issuer Accessibility Compliance Monitoring (annual)	2,500	-	(2,500)
Outside Issuer Accessibility Compliance Monitoring (one-time)	-	65,754	65,754
Totals	\$5,500	\$70,489	\$64,989

The CAO proposed fee adjustments will result in a net increase of \$64,989 per bond project utilizing outside issuers. The HCID indicates that the number of these projects varies annually, but it is likely the HCID will review at least one project utilizing an outside issuer per year. This Office notes that annual accessibility compliance monitoring costs will not be at full-cost recovery at this time and will continue to be partially funded by the Accessible Housing Fund, which is subsidized by the General Fund. The HCID indicates that it will revisit both the annual and one-time accessibility compliance costs in the future in order to propose additional fee adjustments.

FISCAL IMPACT STATEMENT

There is no additional impact to the General Fund if the Mayor and Council approve the proposed Affordable Housing Bond Program fee adjustments. The proposed adjustments are intended to recover the full cost of the Affordable Housing Bond Program, including all operating direct and indirect costs. There is a General Fund impact related to the Accessible Housing Program (AcHP) annual accessibility compliance monitoring costs that will not be at full-cost recovery and will continue to be partially funded by the Accessible Housing Fund, which is subsidized by the General Fund. The AcHP costs are fully funded by the Accessible Housing Fund in the 2021-22 Proposed Budget and do not require an additional General Fund subsidy at this time.

FINANCIAL POLICIES STATEMENT

The recommendations in this report comply with the City's Financial Policies.

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