HOUSING REVENUE BONDS

and

TAX EXEMPT MORTGAGE NOTES

PROCEDURAL GUIDE

A Guide For Developers and Sponsors

I. POLICY STATEMENT

Housing Revenue Bond Financing is undertaken by the City pursuant to the provisions of Minnesota Statutes, Chapter 462C.

Approval of a project by the City is not a warranty of the project information nor of the quality or marketability of the housing to be produced, nor of the security of the tax-exempt status of the obligations issued pursuant to the program.

This guide is intended to be used as a reference and an overview of the application process for Housing Revenue Bonds and should not be anything other than a guide and an overview.

II. DEFINITIONS

- "ACT" means Minnesota Statutes, chapters 462, 462A, and 462C.
- <u>"ADMINISTRATIVE FEE"</u> means the annual administrative fee, charged to the project semiannually by the City of 1/8 of 1% of the outstanding principal balance of the bonds, as established by City Council Resolution 81R-543 and revised by City Council Resolution 83R-20
- The newly revised annual administrative fee for projects requesting funding after December 31, 2011 means the annual administrative fee charged to the project semi-annually by the City of ¼ of 1% of the outstanding principal balance of the bonds effective January 1, 2012.
- <u>"APPLICANT"</u> means the development entity proposing the project, whether a corporation, a partnership or an individual, or an association or employee of the developer entity, who is authorized to represent the developer entity.
- "APPLICANT'S COUNSEL" means the attorney retained by the Applicant for the purpose of advising the Applicant as to the legal aspects of the bond issue.
- <u>"APPLICANT FEE"</u> means the \$3,000 Community Planning & Economic Development application fee.
- <u>"BOND"</u> means the housing revenue bond, housing revenue note or other revenue obligation issued by the City pursuant to the Act.
- <u>"BOND COUNSEL"</u> means the attorney or firm of attorneys, approved by the, City who will render an approving legal opinion as to the Bonds and as to the tax-exempt status of the Bonds.
- "CITY" means the City of Minneapolis, Minnesota
- <u>"CITY ATTORNEY"</u> means the City Attorney of the City of Minneapolis, Minnesota, or an Assistant City Attorney designated and assigned to represent the City as to the Project.
- "CITY COUNCIL" means the legislative body of the City of Minneapolis, Minnesota.
- <u>"COMMUNITY DEVELOPMENT COMMITTEE"</u> means the Community Development Committee of the Minneapolis City Council.
- <u>"CONSTRUCTION MANAGEMENT SPECIALIST"</u> means the staff person of the Community Planning and Economic Development who is assigned to monitor the rehabilitation / construction of the project

- <u>"EXECUTIVE DIRECTOR"</u> means the Executive Director of the Department of Community Planning & Economic Development (CPED)
- <u>"GUARANTOR"</u> means any person, financial institution or other entity which supports the bond issue with its credit, or which contributes funds to the Project or the issue.
- "HOUSING PLAN" means the Housing Plan adopted on February 8, 1980 by the City pursuant to Section 1 of Minnesota Statutes, Chapter 462C.
- <u>"PLACEMENT AGENT"</u> means the underwriter (or other individual or organization) who arranges for the private sale of the Bonds to an institutional investor.
- <u>"PROJECT"</u> means the residential rental or owner-occupied real estate development for which the Applicant seeks Housing Revenue Bond financing.
- <u>"PROJECT COORDINATOR"</u> means the staff person of Community Planning & Economic Development who is assigned to work on the project.
- <u>"UNDERWRITER"</u> means the person or concern who/which agrees to purchase the Bonds with an intent to resell them.

III. INTRODUCTION

Housing Revenue Bonds and Tax-exempt Mortgage Notes may be used to finance the acquisition and rehabilitation or new construction of owner-occupied or renter-occupied residential units where the intended occupants of the units qualify the Project for tax-exempt status in conformance with the Internal Revenue Code, the Statutes of the State of Minnesota and the City Ordinances.

The statutory and regulatory requirements which must be met to assure the continued tax-exempt status of the obligations are complex. The advice of financial and legal counsel, skilled in the areas of tax-exempt obligations and real estate, is not only essential, but required.

Each bond issue is unique with respect to the interplay of the nature of the project, debt structure, form of security, etc. IN AGREEING TO ISSUE HOUSING REVENUE BONDS, THE CITY ASSUMES NO LIABILITY WITH RESPECT TO THE STRUCTURING OF THE OFFERING. The Applicant is expected to possess (or retain advisors who possess) a highly sophisticated understanding of the bonding process.

Effective January 1, 2011, all projects financed with housing revenue bonds (including refunding bonds) must comply with the Affordable Housing Policy for the City of Minneapolis adopted March 10, 2011.

Guidelines and priorities are being developed for applications for Minneapolis entitlement allocation bonds for the 2011/2012 allocation year.

For owner-occupied housing projects, the City's Residential Finance Department reviews all mortgage loans, before they are made, for statutory compliance, consistency with the financing documents and purchaser creditworthiness.

IV. TIMING OF APPLICANT SUBMISSION

Applicants for Housing Revenue Bond financing will coordinate the submission of documents through the Project Coordinator assigned to the Project.

The Applicant shall submit 15 copies of the application, an original public hearing notice and an original preliminary resolution on city resolution paper. The Project Coordinator will distribute the application to the City Attorney and the City Council. Prior to adoption of the preliminary resolution, the City must conduct a public hearing. A public hearing notice must be published in <u>Finance and Commerce</u> and the <u>Minneapolis Star and Tribune</u>, no less than fifteen (15) days prior to the public hearing.

At a minimum the applicant packet shall be submitted to the City thirty (30) days prior to the Community Development Committee Meeting at which time the Project will be considered. The Applicant must secure Affirmative Action approval prior to the setting of the public hearing.

V. DOCUMENTATION

The Applicant, the Applicant's underwriter and the bond counsel must prepare the documents for the bond issue.

VI. FEES

An annual administrative fee of 1/2 of 1% (0.50%) of the outstanding principal balance of the bonds is charged by the City effective January 1, 2012 for any project requesting an allocation **after** January 1, 2012. Projects that have requested bonds before this date are subject to the annual administrative fee of ¼ of 1% of the outstanding principal balance of the bonds. The administrative fee is collected each January 1 and July 1 for the term of the bonds and is based upon the declining outstanding principal balance. The City charges an application review fee of \$3,000. When entitlement authority is used the applicant shall pay, at the Bond closing, the non-refundable application fee charged by the Minnesota Department of Finance. Presently, the application fee is \$20 for each \$100,000 of entitlement requested, rounded to the nearest \$100,000. The City pays this fee annually to the Minnesota Department of Finance, and the cost is reimbursed by the applicant to the City

Special tax credit counsel fees of \$3,000 payable to Briggs and Morgan shall be charged to each applicant for entitlement allocation bonds. Such fees shall be collected prior to issuance of 42(m) letters and are not refundable.

Payment of these fees is the responsibility of the Applicant. Bond Counsel shall make, or cause to be made, any calculations and determinations necessary to demonstrate that the Bonds are exempt from Federal taxation. All fees associated with such calculations and determinations will be borne by the Applicant.

VII. INFORMAL REVIEW

All projects for which Housing Revenue financing is sought must be reviewed by the City Council.

Prior to the initial City Council review, a proposed project will receive an informal review by the City Staff to determine whether it furthers the housing policies of the State and the City. In this preliminary stage, a bond-processing schedule will be established. If a

project has been underwritten with a shorter call date on the outstanding principal balance of the bonds (which is determined to be 5 years or less), the City may charge an annual administrative fee of no less than .55% of the outstanding principal balance. The City may also determine that a sliding fee rate scale is representative of the bond call date. This scale is represented below:

30 year HRB (refinance in 15th year): annual issuer fee-.50% (2012 projects)

5.0 years or less 1% annual fee

3 years or less HRB annual issuer fee-1.50% (IRS max.)

VIII. APPLICATION

A full and complete application packet must be submitted to the Project Coordinator no less than thirty (30) days prior to a scheduled meeting of the Community Development Committee. Incomplete or late applications will be held off the agenda until corrected. The application packet must include the following:

Thirteen (13) bound copies of items 1-7 plus Two original unbound of items 1-24.

A copy of the application checklist detailing items 1-24 (attached hereto as Exhibit A) must be enclosed with the original application. If the Applicant is an individual, the Applicant's resume and personal financial statement must be submitted (under separate cover).

If the Applicant is a partnership, the following information must be submitted (under separate cover):

- 1. Name, address and telephone number of the partners.
- 2. A resume of each partner.
- 3. A personal financial statement of each partner.
- 4. The most recent audited individual income-tax return of each partner.

The application must contain the following information, collated in the following order:

Part 1

The name, address and telephone number of each of the following participants:

- a) Applicant and Applicant's representative (if other than Applicant).
- b) Applicant's legal counsel.
- c) Applicant's accountant.
- d) Proposed bond counsel.
- e) Proposed trustee, if any.
- f) Proposed paying agent, if any.

Part 2

As to Applicant:

- a) The name and address of Applicant.
- b) The state (or other jurisdiction) of incorporation or organization, the form of organization and a brief description of the organizational structure of Applicant, including parent, subsidiary and affiliate organizations (if Applicant is other than an individual).
- c) A brief statement of the type of business engaged in by Applicant and Applicant's business history.
- d) The names of executive or managing officers and directors of Applicant (if Applicant is other than an individual).
- e) If Applicant is rated or listed with any published rating agency, such fact shall be noted with the rating.
- f) A statement as to whether or not Applicant has filed or recorded a request to issue or register securities under any state "Blue Sky" law during the preceding twelve-month period.
- g) A statement as to whether or not Applicant is required to file periodic reports or disclosure statements under the 1934 Act or any similar Act in any state or any other similar law of the United States.
- h) A statement as to whether or not Applicant has previously been the applicant for a project financed by Housing Revenue Bonds in the City.
- Evidence of City approval or Applicant's Affirmative Action program and/or Equal Employment Opportunity practices and the women and minority business goals.
- j) A statement agreeing to CPED Construction Management monitoring of project rehabilitation or construction. Specialist will receive or attend at his/her discretion the construction draws from applicant or applicant's designated person.

The Affirmative Action Plan shall meet City Affirmative Action and Equal Opportunity requirements and be approved by the appropriate office, <u>PRIOR TO THE SETTING OF THE PUBLIC HEARING FOR PRELIMINARY APPROVAL</u>. Submit the Affirmative Action Plan to the City Affirmative Action Department – the Plan is <u>not</u> a part of the bound bond application.

Part 3

As to the Guarantor of the Bonds:

The same information required of Applicant in Part 2 (above) shall be required of the guarantor. In addition, the guarantor shall provide current financial statements under separate cover. If a guarantor is secured subsequent to the passage of the preliminary resolution, the application shall be modified to provide the required information.

Part 4

The Project:

- a) A description of the Project.
- b) Location of the site(s).
- c) Present ownership of the proposed Project site(s) and Applicant's interest therein. (Copy of Purchase Agreement if applicable).
- d) Present zoning of the Project site(s).
- e) Estimated cost of the Project (submit completed HTC-1 with application). (Refer to Minnesota Housing Common Application for current HTC-1)
- f) A statement of any effect on the environment to be caused by the Project.
- g) The projected number of new employees to be added to Applicant's permanent work force because of the Project.
- h) Other financing attempted or available to the Project, including any interim financing.
- i) The names of the architect, the engineer and the general contractor for the proposed Project.
- i) The anticipated construction commencement and completion dates.
- k) A statement as to whether any residents will be temporarily or permanently displaced due to either the rehabilitation and/or program income limits (list of current tenant incomes may be required).
- I) List the current rents and the proposed rents after rehabilitation.
- m) Detail of proposed rehabilitation if applicable.

Part 5

The Bonds:

- a) The amount of Bonds proposed to be issued.
- b) The proposed date of closing or delivery of the Bonds.
- c) The length of the Bond Issue and proposed maturities.
- d) The type of agreement between Applicant and the City for payment of the Bonds, including any guaranty of the Bonds or the security underlying the Bonds.
- e) Proposed schedule of payment by applicant under the revenue agreement.
- f) State whether the Bonds will be taxable or tax-exempt.

Part 6

An architect's rendering of the proposed building and a site plan.

Part 7

Analysis of economic feasibility and the ability to cover debt service on loan.

THE FOLLOWING ITEMS ARE TO BE SUBMITTED UNDER SEPARATE COVER:

- 8. Letter from applicant agreeing to comply with the City's Affirmative Action and equal opportunity requirements.
- 9. Applicant's annual report, including an audited balance sheet and income statement for the past year or Applicant's audited financial statement for the last year.
- 10. If Applicant is not a publicly held corporation, Applicant must submit two (2) copies of financial statements under separate cover.
- 11. A project proforma (form attached) and ten (10) year cash flow projections.
- 12. A statement describing any and all pending litigation, either by or against Applicant or its subsidiaries, or the executive or managing officers and directors of Applicant.
- 13. A copy of any agreement between Applicant and the Bond purchaser or Placement Agent, and a letter of intent to purchase the bond issue, executed by the bond purchaser or Placement Agent, as an indication of the financial feasibility of the

Project.

- 14. A letter from Applicant, agreeing that, if the Bonds are not sold or if the project is not completed, Applicant will pay all reasonable and necessary expenses and costs which the City may incur in connection with the Project, including the fees of Bond Counsel.
- 15. A letter from the Applicant, stating that the Applicant will comply with prevailing wage requirements.
- 16. A comprehensive statement indicating how the Project furthers statewide housing policies pursuant to <u>Minnesota Statutes</u>, Chapter 462C.
- 17. An opinion of Bond Counsel that the City is authorized to issue its Bonds and that, based on a description of the Project and the proposed financing, such Project constitutes a Multifamily Housing Development or a Single Family Housing Program within the meaning of Minnesota Statutes, Chapter 462C; and that the Bonds are being issued for a purpose stated in Minnesota Statutes, Chapter 462C.
- 18. Original preliminary Resolution.
- 19. Public Hearing notice.
- 20. Application fee.
- 21. Relocation Plan (if required).
- 22. Appraisal by a CPED approved appraiser.
- 23. Environmental Phase I study.
- 24. Evidence of neighborhood review.
- 25. Minnesota Housing Common Application (HTC-1)

IX. PRELIMINARY PHASE

The Project Coordinator will inform the Applicant's Counsel and the Bond Counsel of the Assistant City Attorney assigned to the Project, so that documents can be transmitted directly among the legal staff. The Project will be reviewed by the City's Citizen Participation Department. (Neighborhood must be notified.)

X. PUBLIC HEARING

The public hearing will be conducted by the Community Development Committee of the City. The public hearing must be held before the City approves the preliminary resolution. The Project Coordinator is responsible for timely publication of the public hearing notice, not less than fifteen (15) days prior to the public hearing date. At the public hearing, CPED Project Coordinator will recommend approval of the resolution.

XI. CITY APPROVAL

The application is reviewed by the Community Development Committee of the City Council, and the Committee's recommendation will be forwarded to the full Council for its consideration. After the passage of the preliminary resolution by the City Council, the resolution will be forwarded to the Mayor for the Mayor's approval. The City Clerk will have the approved resolution published in <u>Finance and Commerce</u>.

The Applicant must submit one set of each draft of closing documents to the Project Coordinator and the City Attorney. All final draft documents must be reviewed and approved by the City, prior to consideration of the final resolution by the City Council.

The following documents, approved by the City Attorney, must be transmitted to the Project Coordinator, no less than nineteen (19) days prior to the date of the Community Development Committee meeting at which final approval will be decided.

Two (2) copies of the closing documents.

An original final resolution on City resolution paper.

A summary of projected financing terms and conditions.

Two (2) copies of the semiannual administrative fee schedule outlining the City's administrative fee. Bond Counsel must calculate the administrative fee in such a manner as to result in the Bonds not being considered arbitrage bonds.

Two (2) copies of the preliminary and final Official Statement, in the event there is to be a public offering of the Bonds.

The procedures for review and approval of the final resolution by the City are the same as for the preliminary resolution.

XII. CLOSING PHASE

The Bond Counsel will notify the Project Coordinator of the closing date with as much advance notice as possible, but not less than ten (10) days prior to the proposed closing date. The Project Coordinator will confirm the closing date with City officials, and verify the closing date with Bond Counsel. The Project Coordinator will coordinate the details of the closing with Bond Counsel.

The Project Coordinator must transmit the final resolution and all approved closing documents, including the Official Statement (if any), to the Finance Officer no less than three (3) days prior to the proposed closing date. It is Bond Counsel's responsibility to provide the resolution, closing documents and statement to the Project Coordinator for timely submission to the Finance Officer. A proof of the Official Statement, if any, must be reviewed by the City Attorney, prior to printing and release.

The Project Coordinator will secure, and deliver to The Finance Office on the day of closing, one set of executed Bond documents. This set shall be retained by the Finance Officer until it is replaced with a bound transcript provided by the Applicant. The Applicant must also provide the City with one bound transcript within six months of the Bond closing. The transcript must be hard bound in book fashion.

XIII. EXTENSIONS

The preliminary approval of the City is subject to the condition that within six (6) months from the date thereof there shall have been agreement to mutually acceptable terms and conditions of the Bonds, the necessary documents and all matters relating to the issuance of the Bonds, unless good cause can be shown why such agreement cannot be reached. In the event that such agreement cannot be reached, the Applicant must submit to City staff a written request for the delay in closing, detailing the effort being made to arrange permanent financing. Staff will review, on a case-by-case basis, the merits of the request, and the City reserves the right not to grant an extension.

XIV. PROGRAM REQUIREMENTS

The requirements stated below are minimum requirements, and the City staff reserves the right to add requirements on a case by case basis.

Likewise, the requirements herein stated pertain only to the City and are not exclusive. Bond Counsel or the Bond Purchaser may make additional requirements.

Requests to the City for the waiver of any of the requirements must be stated in the application.

A. Reserve

A reserve in the amount of the largest year's payment of principal and interest on the Bonds shall be required (not to exceed 10% of the principal amount of the Bond Issue) unless waived by the City or, in the event of private placement, the lender agrees not to impose a debt reserve requirement.

B. **Taxes**

Applicant shall pay when due all real estate taxes assessed against the Project. The mortgage registration tax on any mortgage entered into pursuant to the Project must also be paid by Applicant.

C. Title to the Project

Title insurance or an acceptable title opinion must be obtained for the property comprising the Project.

D. Security on the Bonds

Credit enhancement acceptable to the City and/or a BBB or equivalent rating from an established rating agency when the Bonds are sold to the public.

XV. RESERVATION OF RIGHTS

Until the Bonds are issued (notwithstanding that any agreement or approval or understanding may have indicated to Applicant or the Bond purchaser that the City would take any action at any certain date), the City reserves the right to:

- A. Reject the application for Bonds, in whole or in part;
- B. Reject the application for Bonds as being incomplete;
- C. Reject Applicant's choice of Underwriter, Trustee, Paying Agent, Placement Agent or Bond Counsel;
- D. Reject the Project, in whole or in part;
- E. Require "No Action" letters or Internal Revenue Service ruling before issuing the Bonds. If such letters or ruling are required, Applicant and Bond counsel must submit the needed request;
- F. Require corrections or amendments to any legal document;
- G. Impose any other requirements as conditions precedent to the issuance of its Bonds; and

H. Consult with Bond Counsel concerning the Project, issuance of the Bonds or any fees to be paid from the proceeds of the Bonds or (if the Bonds are not issued) by Applicant.

XVI. ACCURACY OF DATA

OFFICAL STATEMENT

The Underwriter will have the primary responsibility for the preparation of the Official Statement, although information may be supplied by Applicant.

The Underwriter will have the responsibility of assuring the statements attributed to Applicant in any Official Statement are substantially true and correct. The Underwriter must indemnify and hold the City and their officers, employees and staff, harmless from any error or omission in any Official Statement.

In the event of private placement, the Placement Agency or (in the absence thereof)
Applicant shall be responsible for the preparation of any placement memorandum, and
must indemnify and hold the City, and their officers, employees and staff, harmless from
any error or omission in any placement memorandum. In all private placements, a
placement letter will be required of the Bond Purchaser.

COMFORT LETTERS

In addition, and also as a condition precedent to closing, the City may require the accountant to execute a comfort letter addressed to the City, relative to an accounting survey of Applicant made by accountant, prior to closing, which states in reasonable detail the extent of the survey, that the accountant has read the Official Statement, and that nothing has come to the attention of such accountant which disclosed any material variance between the Official Statement and the condition of Applicant as determined by such account in such survey. The comfort letter, if required, must be delivered to the City not less than twelve (12) days prior to closing.

OPINIONS (GENERALLY)

All opinions must be addressed to the City (among others), allowing the City to rely upon such opinions.

All opinions shall be acceptable to the City in form and substance.

APPLICANT'S COUNSEL'S OPINION

There shall be an opinion of counsel to the Applicant:

- That Applicant has full corporate power and authority to enter into the transaction, and has duly authorized all necessary action and taken all necessary steps.
- 2. That counsel has examined the Official Statement and, based on Counsel's knowledge, the Official Statement contains no untrue statement or omits to state any material fact.
- 3. On such other matters as may be required by the City, the Purchaser or Bond Counsel.

MULTIFAMILY TAX-EXEMPT REVENUE BOND FINANCING GUIDELINES

All Multifamily Housing Revenue Bonds issued by the City of Minneapolis (the "City") to be offered for sale to the public must bear at least a <u>"BBB"</u> or equivalent rating from an established rating agency or be secured by a letter of credit or insurance from a financial institution rated at least <u>"BBB"</u> or equivalent, sufficient at all times to cover debt service.

EXCEPTION:

- 1. The Bonds are bought by an institutional buyer or a small number of sophisticated buyers* meeting certain net worth and income thresholds. The buyers will be required to sign an Investor Letter stating that they are aware of all the risks involved; OR
- The developer/owner has substantial net worth to include liquid assets and has had substantial multifamily housing development experience and is willing to act as the guarantor of the project.

In both 1. And 2. Above, the City has the right to approve the management company, and the project must meet the established City underwriting criteria. Further, the City has the right to require additional underwriting criteria, depending on the project, such as an additional six month debt service reserve over and above the already required one year debt service reserve.

*Sophisticated buyers - bonds sold in increments of \$100,000 or more.

Unrated bonds are never sold retail unless they are HUD insured, etc. (retail

means increments of \$5,000.00)

Community Planning & Economic Development CPED

HOUSING REVENUE BOND APPLICATION CHECKLIST

Please check all documents which are included in the application or indicate the reason for their exclusion. In so doing, Applicant is verifying that he/she is aware of this procedural pamphlet for application to the City for Revenue Bond financing and is in compliance with the requirements therein.

		submit 15 copies of the following (1-7):	
	=	List of participants -	Part 1
	=	Information pertaining to Applicant -	Part 2
	_	Information pertaining to Guarantor -	Part 3
		Information pertaining to Project -	Part 4
	_	Information pertaining to Bonds -	Part 5
	='	Architect's rendering and site plan -	Part 6
	7.	Analysis of economic feasibility and the ability to cover debt service on loan	Part 7
Please	submit	one original of the following (8-23):	
	8.	Letter from Applicant agreeing to complerequirements	y with the City equal opportunity
	9. Applicant's annual report or financial statement.		
	10. If not a publicly-held corporation, Applicant's personal financial statement (under separate cover)*		
	11. A project proforma feasibility analysis of the Project and 10 year cash flow		
	12	. Statement regarding pending litigation	
	13. Agreement between Applicant and Purchaser or Placement Agent and Letter of Intent to purchase the Bond Issue		
	14. Applicant's letter regarding assumption costs		
	15. Applicant's letter regarding Prevailing Wage Compliance		
	_ 16. Statement regarding satisfaction of public purpose		
	_ 17. Opinion of Bond Counsel		
	18. Original Preliminary Resolution		
	19	.Public Hearing Notice	
	20	. Application Fee	
	21	.Relocation Plan (if required)	
	22. Appraisal by an MCDA approved appraiser		
	23. Environmental Phase I Study		
	24. Neighborhood review		
	25. Minnesota Housing Common Application (HTC-1)		