

# Hennepin County Conduit Financing Procedural Guide



*Current version: approved by the Hennepin County Housing and Redevelopment Authority on February 28, 2023*



# Table of Contents

## Table of Contents

I. Introduction .....	1
II. Policy Statement.....	1
III. Eligible Projects.....	2
IV. Definitions .....	3
V. Application Process.....	6
VI. Fees.....	10
VII. Program Requirements .....	10
VIII. Accuracy of Data .....	13
IX. Reservation of Rights .....	14
Appendix A: Project Review Criteria.....	16

## I. Introduction

This guide provides an overview of the Hennepin County Housing and Redevelopment Authority (“the Authority”) conduit financing process. This guide is intended to clarify application procedures and to describe relevant policies and priorities. The Authority reserves the right to waive any and all procedures contained herein where they may interfere with the timely implementation of projects in the Authority’s interest.

Conduit financing includes various forms of public financing available to the Authority that 1) provide financing to eligible applicants for projects that are determined to be in the public interest and, 2) are not dependent upon county property tax dollars.

Examples include: housing revenue bonds, industrial revenue bonds, and 501 (c)(3) bonds.

**In agreeing to issue conduit financing, Hennepin County and the Hennepin County Housing and Redevelopment Authority assume no liability with respect to the structuring of the offering.**

Applicants are required to possess knowledge, or retain advisors acceptable to the Authority that possess knowledge, of all the legal and financial aspects of conduit financing.

## II. Policy Statement

Conduit financing is undertaken by the Authority pursuant to the provisions of Minnesota Statutes, Chapters 462C and 469. By borrowing at a tax-exempt rate, the conduit borrower may obtain a lower interest rate for the project, and the Authority supports a public purpose. The bonds are repayable solely from the revenue and assets pledged in their support and are not a debt obligation of Hennepin County or the Authority. Consistent with state statutes, the Authority may provide project assistance only at the request of a municipal housing and redevelopment authority and/or with the approval of the local governing body.

A principal benefit of conduit financing for affordable residential rental projects is that it may allow a project to qualify for 4 percent Low-Income Housing Tax Credits and expand the supply of affordable housing. A safe and affordable place to live is the foundation on which our residents build successful lives and contribute to their communities. Housing affordability affects households across income levels, but those at the lowest income level are most impacted by cost burden and are most likely to become homeless. Non-white households are disproportionately represented among households earning 50 percent of area median income or less, putting them at higher risk of housing cost burden and subsequent homelessness.

Increasing the availability of affordable housing through available forms of public financing, including conduit financing, reduces many significant barriers to self-sufficiency:

- Increases housing stability and affordability for those with the lowest incomes
- Addresses racial disparities in housing cost burden
- Reduces need for families and individuals to stay in shelter
- Positively impacts work readiness and job stability
- Improves children's school performance and attendance
- Promotes the effective delivery of other county services

As a large urban county, Hennepin County recognizes that many of our residents are impacted by systemic racism and don't have the same opportunities to grow and thrive as others in our population. For these residents, their quality of life is impacted, and the likelihood of a shorter lifespan is greater. Projects must minimize the involuntary displacement of Black, Indigenous and people of color (BIPOC), and vulnerable populations such as low-income households, immigrants, the elderly, and people with disabilities.

### III. Eligible Projects

In addition to documenting project feasibility and organizational capability, applicants must demonstrate that the project will address one or more of the following public purposes, consistent with Minnesota Statutes Chapter 469:

- **Affordable Housing:** Will add, preserve and/or rehabilitate affordable housing units.
- **Economic Development:** Will support local community and economic development priorities or address blighted areas.

Additional project review criteria under each of these public purposes are outlined in Appendix A. The Authority reserves the right to modify or add to this list, as necessary, to support other identified policy objectives of the Authority or Hennepin County.

Approval of a project by the Authority and Hennepin County does not guarantee the project feasibility, the quality or marketability of the housing to be produced, or the security or tax-exempt status of the obligations issued pursuant to the program.

With the exception of 501 (c)(3) Bonds and existing bonds seeking refinancing, tax-exempt private activity bonds are generally subject to annual volume limits (volume cap) under Section 146 of the IRC. The Minnesota Management and Budget agency administers Minnesota's tax-exempt private activity bond volume cap.

## IV. Definitions

"ACT" - Minnesota Statutes, Chapters 462C and 469.

"ADMINISTRATIVE FEE" - the administrative fee, charged to the project annually by the Authority, of 1/4 of 1 percent of the outstanding principal balance of the Bonds, provided that no such fee shall exceed the amount authorized by the Code.

"AMI" – the Area Median Income for Hennepin County, Minnesota, as established annually by the U.S. Department of Housing and Urban Development.

"APPLICANT" - the development entity proposing the Project that may be a for-profit, limited liability or nonprofit corporation, a partnership or an individual, or an association or employee of the developer entity authorized to represent the developer entity.

"AUTHORITY" - the Hennepin County Housing and Redevelopment Authority.

"AUTHORITY APPLICATION FEE" - the non-refundable and non-reimbursable fee of \$5,000 charged to every applicant by the Authority due at the time the application is submitted.

"BOARD ACTION REQUEST (BAR)" - the process identifying a matter of importance to Hennepin County or the Authority, a rationale for action on that matter and a proposed resolution for action by the Hennepin County Board, the Authority Board, and other County boards.

"BOND" - housing revenue bond, industrial revenue bond, 501 (c)(3) bond or other revenue obligation issued by the Authority pursuant to the Act.

"BOND COUNSEL" - the attorney or firm of attorneys, appointed by the Authority, who will render an approving legal opinion as to the Bonds and as to the tax-exempt status of the Bonds.

"CODE" or "IRC" - the Internal Revenue Code.

"COUNTY" - Hennepin County, Minnesota.

"COUNTY ATTORNEY" - the County Attorney of Hennepin County, or an Assistant County Attorney, designated and assigned to represent the Authority as to the Project.

"COUNTY BOARD" – the Hennepin County Board of Commissioners.

"CREDIT ENHANCER" - any person, financial institution or other entity that supports the bond issue with its credit, or which contributes funds to the Project or the issue.

"DEPUTY EXECUTIVE DIRECTOR" – the Deputy Executive Director of the Authority.

“EXECUTIVE DIRECTOR” - the Executive Director of the Authority.

“FINANCE OFFICER” - the Director of the Hennepin County Office of Budget and Finance, and or the Director’s designee.

“501 (c) (3) BOND” - a form of tax-exempt bond for financing a project owned and used exclusively by a 501 (c)(3) organization and not subject to an annual volume cap limitation.

“HOUSING REVENUE BOND” - a bond that funds development of qualified residential rental project(s) with a commitment to set aside a percentage of units for low and moderate-income households. To comply with Section 142 of the Code, a bond recipient must elect either that at least 20 percent of the units will be occupied by households at or below 50 percent of the AMI or that 40 percent of the units will be occupied by households at or below 60 percent of the AMI.

“AUTHORITY BOARD” – the Board of Directors of the Hennepin County Housing and Redevelopment Authority.

“INDUSTRIAL REVENUE BOND” - a form of tax-exempt bond that funds business development projects leading to job preservation and creation.

“ISSUER” – the Authority as issuer of the Bonds.

“ISSUER’S COUNSEL” - the attorney or firm of attorneys, appointed by the Authority, who will provide legal counsel to the Authority and represent the Authority in Bond transactions.

“MMB” - The State of Minnesota’s Office of Management and Budget, the department that manages Minnesota’s allocations of bonding authority.

“MINNESOTA MANAGEMENT AND BUDGET APPLICATION FEE” or “MMB FEE” - For residential rental projects or other exempt facilities bonds, the fee that must accompany the submitted Minnesota Application for Allocation of Bonding Authority. The application fee is equal to \$20 for every \$100,000 of entitlement requested, rounded up to the nearest \$100,000. (For example, for a project with a bonding request of \$10,000,000, the application fee would be  $\$10,000,000 / \$100,000 \times \$20$ , or \$2,000.) This fee is not refundable.

“MINNESOTA MANAGEMENT AND BUDGET APPLICATION DEPOSIT” or “MMB DEPOSIT” For residential rental projects, the application deposit required by MMB is equal to two percent of the requested allocation. (For example, for a project with a bonding request of \$10,000,000, the deposit would be  $\$10,000,000 \times 0.02$ , or \$200,000.) For other types of exempt facilities bonds, the application deposit required by MMB is equal to one percent of the allocation requested before the last Monday in June, or two percent of

the allocation requested on or after the last Monday in June. The deposit must be submitted along with the Minnesota Application for Allocation of Bonding Authority. If the project is not selected, the deposit is refunded by MMB. If the project is selected and bonds are issued, one-half (50%) of the deposit (less amounts corresponding to any unused portion of the allocation received) will be refunded by MMB if the project meets required timing for placement of the bonds; the remaining deposit is refunded by MMB after the project has submitted Form 8609 to the IRS. For other exempt facilities bonds, the deposit (less amounts corresponding to any unused portion of the allocation received) will be refunded by MMB if the project meets required timing for placement of the bonds. For all projects receiving allocation, if the full allocation amount is not used, a percentage of the corresponding deposit will be returned, as reduced according to statute. If bonds are not issued within the statutorily permitted time frame, the application deposit shall be forfeited.

“OFFICIAL STATEMENT” - the document distributed on behalf of the Issuer that provides information on the bonds offered for sale to bond investors. The Official Statement must provide all information that investors reasonably need in evaluating the merits, as well as the risks of buying the issuer’s bonds. The Applicant and Underwriter are responsible for the accuracy of all information presented in the Official Statement.

“PLACEMENT AGENT” - the Underwriter (or other party) who arranges for the private sale of Bonds to an institutional investor.

“PROJECT” - the development for which the Applicant seeks conduit financing.

“PROJECT COORDINATOR” - the staff person(s) from the Hennepin County Housing and Economic Development department assigned to work on the Project.

“QUALIFIED RESIDENTIAL RENTAL PROJECT” – The IRS defines qualified residential rental projects as rental projects with a commitment to set aside a percentage of units for low and moderate-income households. To comply with Section 142 of the Code, a qualified residential rental project must elect either (1) at least 20 percent of the units will be occupied by households at or below 50 percent of the AMI, or (2) that 40 percent of the units will be occupied by households at or below 60 percent of the AMI.

“SECTION 42 (m) (2) DETERMINATION LETTER” - a letter prepared by the Issuer with respect to proposed low-income housing tax credits, where applicable. Issuer must make a determination that the credit amount to be claimed does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified low-income housing project. This determination must be made prior to the issuance of Bonds and will be based upon information provided by the Borrower.

“STAFF” or “COUNTY STAFF” – refers to representatives of both Hennepin County and the Authority.

“TAX-EXEMPT BONDS” - bonds where interest is exempt from federal taxation under the IRC, Section 103.

“UNDERWRITER” - the person or firm who/that agrees to purchase the Bonds with intent to resell them.

## V. Application Process

The application is first subject to staff review and recommendation, and ultimately requires both County Board and Authority Board approval. The following outlines application procedures in more detail.

These specific procedures may not apply in all cases, and/or in some cases steps may occur in a different sequence.

1. **Initial Conversation.** The Applicant contacts Staff to set up an initial conversation about the project and its suitability for Hennepin County conduit financing.
  - a. For July applications to MMB, the Applicant must contact Staff prior to March 1 of the same year.
  - b. For January applications to MMB, the Applicant must contact Staff prior to September 1 of the year prior to the application date.
  - c. This initial conversation should include Issuer’s Counsel (and Bond Counsel if separate from Issuer’s Counsel).
2. **Initial Application.** The Applicant submits a complete draft application for conduit financing.
  - a. For July applications to MMB, staff will accept initial applications between March 1 and March 31 of the same year.
  - b. For January applications to MMB, Authority staff will accept initial applications between September 1 and September 30 of the year prior to the application date.
3. **Analysis of Initial Application and Funding Context.** Project Coordinator and other Staff will review the initial application, examining Project feasibility, the Applicant’s organizational capabilities, and the Project’s consistency with Authority policy and funding priorities. Staff will determine whether to recommend the application based on this review and analysis. The time needed to complete this review can vary considerably depending upon the nature of the Project, financing mechanisms, legal issues, and the Project’s readiness for implementation.
4. **Approval of Initial Application.** If Staff recommends the application, Staff will establish an application schedule that will identify one or more tracks by which the application procedures might be accomplished within established MMB,

Authority Board, and County Board schedules. This schedule will be updated through the application process. Continued processing of an initial application is not an indicator of ultimate approval by the Authority.

5. **Final Application.** If, following the preliminary application stage, the project is determined to be viable and to meet County priorities, Applicant submits the final application accompanied by the Authority Application Fee. The final application must be submitted to the Authority no less than 28 days prior to the anticipated HRA Board preliminary action. The Applicant must satisfy all Authority informational and procedural requirements prior to HRA Board preliminary authorization.
6. **Request for Authority Preliminary Authorization.** County staff will prepare a project report and recommendation for the Authority Board, and Bond Counsel will draft the preliminary authorization resolution. The resolution language should also grant authority to hold a public hearing at a later, to-be-determined, date. Both the project report and the resolution will be provided to the HRA Board for consideration.
7. **Authority Preliminary Authorization.** The Authority Board will consider a preliminary resolution approving the bond issuance.
8. **MMB Submittal.** The Applicant must provide MMB application fee and deposit to Authority in the form and at the time directed by County staff. Bond Counsel, working with developer and County staff, will coordinate the preparation and submission of the Minnesota Application for Allocation of Bonding Authority, if required, and will ensure transmittal of the MMB Application Fee and MMB Deposit to Minnesota Management and Budget on the timeline directed by Authority.
9. **Public Hearing.** If the application for bonding authority is awarded an allocation of volume cap by MMB, Authority will schedule a public hearing. The following are required prior to the public hearing:
  - a. For housing bonds, a housing program will be prepared by Bond Counsel and submitted to the Metropolitan Council for review and comment on or prior to the date on which notice of the public hearing is published. For industrial development bonds issued pursuant to Minn. Stat. 469.152-.165, a draft of the application to the Department of Employment and Economic Development will be prepared by Bond Counsel and on file with the Authority on or prior to the date on which notice of the public hearing is published. Bond Counsel will submit the application to DEED following the public hearing.

- b. Staff is responsible for timely publication of the public hearing notice in Finance & Commerce, the County's official newspaper pursuant to Minnesota law, not more than 30 days nor less than 15 days prior to the public hearing date.
  - c. Bond Counsel is responsible for timely publication of the public hearing notice in the Star Tribune (or with written Authority approval, another newspaper of general circulation) not more than 30 days nor less than 15 days prior to the public hearing date.
10. **City Resolution.** Prior to Authority consideration of final approval, Applicant and Bond Counsel will work with City staff to complete the local approval resolution.
11. **Bond Documents & Due Diligence.** If the application is successful, Bond Counsel and the Applicant will submit one set of draft financing and closing documents to County staff and Issuer's Counsel for review and approval. Documents must be in substantially complete form by the deadline established by the project schedule (Step 4 above) and in no case less than 21 days prior to the date of the HRA Board meeting at which final approval is sought. All draft bond and financing documents must be approved by the County Attorney and Issuer's Counsel prior to consideration of the final resolution by the HRA Board. The documents to be submitted will include:
- o Draft financing documents.
  - o A summary of projected financing terms and conditions.
  - o The draft preliminary Official Statement, in the event there is to be a public offering of the Bonds.
  - o Appropriate assurances from Bond Counsel that all necessary legal procedures have been followed in this matter.
  - o Approved resolution from the municipality in which the project is located.
12. **Final Approval.** The HRA Board will consider a final resolution approving the Bond issuance. The County Board will consider a companion resolution approving the bond issuance.
13. **Closing Preparation.** Applicant and Bond Counsel will notify County staff, Issuer's Counsel and County Attorney of the closing date with as much advance notice as possible, at minimum 30 days. Applicant and/or Bond Counsel shall provide:
- a. Closing documents, including:
    - i. The final resolution;
    - ii. All financing and closing documents;
    - iii. Draft annual administrative fee schedule outlining the Authority's administrative fee;

- iv. Official Statement, if any, to County staff, Issuer's Counsel and HRA Attorney. The HRA Attorney and Finance Officer, prior to printing and release, if any, must review a proof of the Official Statement.
  - b. Applicant's policy for the ongoing, post-issuance monitoring of tax-exempt bond requirements.
  - c. For tax credit bonds subject to Section 42 of the Code, applicant submits final HTC-1 and accountant's letter to support 42(m) determinations. Issuer's Counsel prepares the 42(m) letter.
  - d. For industrial development bonds issued pursuant to Minn. Stat. 469.152-.165, the Applicant must have received Department of Employment and Economic Development approval prior to closing.
  - e. Bond Counsel delivers the Authority and County document execution packet to County staff at least 15 business days before closing. For December closings, Bond Counsel shall deliver document execution packets at least 15 business days before closing, and no later than the first Friday in December. County staff will coordinate signatures, and deliver executed documents to Bond Counsel at least two business days before closing.
  - f. County staff will secure and deliver to the Finance Officer within 5 business days of closing one executed set of Bond documents. Documents may be in electronic (PDF) format. The Finance Officer shall retain this set until it is replaced with an organized digital Bond transcript provided by the Applicant and/or by Bond Counsel. The Applicant or Bond Counsel must provide the Authority with a well-organized digital transcript within three months of the Bond closing.
14. **Closing Deadline.** For bonds that require an award of state volume cap allocation, the approval of the Authority and County Board is subject to the statutory requirement that the bonds will close within 180 days (for residential rental housing bonds) from the date of bond allocation or within 120 days (for other types of volume cap bonds). Failure to close within that statutory timeline will result in the forfeiture of the allocation (and the accompanying deposit), and the inability to issue tax-exempt bonds absent a further award of allocation.
15. **Closing Transcript.** Applicant or Bond Counsel will provide digital transcripts of all closing documents to County staff within three months of closing.
16. **Ongoing Monitoring.** The Applicant and County staff will have on-going monitoring and reporting requirements relating to the Project. These responsibilities will be funded, in part, with the Administrative Fee.

## VI. Fees

All Applicants for conduit financing through the Authority will be subject to the following fees, unless waived by the Authority:

### **Authority Application Fee**

An Application Fee of \$5,000 payable to the Authority will be charged to every Applicant. This fee shall be paid to the Authority at the time the final application is submitted.

### **Counsel Fee(s)**

The Applicant shall be responsible for all Bond Counsel and Issuers Counsel fees related to the transaction, including all fees related to applications and financing, and closing preparation.

### **Minnesota Management and Budget (MMB) Application Fee**

The fee that must accompany the submitted Minnesota Application for Allocation of Bonding Authority. The application fee is equal to \$20 for every \$100,000 of entitlement requested, rounded up to the nearest \$100,000, or \$1,000, whichever is greater. (For example, for a project with a bonding request of \$10,000,000, the application fee would be  $\$10,000,000 / \$100,000 \times \$20$ , or \$2,000.) This fee is not refundable.

### **Minnesota Management and Budget (MMB) Application Deposit**

For residential rental projects, the application deposit required by MMB is equal to two percent of the requested allocation. (For example, for a project with a bonding request of \$10,000,000, the deposit would be  $\$10,000,000 \times 0.02$ , or \$200,000.) The deposit must be submitted along with the Minnesota Application for Allocation of Bonding Authority. If the project is not selected, the deposit is refunded by MMB. If the project is selected, one-half (50%) of the deposit will be refunded by MMB if the project meets required timing for placement of the bonds; the remaining deposit is refunded by MMB after the project has submitted Form 8609 to the IRS.

### **Administrative Fee**

An Administrative Fee of one-quarter point on the outstanding principal balance of the issue shall be paid to the Authority annually on the anniversary of the issuance date. In the event that the Bonds are repaid prior to the annual fee in any Bond year, the Administrative Fee for that Bond year will be pro-rated. Collection of the Administrative Fee shall be through the Bond trustee, if applicable. Provided, that no such fee shall exceed the amount authorized by the Code

## VII. Program Requirements

The requirements stated below are minimum requirements, and the Authority reserves the right to add requirements on a case-by-case basis. Likewise, the requirements listed here pertain only to the Authority and are not exclusive. Bond Counsel or the Bond Purchaser may make additional requirements.

Requests to the Authority for the waiver of any of the requirements must be stated in writing when the final application is submitted.

### ***Accessibility and Visitability***

Any new development of 10 or more units must have at least five percent of its units designed as accessible and/or adaptable for disabled persons, consistent with American National Standards Institute (ANSI) A-117.1 as amended.

Visitability complements accessibility and provides that, at a minimum, three specific design elements be incorporated into the dwelling unit:

- At least one no-step entrance;
- Thirty-two (32) inch clear opening doorways; and
- At least a one-half bathroom on the main level that meets minimum clear floor space for half baths, as required by the Fair Housing Act "Part B: Usable Bathrooms."

Federal and state statutes identify visitability requirements for publicly funded housing projects. For new construction developments, the Authority encourages making all units visitable that are not already accessible.

In addition to the above requirements, the Authority encourages new developments of 10 or more units to have at least 10% of units accessible for physical disability, and an additional 2% accessible for people with hearing or visual impairments.

### ***Affirmative Action and Equal Opportunity***

In accordance with the County's policies against discrimination, no person shall be excluded from full employment rights or participation in or the benefits of any program, service, or activity on the grounds of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status, or national origin; and no person who is protected by applicable federal or state laws, rules, or regulations against discrimination shall be otherwise subjected to discrimination.

### ***Affordability Period***

Affordable rental projects must commit to a minimum 30-year period of housing affordability to be eligible for Authority conduit financing. The affordability term will be reflected in the Authority's Regulatory Agreement for the Project.

### ***Bond Issuance, Dependent on Consistency with Authorizing Resolutions***

The issuance of Bonds shall be consistent with authorizing resolutions enacted by the Authority. For residential rental project subject to volume cap allocation, the par

amount of the bonds may not exceed the "Aggregate bond limitation," defined in Minn. Stat. 474A.02 to mean up to 55 percent of the reasonably expected aggregate basis of a residential rental project and the land on which the project is or will be located.

Authority staff recommendation of, and Authority Board approval of, projects will be based on the specific income mix and affordability mix proposed at time of project application. The Authority reserves the right to reject or to refuse to advance consideration of final approval of the Bond issuance or execution of regulatory agreements in the event of substantial changes to the affordability level, unit mix, scale, scope, or cost of the Project.

Projects applying the Average Income Test of Section 42 of the Code are also subject to this requirement of Authority, including specific quantities of units at specific affordability levels, regardless of whether or not the project meets the Average Income Test requirements. The Authority reserves the right to reject or to refuse to advance consideration of final approval of the Bond issuance or execution of regulatory agreements in the event of substantial changes to affordability level or unit mix.

### ***Bond Rating***

The Authority will require an investment grade rating from an established rating agency if the Bonds are publicly offered.

### ***Closing Costs***

The Applicant shall pay all closing costs.

### ***Consistency with Local Plans***

Project must demonstrate consistency with the Comprehensive Plan of the city within which the Project would be located. Affordable rental housing projects must address one or more goals or priorities of the Hennepin Housing Consortium Consolidated Plan, the City of Minneapolis Consolidated Plan and/or the Hennepin County and City of Minneapolis Continuum of Care.

### ***Construction and Demolition Reuse and Recycling***

All non-hazardous building material generated during the project should be sorted by material type for recycling or, if collected as mixed waste, sent to a facility that achieves a minimum 60% recycling rate. If sorting by material type, at a minimum, the following materials should be separated for recycling: concrete, metals, untreated wood, and roofing material. Removal of building materials for reuse is encouraged where feasible. New construction, renovation, rehabilitation, and remodeling projects are encouraged to incorporate reused and recycled content building materials in their designs.

### ***Counsel***

The Authority reserves the right to appoint Bond Counsel and Issuer's Counsel. All fees for Bond Counsel and Issuer's Counsel will be charged to the Applicant and paid at closing.

***Fee and Deposit***

The Applicant shall pay all required Minnesota Management and Budget Fee and Deposit amounts.

***Equal Opportunity and Fair Housing***

The Applicant must comply with all federal, state, and local laws, executive orders, and implementing rules and regulations set forth to ensure that no person shall on the grounds of race, color, national origin, religion, handicap, familial status, creed, marital status, sex, or sexual orientation be excluded from participation in, be denied the benefits of, or be subjected to discrimination by the Applicant or the Project.

***Relocation***

All households and businesses displaced by the Project shall receive relocation assistance from the Applicant consistent with federal Uniform Relocation Act requirements.

***Taxes***

Applicant shall pay, when due, all real estate taxes assessed against the Project.

***Title to the Project***

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

VIII. Accuracy of Data

***Bond Documents***

The Applicant, the Applicant's Underwriter, and Bond Counsel must prepare all documents for the Bond issue, including a Regulatory Agreement satisfying the requirements of the IRC and the Authority with respect to Housing Revenue Bonds.

In those cases involving Official Statements, the Underwriter will have the primary responsibility for the preparation of the Official Statement and of assuring the statements, attributed to Applicant in any Official Statement, are substantially true and correct. The Applicant must indemnify and hold Hennepin County, the Authority, and their officers, employees and staff, harmless from any error or omission in any Official Statement or placement memorandum. In all private placements, a placement letter will be required of the Bond Purchaser.

***Opinions (Generally)***

All opinions must be addressed or made available to the Authority (among others), allowing the Authority to rely upon such opinions. All opinions shall be acceptable to the Authority in form and substance.

### ***Borrower's Counsel's Opinion***

Applicant shall deliver to the Authority an opinion of Borrower's 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.
- That Borrower's 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 relative to the Project or Applicant.
- On such other matters as may be required by the Authority, the Purchaser or Bond Counsel.

### ***Post-Issuance Compliance***

The Applicant shall adopt a policy for the ongoing, post-issuance monitoring of tax-exempt bond requirements in form and substance acceptable to Bond Counsel and Issuer's Counsel.

## **IX. 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 County or the Authority would take any action at any certain date), the County and the Authority reserve the right to:

- Reject the application for Bonds, in whole or in part.
- Reject the application for Bonds as being incomplete.
- Reject the Applicant's choice of Underwriter, Underwriter's Counsel, Trustee, Paying Agent, or Placement Agent.
- Reject the Project, in whole or in part.
- Require "No Action" letters or an Internal Revenue Service ruling before issuing the Bonds. If such letters are required, Applicant and Bond Counsel must prepare or provide the needed documents at the Authority's request. All costs of obtaining such letter or ruling will be the responsibility of the Applicant.
- Require corrections or amendments to any legal document.

- Impose any other requirements as conditions precedent to the issuance of its Bonds.
- Appoint bond counsel and issuer's counsel, and consult with Bond Counsel and Issuer's Counsel concerning the Project or issuance of Bonds. Any resulting fees for such consultation shall be paid by the Applicant.
- Waive any requirements or procedures included herein if the Authority feels it is in the interest of the County to do so.

Remainder of page intentionally left blank

## Appendix A: Project Review Criteria

The Authority Conduit Financing application process is designed to determine project feasibility and Applicant capability. Additionally, Applicants for Authority assistance must demonstrate that the project will address one or more of the following public purposes, consistent with Minnesota Statutes Chapter 469:

- **Affordable Housing:** Will add, preserve and/or rehabilitate affordable housing units.
- **Economic Development:** Will support local community and economic development priorities or address blighted areas.

**The Authority reserves the right to modify or add to this list, as necessary, to support other identified policy objectives of the Authority or the Hennepin County Board of Commissioners.**

To facilitate the identification of projects that the Authority wishes to support and to provide direction to potential Applicants, the public purposes above have been expanded to include additional County priorities. These are presented below as Project Review Criteria. Projects must address one or more of these criteria. Further, the Authority may use these criteria to rank applications, if necessary, in selecting applications for staff recommendation.

**Affordable Housing Project Review Criteria: Project will add, preserve and/or rehabilitate affordable housing units.**

- Project will include housing affordable to households with incomes at or below 50 percent of the area median income, with a priority for units further restricted to households with incomes at or below 30 percent of the area median income.
- Project will preserve or expand federal rental assistance for low-income households.
- Project will create new or preserve existing affordable rental units with an extended minimum period of affordability (beyond 30 years).
- Project will address housing disparities by serving one or more of the following populations:
  - Households experiencing homelessness
  - The elderly
  - People with disabilities

- Large families
- Project serves a population receiving services through Hennepin County Health and Human Services department.

**Economic Development Project Review Criteria: Project will support local community and economic development priorities or address blighted areas.**

- Project will add jobs paying hourly wages which cover the cost of living as defined by the Minnesota Department of Economic Development for Hennepin County, and/or offering career ladder opportunities.
- Project will add jobs in a low/moderate-income neighborhood, as defined by HUD, or within a quarter mile of one or more high frequency transit routes.
- Project will incorporate construction hiring and subcontracting goals for disadvantaged, W/MBE, or emerging businesses and workers.
- Project will cleanup and make productive use of an environmentally contaminated, vacant, underutilized, and/or economically obsolete site.
- Project will add community-supported uses or goods and services not currently offered in the area.

Remainder of page intentionally left blank