

# BREVARD COUNTY HOUSING FINANCE AUTHORITY MULTIFAMILY REVENUE BOND PROGRAM

## GUIDELINES FOR BOND ISSUES

The Brevard County Housing Finance Authority (“BCHFA”) has as one of its purposes the provision of housing opportunities at rents affordable to Brevard County residents of low and moderate income. The Multifamily Housing Revenue Bond Financing Program (the “Multifamily Housing Bond Program”) was developed to stimulate the production of affordable housing by providing low interest loans for Developers who will produce new or rehabilitated housing.

The program is intendeds to:

- Encourage the acquisition, construction, renovation and rehabilitation of housing and of the real and personal property and other facilities necessary and incidental to such;
- Provide bond financing for qualified multifamily rental housing developments which meet the goals of the BCHFA and comply with applicable federal and state laws;
- Provide affordable housing in areas of the County that demonstrate need but have lower saturation of affordable housing.

The general purpose of these guidelines is to assist the BCHFA and the Applicant for proposed financing or refinancing of a bond issue for a multi-family project in (1) having a reasonably clear, concise and consistent approach to all requests for financing and, (2) exercising due diligence in securing, reviewing and disseminating information.

The BCHFA reserves the right to impose such additional requirements as it deems appropriate, and to waive such requirements as it deems unnecessary or inapplicable. These guidelines shall in no way restrict the BCHFA in the performance of its duties. Any request to waive a requirement by the Applicant must be made to the BCHFA at the time of Application.

The BCHFA financing team, which includes Bond Counsel, Underwriters, Financial Advisor and Trustee (all of whom have been selected through an RFP process) will be used on all bond issues, either publicly or privately placed, and all amendments to or restructures of outstanding bond issues, and their reasonable fees and expenses shall be assumed and paid by the Applicant. The documents will provide that other parties and their successors, such as remarketing agent, trustee and paying agent, will be appointed by the BCHFA.

The HFA will not approve any transaction for a Developer if the HFA is aware that the Developer has not properly maintained previously funded multifamily developments or has not has not complied with bond reporting requirements on a regular basis for any development financed through any Florida local housing finance authority or the Florida Housing Finance Corporation. Furthermore, the HFA will not approve any transaction for any Applicant, that has been convicted of a felony based on dishonesty, fraud, deceit, or misrepresentation, or that has been convicted of any crime involving theft of government property in violation of Title 18, United States Code, Section 641, or any Applicant against whom a criminal information charging the company with a violation of Title 18, United States Code, Section 641 was filed and has entered into a Deferred Prosecution Agreement, or any Applicant that has been convicted of or pled nolo contendere to a felony based on dishonesty, fraud,

deceit, misrepresentation, or that has been convicted of or pled nolo contendere to any crime involving the theft of government property, in violation of the law(s) of the State of Florida, or any Applicant against whom a criminal indictment or information was filed and alleged either dishonesty, fraud, deceit, misrepresentation, or theft of government property, and has entered into a plea agreement, pretrial intervention program, or deferred prosecution agreement, will not be considered for funding. For purposes of this Section, "Applicant" includes any person that:

(a) Directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant or Developer;

(b) Serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer;

(c) Directly or indirectly receives or will receive a financial benefit from a Development except as further described in Rule 67-48.0075, F.A.C.

### **Approval by Board of County Commissioners**

All bonds, when required by federal tax law, may be subject to review by the Board of County Commissioners (the BCC), and the Financial Advisor to the BCC, and must be approved by the BCC. Approval by the BCHFA in no way constitutes approval by the BCC. The BCHFA advises the Applicant that the BCC may impose additional fees and/or requirements. The BCHFA advises the Applicant to expect the process of approval by the BCHFA and the BCC to take up to six months.

The Applicant will be required to appear at the BCHFA meeting when the Inducement Resolution is considered, and the BCC meeting at which the request for approval is heard.

### **Land Use Restriction Agreement**

The BCHFA will require that, through a Land Use Restriction Agreement, all applicable federal project restrictions be in force for the periods required by federal tax law, and that the Authority's restrictions (imposed by either the BCHFA's Rule 14 or state law or by the BCC) be in force throughout the life of the bond issue. Whenever a bond issue is refunded or restructured or bond maturities are extended, the Authority will require an appropriate extension of the federal "qualified project period", generally for at least 5 years from the date of restructuring or refunding.

The BCHFA shall require as part of any financing or refinancing, suitable independent compliance monitoring and monthly compliance reporting to the Authority during the entire remaining term of the Land Use Restriction Agreement. The selection of the Compliance Monitor and its successor will be approved by the BCHFA and the cost of compliance monitoring and reporting shall be borne by the Developer.

### **Application Process**

- a. Applicant submits complete application including all attachments, along with the application fee ~~as described below~~ of \$3,000.
- b. Application is submitted to BCHFA for inducement.

- c. Applicant obtains all necessary local approvals.
- d. Applicant pays Authority Fee as described in the Fees section of these guidelines.
- e. Application is submitted to credit underwriter selected by the Authority. Applicant pays Credit Underwriter Fee directly to the underwriter.
- e.f. Credit Underwriting Report is submitted to the Authority for review. Authority adopts Authorizing Resolution.
- f.g. BCHFA holds TEFRA hearing and Application is submitted to BCC for TEFRA approval.
- g.h. Deal closes and Bonds are issued.

The order of the process above may change; however, no documents will be produced until Authority Fee has been paid.

### **Timing**

The Applicant should plan on 120 days of processing time from the submission of a financing plan. While the BCHFA will attempt to expedite the processing of documents, it must be noted that the transaction is subject to review by both the BCHFA and the BCC. BCC review may include review by the BCC Financial Advisor.

The Preliminary Official Statement for publicly offered bonds will not be published until all parties have agreed that all deal points are final and that there are no outstanding transaction issues to be negotiated among any of the parties. The Preliminary Official Statement must be published at least 10 days before pricing for fixed rate debt and 5 days for variable rate debt.

The schedule must allow for 2 weeks between pricing the bonds and closing for a fixed rate transaction and 3 days for a variable rate transaction.

### **Additional Information**

Generally, bonds sold by the BCHFA must have a rating in one of the three highest categories of a nationally recognized rating agency. At its discretion, the BCHFA will consider the sale or placement of Bonds without credit enhancements producing such rating.

For private placements, Applicant is required to use RBC Capital Markets, LLC as its placement agent.

### **Developer Fees, Expenses and Penalties for HFA Multifamily Housing Financing Program**

The fees and expenses shown below will be applicable for each type of financing approved by the HFA for multifamily rental Developments.

#### 1. Pre-closing Fees

All fees are to be in the form of a cashiers' or certified check. Each check is to be made payable to the appropriate party.

a. Application Fee

A non-refundable fee of \$15 per unit, but not less than \$1,000 is payable to the HFA at the time of application for financing. For purposes of determining the application fee, applications for financing of Developments on noncontiguous sites require the submission of separate applications and fees for each site. If financing for Developments on noncontiguous sites is done simultaneously with one set of offering documents, one bond resolution, and, if applicable, a single credit enhancement (e.g. letter of credit), the application fee may be calculated based on one combined bond issue. Such determination will be made at the sole discretion of the HFA.

The applicant is responsible for payment to Bond Counsel, Nabors Giblin Nickerson of a non-refundable \$2,000 initial fee upon application.

The applicant is responsible for payment to the Financial Advisors, Public Resources Advisory Group ("PRAG") of a non-refundable \$2,500 initial fee upon application.

The applicant will be responsible for all fees and expenses of the HFA's Bond Counsel, its Financial Advisors, and the Authority's Counsel in connection with each bond issue.

If the applicant withdraws the application at any time during the process and at a future date re-submits the same application for consideration, all application fees must again be paid to the HFA, Bond Counsel, Financial Advisors and the County Attorney's Office to restart the process.

Fees

~~All fees are must be paid in the form of a cashier's or certified check payable to the Brevard County Housing Finance Authority.~~

~~A. **Pre Closing Fees:**~~

~~Application Fee:~~

~~\$3,000 payable to the BCHFA at the time the application is submitted and before Inducement. This fee is non-refundable.~~

**b. Developer Deposit:**

Prior to the credit underwriting, TEFRA hearing and in depth review of the BCHFA professionals, the Applicant will pay BCHFA 1% of the requested bond amount. This fee will be held by the BCHFA to cover costs, including fees of bond counsel and financial advisors, in the event the financing does not close. At closing, this fee will be credited against the costs of issuance and any excess will be refunded to the applicant. No documents will be prepared until the one percent 1% fee is paid.

**c. Credit Underwriter Fee:**

At the time the application is submitted for credit underwriting, the Applicant will be responsible for payment to the Credit Underwriter selected by the BCHFA of a preliminary review fee at the Underwriter's prevailing rate, plus a deposit to cover the cost of the appraisal.

**2B. Closing Costs:**

**Credit Underwriter Fee:**

At closing, the Applicant will be responsible to pay the Credit Underwriter the balance of

the Credit Underwriting Fee in the amount agreed upon at the time the application was submitted for review.

**Authority Fee:**

At closing, the Applicant will be responsible to pay BCHFA a fee equal to 25 basis points of the principal amount of the Bonds issued.

**Closing Costs:**

At the time of closing, the Applicant will be responsible to pay closing costs including, but not limited to, printing of bonds, printing of Official Statement, rating agency fees, cash flow verification, mortgage title insurance premium, and the fees and expenses of Bond Counsel, Issuer's Counsel, and Financial Advisor. Amount of closing costs must be transferred to the Trustee for deposit into the Cost of Issuance Account prior to closing.

**3C. Post Closing Fees:**

**Annual Authority Fee:**

25 basis points of the outstanding bonds, payable annually.

**Annual Trustee fee:**

Amount to be negotiated, paid annually

**Compliance Monitoring Fee:**

Amount to be negotiated, paid annually.

**Indemnification and Other Requirements**

As a part of any new issue or refunding, the Applicant will be required to provide indemnification satisfactory to BCHFA, covering BCHFA, and its professional services team (and other persons, firms or corporations acting on behalf of BCHFA) and Brevard County.

BCHFA and the County will require a standard Section 10b-5 opinion from Underwriter's Counsel and a statement in the Official Statement or other offering document that neither BCHFA nor the County has reviewed the offering documents for completeness, truthfulness, fairness or accuracy, including but not limited to representations regarding the financial feasibility of the project or the Applicant.

**Guarantee of Administrative Expenses**

The BCHFA will require that the payment of its annual fee, the annual Trustee Fee and the Compliance Monitor Fee will be covered by the credit enhancement device used in connection with the guaranty of principal and interest on the bonds or through a reserve account. In the event of a FHA Insured issue, these fees should be included within the mortgage payment calculations and covered by the FHA Policy. For privately placed issues, these fees must be covered by the mortgage. The BCHFA may require that the payment of the Annual BCHFA fee, the annual Trustee fee and the Compliance Monitor fee be guaranteed by the Developer.

These guidelines have been adopted by the Authority at its meeting of ~~April 16, 2018~~ December 2, 2015 and shall become effective immediately as to any financings, refinancings or restructurings in process and for applications hereafter received.

ACKNOWLEDGEMENT OF RECEIPT BY APPLICANT

The Applicant acknowledges receipt of the foregoing Guidelines and agrees to comply with them.

\_\_\_\_\_  
Name of Company

By: \_\_\_\_\_  
Signature

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: (\_\_\_\_\_) \_\_\_\_\_

Date: \_\_\_\_\_