

Agenda Item #: 3D1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: 12/20/2011

Consent Regular

Public Hearing

Department

Submitted By: County Attorney's Office

Submitted For: Housing Finance Authority

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve (a) the Housing Finance Authority of Palm Beach County, Florida (the "Authority") Guidelines for Issuance of Multi-Family Rental Housing Revenue Bonds (the "Multi-Family Guidelines"); (b) the Authority's Bond Underwriter Selection Policy (the "Underwriter Selection Policy"); and (c) the Contract for Legal Representation between the Authority and Greenspoon Marder, P.A. (the "Legal Services Contract").

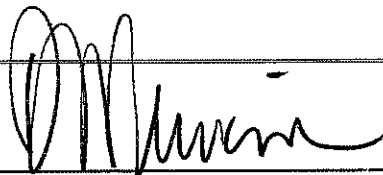
Summary: The Palm Beach County Code requires that all rules and regulations promulgated by the Authority be submitted to and approved by the Board. The County Code also requires that all contracts of the Authority for the purchase of goods and services in excess of \$10,000 be submitted to and approved by the Board. The Multi-Family Guidelines set forth the general requirements and procedures which apply to the financing of multi-family rental housing projects by the Authority, and update the current multi-family guidelines of the Authority adopted in 2008. The Underwriter Selection Policy sets forth the Authority's selection process for both multi-family and single family bond issues. The Authority will consider requests on an ongoing basis to identify a pool of qualified underwriters. For multi-family bond issues, a borrower must utilize the services of an underwriter on the list. For single family bond issues, the Authority shall conduct an RFP to which all qualified underwriters shall be permitted to respond. This would replace the Authority's current rotation of three underwriters, which has been in place since 1998. The Legal Services Contract provides for Greenspoon Marder, P.A., the successor to the firm that was selected by the Authority to provide general legal services pursuant to an RFP process in November of 2010, to be General Counsel to the Authority. (Countywide) (PFK).

Background and Justification: The approval of the above by the Board would constitute the approval required by Palm Beach County Code Sections 2-191 and 2-189.

Attachments:

1. Guidelines for Issuance of Multi-Family Rental Housing Revenue Bonds
2. Bond Underwriter Selection Policy
3. Contract for Legal Representation

Recommended by: _____



12/30/11

Date

Approved by: _____

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	0	0			
Operating Costs	0	0			
External Revenues	0	0			
Program Income (County)	0	0			
In-Kind Match (County)	0	0			
NET FISCAL IMPACT	0	0			
No. ADDITIONAL FTE POSITIONS (Cumulative)	0	0			

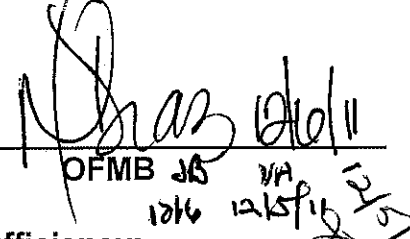
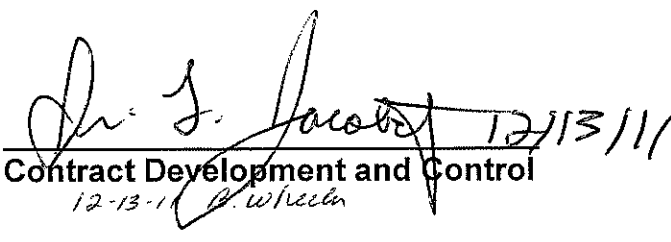
Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Department _____ Unit _____
 Object _____ Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact: N.A.

C. Departmental Fiscal Review: All costs to be borne by Housing Finance Authority. No fiscal impact to Palm Beach County.

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 _____ OFMB JS VA 12/16 12/15/11	 _____ Contract Development and Control 12-13-11 B. Wheeler
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B. Legal Sufficiency:



 Assistant County Attorney 11/30/11

C. Other Department Review:

 Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

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HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY

GUIDELINES FOR ISSUANCE OF MULTI-FAMILY RENTAL HOUSING REVENUE BONDS

I. INTRODUCTION

The Housing Finance Authority of Palm Beach County (the "Authority") is authorized under Part IV, Chapter 159, Florida Statutes to issue tax-exempt obligations to finance the acquisition, construction, reconstruction or rehabilitation [159.608(3), F.S.] of qualified multi-family rental housing developments for persons or families of low, moderate, or middle income [159.603(7), F.S.]. The Authority will consider providing tax-exempt (or combined with taxable if sufficient tax-exempt financing is not available) financing for those qualified multi-family rental housing projects that meet the goals of the Authority and comply with applicable federal and state law. The Authority, however, is not a lending institution or a zoning approval authority. Bonds issued by the Authority must be "A" or better investment grade rated which typically requires "credit enhancement," or the bonds must be purchased by or placed with an institutional investor, as more fully described herein. The successful issuance of bonds is dependent to a large degree on the strength and ability of the owner/developer to secure credit enhancement for, or an institutional purchaser of, the bonds. The ability of the Authority to issue bonds is also subject to (i) receiving an allocation of the state volume limitation on private activity bonds ("Volume Cap") imposed under the Internal Revenue Code of 1986 unless the developer is a qualified 501(c)(3) corporation and (ii) approval of the sale of bonds by the Board of County Commissioners of Palm Beach County, Florida (the "County Commission").

The Authority has adopted the following guidelines to set forth the general requirements and procedures which apply to the financing of multi-family rental housing projects (the "Guidelines"). The Authority may issue obligations to provide financing for any project only if the party requesting such financing (the "Applicant") has satisfied the general requirements set forth in these Guidelines, provided, however, that the Authority may, in its sole discretion, waive specific provisions of these Guidelines where good cause is shown and adequate supporting documentation is provided. In addition, these Guidelines may be amended, revised, repealed or otherwise altered by the Authority, at any time, with or without notice, at any regular or special meeting of the Authority. The Authority reserves the right to impose additional requirements with respect to any particular project. Compliance with these Guidelines by an Applicant does not create any right by an Applicant to a commitment or any assurance that the Authority can or will provide the requested financing.

[End of Article I]

II. GENERAL REQUIREMENTS

Location:

The Authority will issue obligations to provide financing for a project only if the project is located within Palm Beach County, Florida ("PBC") and is in an area where the Applicant has demonstrated, to the Authority's satisfaction, a need exists for the project as proposed. Palm Beach County's Departments of Housing and Community Development and Planning, Zoning and Building, and Commission on Affordable Housing will be provided an opportunity to review and comment on all applications, to ensure that affordable housing is placed in areas of need.

Eligible Projects:

Subject to the last sentence in this paragraph, the Authority will only provide financing for projects which are in compliance with the provisions of Section 142(d) of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated there under, and the provisions of Chapter 159, Part IV, Florida Statutes, as amended, herein the "Act." The Authority may also provide financing the interest on which is taxable under the Code.

Priority:

In the event that the Authority determines that it has or may have more projects to consider than Volume Cap (see Article III for further detail) expected to be available in the coming or current calendar year, the Authority may prioritize projects through a ranking process it shall determine in its sole discretion.

County Commission approval:

Pursuant to the Code and Ordinance 79-3 creating the Authority, as amended by Ordinance 2002-022 (the "Ordinance"), the County Commission must approve the bond financing for the project and the issuance of the bonds.

Unless waived by the Authority in its absolute discretion, no Application will be accepted for consideration until the Applicant can provide evidence of 1) site control, either by deed or executed contract to purchase, and 2) proper zoning and concurrency for the number of units proposed for the project.

[End of Article II]

III. APPLICATION AND BOND FINANCING PROCESS

Prospective Applicants are encouraged to contact the Authority's Executive Director, Authority Counsel, and Bond Counsel/Disclosure Counsel (hereinafter "Authority's Professionals") prior to submission of an application package ("Application") to discuss the Applicant's proposed project and related financing, and to obtain current policy and procedure directives. The form of application as well a list of the Authority's Professionals, as may be amended from time to time, is available on the Authority's website at www.pbchfa.org or by contacting the Authority. The Applicant is required to provide the name of a qualified investment banking/bond underwriting firm ("Investment Banker") to underwrite and sell the bonds, or in the alternative identify the purchaser of the bonds if a private placement. A list of qualified firms is included as an exhibit to the Authority's "**Bond Underwriter Selection Policy**" which may be viewed on the Authority's website or by contacting the Authority. The Authority reserves the right to approve or disapprove, for any reason, an Investment Banker or private placement purchaser provided by an Applicant.

Applications will be reviewed and considered for inducement on a first-come, first served basis however this does not create any right in favor of the Applicant. In the event that more than one project is under consideration at one time for inducement for Volume Cap expected to be available in the coming calendar year, the Authority will prioritize such projects through a ranking process as it shall determine when and as necessary. This ranking is subject to a subsequent 1) "Readiness to Proceed and Financing Approval Review" by the Authority, 2) a public hearing, 3) approvals of the County Commission, and 4) the private activity bond allocation process through the Division of Bond Finance of the State of Florida (the "Division") on or about January 1 of the new calendar year.

Applicants are hereby advised that lobbying of any Authority Members by a lobbyist concerning any project under consideration for the ranking process is prohibited. Violation of this prohibition may result in rejection/ disqualification of an Application. Lobbying shall mean seeking to influence the decision of an Authority Member through oral or written communication or an attempt to obtain the goodwill of an Authority member with respect to the approval, denial or modification of an Application for the ranking process. Appearances or presentation at a public meeting of the Authority Board shall not be considered lobbying. "Lobbyist" shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in contracts with government. Applicants should be aware that Authority Members are required to disclose any contact, and the subject thereof, with any Applicant or agent of such Applicant outside of Authority meetings.

Applicants are responsible for the timely submission of the material required to proceed through each step of the financing process. The following outlines the stages of bond financing for a multi-family rental housing project:

A. Application, Inducement and Public Hearing:

1. Submission of Application:

Applicants seeking private activity bond allocation for the current calendar year should contact the Housing Finance Authority of Palm Beach County, Florida, 100 Australian Avenue, Suite 410, West Palm Beach, Florida 33406 (561) 233-3652, Attn: David M. Brandt, Executive Director. In order to consider a request, the Applicant shall submit the following:

- (i) Three (3) copies of a completed Application with all Exhibits as required, and executed Certificate of Understanding available on the Authority's website or from the Executive Director.
- (ii) A PDF of the entire Application, Exhibits, and executed Certificate of Understanding e-mailed to: dbrandt@pbcgov.com.
- (iii) Application Fee (as set forth in Article IV hereof).

2. Application Review by Authority's Professionals:

The Authority's Professionals will review the Application to ascertain whether (i) the Applicant has supplied a complete Application, including all documentation required for inducement and the Application Fee, and (ii) the Application is in compliance with state, federal (if applicable) and Authority requirements as set forth in the Guidelines. A report on the Application may be prepared for inclusion in the agenda package for the meeting during which the Application will initially be considered by the Authority for inducement. A favorable recommendation by the Authority's Professionals will not insure Authority inducement.

3. Authority Consideration of Application:

Following this review, the Application and staff comments are submitted to the Authority members for review at a regularly scheduled meeting. Applicant or its representative is required to make an oral presentation at this meeting, outlining generally the items requested in the Application.

4. Initial "Inducement" Resolution Adopted:

After presentation by the Applicant at the Authority meeting, if the Authority determines that the Application is sufficient and the subject project preliminarily meets the Authority's requirements, the Authority may adopt an official action (the "inducement") resolution specifying the terms under which the Authority will issue its bonds, authorizing the execution of a Memorandum of Agreement and the initiation of public hearing

proceedings upon the signing by the Applicant of a Memorandum of Agreement and payment of the Public Hearing Fee. Forms of the inducement resolution and Memorandum of Agreement may be obtained from Authority Counsel. All projects which chose to proceed in the process shall be subject to credit underwriting by a qualified credit underwriter ("Credit Underwriter"), selected by the Authority, at the Applicant's expense.

This official action of the Authority should not be construed as an assurance of Volume Cap for the project, as an indication as to the marketability of bonds, or as the final approval of the bond financing structure by the Authority, Authority Counsel or Bond Counsel. Rather, it is an indication that the Authority will attempt to issue its bonds for the project subject to 1) a ranking process (as may be necessary) of all then currently induced projects for available or anticipated Volume Cap, 2) a readiness to proceed/credit underwriting approval process, 3) approval of the public hearing results, Volume Cap request, and sale of bonds by the County Commission and 4) confirmation of a private activity allocation from the State, and then only under market conditions and terms acceptable to the Authority and the Authority's Professionals, the Investment Banker(s) or placement agent.

Projects ranked for inducement but not expected to receive allocation in the coming calendar year may elect to be induced, and if so, are subject to the requirements of the following sections.

5. Memorandum of Agreement:

The Authority and Applicant will enter into a Memorandum of Agreement pursuant to which the parties will agree to move forward with the bond financing process in accordance with the terms and provisions set forth therein. Pursuant to the terms of the Memorandum of Agreement, the Applicant must submit a "Good Faith Deposit" and a "Public Hearing Fee" as more particularly set forth in Article IV hereof. After adoption of the inducement resolution and execution of the Memorandum of Agreement, it is the Applicant's responsibility to proceed with reasonable dispatch to complete the bond financing process in a timely manner.

6. Invitation to Credit Underwriting

Upon execution of the Memorandum of Agreement the Applicant shall enter and complete credit underwriting in form and content, and with a credit underwriter approved by the Authority. A preliminary credit underwriting report ("CUR") will be delivered to the Authority for consideration as part of the "Readiness to Proceed and Financing Approval Review" as described in section (B) that follows. Upon receipt of the report the Authority may establish conditions and timetables for the remaining steps in the bond financing process after which the credit underwriter will finalize the CUR, or may elect not to go forward due to information provided in the report.

7. Public Hearing

A public hearing to comply with Code requirements will be scheduled, upon the written request of the Applicant, at such time as the Applicant has provided all materials

required in the Application (including such additional material as may be requested by the Authority at or subsequent to inducement). The public hearing will be noticed through an advertisement setting forth the location of the project, the principal amount of the bonds, the owner of the project and other relevant data about the proposed financing and citing the date, time and location of a public hearing. The Code currently requires that the individual or entity (i.e., the Applicant) named in the public hearing notice must be the initial owner or affiliate of the initial owner of the project and must continue in such capacity for a period commencing from the date of initial application through and including one year from completion of the project, or such other period of time as required by the Authority.

Other than providing an opportunity for the public to be heard, no official action by the Authority is required to be taken at the public hearing.

7. County Commissioner Approval:

Pursuant to the Code and Ordinance 79-3 creating the Authority, as amended by Ordinance 2002-022, the County Commission must approve the bond financing for the project and the issuance of the Bonds within the meaning of the Code and approve the award of the Bonds. The Authority will seek County Commission approval for the issuance of the Bonds and for the award of the Bonds at such times deemed appropriate by the Authority. Please note that Palm Beach County's Departments of Housing and Community Development and Planning, Zoning and Building, and Commission on Affordable Housing, pursuant to Ordinance No. 2002-022, will be provided with an opportunity to review and comment on all applications, to ensure that affordable housing is placed in areas of need.

B. Readiness to Proceed and Financing Approval Review:

1. Credit Enhancement or Bond Purchaser

The Applicant has the responsibility of securing a lender/credit facility or bond purchaser to credit enhance or purchase (and not for the purpose of reoffering) the bonds financing the project. Preliminary commitment/terms for credit enhancement, or for the purchase of the bonds by an accredited investor as described in section C below, must be obtained and evidence thereof submitted with the Application.

2. Financing approval

Prior to the approval of a bond authorizing resolution as further outlined in Section C below the Applicant, Credit Underwriter and Authority's Professionals shall make a presentation to the Authority setting forth certain details of the project financing and ability to close and begin construction. If deemed ready to proceed, and all of the recommendations of the Credit Underwriter and the financing structure are acceptable to the Authority, Bond Counsel will be authorized to commence bond documentation.

3. Private Activity Allocation

Once the project has received Financing Approval the Applicant shall request that the Authority file a Volume Cap application for the project. The application to the Division of Bond Finance of the State Board of Administration (the "Division") for an allocation of the Volume Cap is initiated through the filing of a notice of intent to issue such bonds and is completed by the Authority's Bond Counsel in cooperation with the Applicant.

Written confirmation of allocations is issued by the director of the Division for private activity bonds, subject to the availability of a sufficient amount of Volume Cap. The confirmation states the amount of the allocation made for such bonds and the date the allocation expires. At least ninety percent (90%) of the amount of the Volume Cap requested in the notice of intent to issue bonds must actually be issued.

Although the Authority will endeavor to make a good faith effort to obtain an allocation of Volume Cap for a qualified project, it can make no representation as to its ability to obtain such an allocation.

4. Validation:

The bonds of the Authority may be required to be validated in the manner provided by Chapter 75, Florida Statutes, as from time to time amended and supplemented. Should the financing proposed by the Applicant necessitate a bond validation, Bond Counsel will prepare validation papers for filing by Authority Counsel in the Circuit Court in and for Palm Beach County. All costs associated with validation are additional fees and expenses to be borne by the Applicant.

C. Bond Sale and Bond Closing:

1. Finalization of Transaction Documents/Authorizing Resolution

Assuming Volume Cap is allocated for a project, bond rating(s) are obtained, recommendations and conditions of the Credit Underwriter are complied with, and bond sale offering and transaction documents are finalized, the Authority will adopt a resolution formally authorizing the issuance of the bonds, approving the bond financing documents, and authorizing the execution of such documents.

2. Bond Purchase Agreement/Bond Placement Agreement

Unless waived by the Authority in its sole discretion, if the bonds are to be sold to a private purchaser, the Applicant and purchaser are required to execute a Bond Placement Agreement providing for the terms and conditions for the sale of the bonds to the purchaser. If the bonds are to be publicly sold, the Applicant is required to execute the bond purchase agreement awarding the sale of the Authority's bonds to the Investment

Bankers. Either agreement shall contain provisions which obligate the Applicant to pay the costs of issuing such bonds as more fully described herein.

3. Investment Ratings

a. *In Event of Public Sale.* If the bonds are to be publicly sold, the bond issue must be structured so as to receive an "A" or better by Standard & Poor's Corporation, and/or comparable ratings by Moody's Investors Service, and/or Fitch Investors Service. In such case, the Application must indicate the type and nature of the proposed credit enhancement or surety, and the name and telephone number of a contact person (if known at time of application) at such institution.

b. *In Event of Private Placement.* If the bonds are to be privately placed, the Authority may require a different rating or permit the issuance of the bonds without a rating. In order for a private placement transaction to be considered by the Authority, unless any requirement is otherwise waived by the Authority in its sole and absolute discretion, the placement must comply with the following minimum requirements: (1) the sale must be made to an "accredited investor" as defined in Regulation D, Rule 501(a), promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933; (the "Purchaser") and cannot be an underwriting or purchase with an intent to resell any portion of the bonds, (2) shall not be held in a book-entry only system, and (3) at such time as the bond financing is presented to the Authority for Financing Approval, the Applicant (or placement agent, if applicable) must (a) identify the Purchaser of the bonds and (b) provide a written commitment from the Purchaser in form and content customarily used by real estate lending institutions outlining the terms and conditions of such commitment to purchase the bonds, (c) the Purchaser must represent that it is in the business of originating or acquiring and owning for its account, tax-exempt bonds or mortgage loans on multi-family rental housing projects, (d) there shall be no offering statement of the Authority, or when a placement agent is involved in the sale of the bonds, there may be a placement memorandum prepared by the agent for the Purchaser, and (e) there will be one bond issued, and the initial and any subsequent purchaser of such bond shall be an accredited investor (i.e. traveling investor letter) as defined herein. The Authority may elect to waive such transferability requirement and authorize the issuance of bonds in denominations of not less than \$100,000 upon the recommendation of the Authority's Professionals in consultation with the Credit Underwriter. In the case of a private placement transaction, the investor purchasing the bonds or placement agent, upon delivery of the bonds, shall provide the Authority with an executed investment letter from the investor purchasing the bonds substantially to the effect that: (1) it is engaged in the business, among others, of investing in tax-exempt securities or is an accredited investor; (b) it has made an independent investigation into the financial position and business condition of the Applicant and therefore waives any right to receive such information; (c) it has received copies of the financing documents pursuant to which such obligations are issued. A form of such investment letter will be provided by Authority Counsel.

4. Environmental Assessment

Prior to the sale of the bonds, the Applicant will be required to conduct a Phase I environmental audit by an engineering firm acceptable to the credit underwriter and the Authority. At bond closing, the Applicant will be required to provide an environmental indemnity from a financially responsible entity in the form to be provided by Bond Counsel as recommended in the Credit Underwriting Report.

5. Marketing and Sale of Bonds

If the bonds are to be sold publicly, the Investment Bankers will market the bond issue. The sale of the bonds is awarded subject to all conditions precedent to closing being accomplished.

6. Closing

After authorization of the issue by the Authority, adoption of the approving resolution by the County Commission, evidence of a Volume Cap allocation, expiration of any appeal period relating to a validation proceeding, and completion of the credit underwriting/enhancement process the bond closing may be scheduled at such time and location acceptable to the Authority. A pre-closing session and a closing session are generally scheduled for consecutive days. The pre-closing is designed to allow the parties to review all final documentation and ensure that all is in order for the transfer of funds. Final documents are executed and the bonds are issued. All Costs of Issuance in excess of amounts to be paid from bond proceeds must be advanced by the Applicant not later than 2:00 p.m. on the business day next preceding the closing date. Upon closing of the bonds, the proceeds will be deposited with a trustee selected by the Authority to be disbursed for the acquisition, construction, and/or rehabilitation of the project and other costs as provided in the bond documents and pursuant to applicable law. Under the Code, only two percent (2%) of the proceeds from a "new money" bond issue can be used to pay "Costs of Issuance." The Applicant is responsible at the closing to pay any costs of issuance not payable from bond proceeds. Costs of Issuance include, but are not limited to, underwriters discount (or placement fee), the fees and expenses of Bond Counsel and Authority Counsel and Disclosure Counsel, printing of the official statement for the sale of bonds, printing of the bonds, trustee and Authority fees and closing expenses, bond rating fees, the credit underwriting report and a reserve for contingencies.

D. Termination Of Inducement

The Authority Resolution with respect to its intent to issue bonds for the project will terminate nine (9) months from the date of its adoption ("Inducement Period"). The Authority may consider extending the Inducement Period upon the submission by the Applicant of a status report providing tangible evidence of the progress of the financing of the project.

E. Refundings and Remarketings.

The Authority will consider the issuance of current refunding bonds to redeem prior bonds. In such event, the Applicant may, in the sole and absolute discretion of the Authority, be required to provide a Redemption Indemnity Agreement from the credit enhancement provider or other financially responsible person or entity on the bonds in form satisfactory to the Authority prior to the sale of any refunding bonds. In addition, an Applicant for such refunding bonds shall comply with all other applicable provisions for the original issuance of bonds by the Authority, including, but not limited to, the filing of an Application under these Guidelines for same and the payment of the appropriate fees and costs provided therein and provide the following additional information:

1. Description of the bonds to be refunded.
2. Current status as to the multi-family project for which the bonds were issued, setting forth the stage of construction, the number of units, the number of units set aside for low-income persons, the occupancy level, the completion date of the project and the date the bonds were originally issued.
3. A written description of the proposed financing for the refunding of the bonds.
4. Debt service schedules for both existing debt service and restructured debt service.
5. A statement as to any net proceeds arising from or in connection with the restructuring for such purposes as improvements, reparations or repairs to the Project, or as a cash contingency fund, or as a cash payment to the Applicant or related persons or entities.
6. Applicant must state the current length of the Land Use Restriction Agreement, the income set-aside requirements and the total number of set-aside units.
7. The purpose to be served by the refunding of the bonds. The estimated cost savings, if any, to be provided by the refunding of the bonds.
8. Information regarding any undue economic hardship affecting the project which has the potential of causing a default under the loan and which would be alleviated by the proposed refunding.

The Authority shall review the Application at a duly scheduled Authority meeting and shall either approve or reject the Application based on the following factors:

1. The cost savings to be realized in connection with the refunding.
2. The public purpose to be served.

3. Market conditions.
4. The proposed financing structure.
5. Any undue economic hardship affecting the property which might be alleviated by the refunding bonds.
6. The protection and best interests of the Authority and the public.

Should the Authority approve the Application, the refunding shall proceed in the same manner as outlined above for an initial financing including a credit underwriting report, except that certain steps in the process (Public Hearing approval, Volume Cap, etc.) may not be required.

The Applicant shall agree to execute or cause to be executed all of the program loan documents required by the Authority to ensure that the bonds are properly refunded and to ensure the unconditional repayment of the refunding bonds.

A substantial re-drafting of the existing documents in connection with remarketing or sale of a project will be deemed to be a refunding.

F. Other Post-Issuance Transactions

The Authority will consider requests for post-issuance transactions other than refundings and remarketings, including but not limited to Project transfers, sales and assumptions and document amendments (collectively, "Post-Issuance Transactions"). Applicants seeking approval for such Post-Issuance Transactions shall comply with all applicable provisions contained in the then-current documents relating to the bonds issued by the Authority and shall be subject to certain fees and costs in connection therewith, as set forth below. In addition, such Applicant shall provide information that the Authority, in its sole discretion, determines necessary in order to make a decision to proceed with the Applicant's request.

Should the Authority approve consideration of a request for a Post-Issuance Transaction involving a transfer or sale, the Applicant shall execute a Memorandum of Agreement and also enter and complete an owner transfer review in form and content, and with a credit underwriter approved by the Authority. Upon receipt of the review the Authority may establish conditions for any transfer or sale, or may elect not to go forward due to information provided in the review. If approved the Authority shall direct the Authority Counsel, its Bond Counsel, and Executive Director, as applicable, to take the necessary action to follow through with the Applicant's request, including, but not limited to, drafting and amending documents as necessary.

If professional services are required, the Applicant will also pay the fees of the Authority's Professionals, as applicable.

The Applicant shall agree to execute or cause to be executed all documents required by the Authority to give effect to the Post-Issuance Transaction.

G. Non-Profit Financings

The Authority may consider 501 (c) (3) non-profit corporation multifamily financings for those non-profit corporations proposing such projects. The provision of affordable housing should be the primary purpose of the non-profit owner, or be an integral part of the non-profit's larger mission. To participate in the program, the non-profit corporation must qualify as an exempt organization under Section 501 (c) (3) of the Code, whose exempt purposes include the provision of housing for low and moderate income persons and families. The non-profit corporation or its parent shall be in existence for at least five (5) years and shall demonstrate financial stability and expertise in developing and managing multifamily housing. In the alternative, members of the board of directors or the staff of a non-profit corporation must demonstrate to the satisfaction of the Authority that they have substantial experience in developing and managing multifamily housing. However, the non-profit corporation or its parent must still demonstrate financial stability. The non-profit financing shall proceed in the same manner as outlined above for a for-profit Applicant, except that Volume Cap may not be required.

[End of Article III]

IV. AUTHORITY FEES & EXPENSES

The fees set forth herein are subject to revision in the discretion of the Authority.

Application and Public Hearing Fees: Each Application submission shall include a fee in the amount of one thousand five hundred dollars (\$1,500) with such initial Application for financing. At the time that a credit underwriter is appointed for a project, the Applicant may be required to pay a credit underwriting fee in an amount to be determined. If the Application is approved and an inducement resolution is adopted by the Authority, the Applicant, upon acceptance of the inducement (by execution of the Memorandum of Agreement thereto) and scheduling of the public hearing for the project, shall remit to the Authority the Public Hearing Fee in the amount of six thousand dollars (\$6,000). The foregoing fees are nonrefundable.

Good Faith Deposit: All Applicants, within five (5) days of execution of the Memorandum of Agreement, shall remit to the Authority, the "Good Faith Deposit" in the amount of fifty-five thousand dollars (\$55,000). The "Good Faith Deposit" will be held by the Authority until either (1) bond closing at which time it will, at the Applicant's option, be returned to the Applicant or applied to the costs of bond closing, (2) the term of the inducement has expired, (3) there has been an abandonment by the Applicant, as determined by the Authority, of the acquisition and construction of the project prior to the issuance of the Bonds, or (4) there has been an abandonment by the Applicant of its Application or request for bond financing from the Authority prior to the issuance of the bonds under any other circumstances. If any of the events in (2), (3) or (4) shall have occurred, the Authority shall be entitled to use the "Good Faith Deposit" to pay actual expenses incurred by the Authority and such other expenses, including the Authority's Professionals (see "Costs of Issuing the Bonds" below), and costs or obligations incurred by or on behalf of the Authority in connection with the transaction. Any amount remaining after the payment of these costs will then be returned to the Applicant.

Costs of Issuing the Bonds (new and refunding): The Applicant will be responsible for payment of all fees and expenses of the Authority including Authority Counsel, Bond Counsel, and Disclosure Counsel, if any, in connection with the bond financing. In addition the Applicant shall pay to the Authority a one-time bond closing fee equal to 20 basis points of the principal amount of bonds issued for the project. Other costs of issuing the bonds may include rating agency fees, printing of the official statement, printing of bonds, trustee's fees and closing expenses. Fees and expenses where eligible under the Code are to be payable from proceeds of the bond issue upon delivery of the bonds. (NOTE: The payment of costs of issuing the bonds, including underwriter's discount, is limited by the Code to two percent (2%) of the principal amount of bonds issued. All such costs in excess of 2% of or otherwise not paid from the bond proceeds must be paid from other funds of the Applicant. Such costs to be paid by the Applicant are to be deposited in escrow with the Authority the day prior to bond closing.

The fee schedule, exclusive of expenses, of Authority Counsel, Bond Counsel and Disclosure Counsel can be obtained from the Authority's staff.

Administrative Fee: For the longer of the Qualified Project Period or final maturity of the bonds the Applicant will incur an Administrative Fee, to be remitted either monthly or semi-annually through the respective bond trustee, in an amount equal to fifteen (15) basis points annually of the aggregate principal amount of the bonds originally issued. The Administrative Fee is to cover the costs of program compliance monitoring, preparation of financial statements and audit thereof, and other Authority administrative costs, the latter being exclusive of any extraordinary costs as permitted under the respective bond documents. Payment of the Administrative Fee is to be covered by the bond credit enhancement and/or secured under the first mortgage on the project assigned to the bond trustee. The Authority may require the payment of the Administrative Fee to be guaranteed by the project owner and/or general partner(s).

Projects for which the Authority has issued refunding bonds are also subject to the one-time bond closing fee of 20 basis points of the amount of refunding bonds issued, and the Administrative Fee of 20 basis points annually based on the original principal amount of the refunded bonds payable either monthly or semi-annually, in arrears.

The Authority will appoint a bond trustee to administer the funds and accounts pursuant to the trust indenture between the Authority and the trustee bank. The fees and expenses of the trustee are typically payable semi-annually.

V. ADDITIONAL PROGRAM GUIDELINES

The Authority reserves the right to amend, revise, repeal or otherwise alter the aforesaid program Guidelines with or without notice.

VI. EFFECTIVE DATE

These Guidelines are effective following approval of the County Commission for applications received after January 1, 2012.

**HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA
BOND UNDERWRITER SELECTION POLICY**

I. INTRODUCTION

The Housing Finance Authority of Palm Beach County, Florida (the "Authority") was established pursuant to Ordinance 79-3, enacted by the Palm Beach County, Florida (the "County") Board of County Commissioners (the "BOCC") on February 6, 1979, as amended by Ordinances 91-7, 98-53, 01-016 and 02-022 of the BOCC (collectively, the "Ordinance"), in accordance with the Housing Finance Authority Law encoded in Part IV, Chapter 159, Florida Statutes (the "Act"). Pursuant to the Act, specifically Sections 159.608(4) and 159.612 thereof, the Authority is authorized to issue bonds for the financing of single family housing and qualifying housing developments, in furtherance of the intent of the Act.

As part of the process for issuing bonds, the Authority utilizes the services of underwriters to assist with the structuring and sale of such bonds. Pursuant to Section 2-189 of the Ordinance, all purchases of goods and services shall be done in accordance with the competitive processes as outlined in County ordinances and policies, including the process utilized for the selection of bond underwriters.

Effective August 18, 2009, the County implemented its "Competitive Selection of Bond Underwriters Policy for Negotiated Sales" (the "County Underwriter Selection Policy"). Historically, the Authority's Executive Director and/or Financial Advisor, based upon unstable market conditions, the complex nature of mortgage revenue bond financing and the need to best time the marketing of the Authority's single family mortgage revenue bonds ("Single Family Bonds") and multifamily housing revenue bonds ("Multifamily Bonds" and, together with Single Family Bonds, "Bonds"), has found that it is necessary and advisable that the sales of such Bonds are completed through a negotiated sale, bringing such Bond sales, except as otherwise described below, within the purview of the County Underwriter Selection Policy.

II. POLICY

A. Applicability

i. Single Family Bonds

The Authority's Bond Underwriter Selection Policy (the "Policy") shall apply to all Single Family Bond issues conducted through negotiated sales.

ii. Multifamily Bonds

The Authority serves as a conduit issuer for Multifamily Bonds and the underwriting costs of such issues are borne by the borrower of the bond proceeds. Therefore, the County Underwriter Selection Policy does not apply to the Authority's Multifamily Bond issues and no other County policy imposes any requirements on the Authority with respect to conduit

issues such as its Multifamily Bonds. However, the Authority shall utilize the process described below to identify a pool of Qualified Underwriters (as defined below). The borrower for a Multifamily Bond issue must utilize the services of a Qualified Underwriter(s). A list of Qualified Underwriters will be posted to the Authority's website.

B. Qualifications for consideration as a Qualified Underwriter

The Authority shall consider requests on an on-going basis to identify a pool of qualified underwriters (the "Qualified Underwriters"). The Authority will not consider any underwriter for a single family bond issue unless the designated contact persons have served as a senior manager/structuring agent for a single family bond issue, nor for a multifamily bond issue unless the designated contact person has served as a senior manager on a multifamily bond issue.

Interested underwriters shall provide the Authority with the following information:

- i. General information about the underwriter, including location of the office(s) from which the work will be performed and the name and housing bond experience of the designated contact person(s) and other members of the financing team
- ii. The underwriter's current (most recent reporting) total capital, equity capital, net capital position and uncommitted (excess net) capital.
- iii. Description of the firm, how it is organized, and the resources available to execute the services of a senior manager as more specifically described below. Indication of how many offices and personnel and the type of business operations the firm has in Florida.
- iv. Discussion of the firm's ability to distribute tax-exempt and taxable housing bonds to institutional and retail investors within and outside Florida; provide a description of the firm's municipal bond operations (sales, trading, research, and underwriting) and strategies which can be used to maximize funding and market access and to achieve the lowest interest rate on the Authority's Bonds.
- v. Discussion of the issues which should be addressed in developing a marketing strategy for Authority Bond sales. This discussion should include, but not necessarily be limited to, how the firm would deploy its retail and institutional sales distribution capabilities, a description of the investor base the firm feels should be targeted and strategies on how to reach those investors.
- vi. A separate list of single family and multifamily housing bond issues that the firm has purchased within the last five (5) years, through competitive

sale by submitting the winning bid and only those as a senior manager through negotiated sale, with totals for number of transactions and aggregate principal amount. If the firm participates in a competitive sale through a syndicate, a description of the syndicate arrangement and level of the firm's participation, and if it participates in a negotiated sale through a selling group, a description of the selling group arrangement and level of the firm's participation.

- vii. Identification of three housing bond issuers that the Authority may contact as references with respect to the work performance of the underwriters designated contact person(s). Each reference shall include the housing bond issuer contact person's name, title, address, phone number, fax number and e-mail address.
- viii. A description of any litigation or regulatory action filed against or settled by the underwriter within the last five (5) years, and the resolution thereof.

The Authority shall consider requests, as received, and shall determine in its sole discretion whether to add an underwriter to the list of Qualified Underwriters. The Authority may also remove an underwriter from its list at any time in its sole discretion.

C. RFP for Single Family Bond Issues only

Under the County Underwriter Selection Policy, each time a negotiated bond sale is approved, a secondary RFP process is to be conducted to select an underwriting team, comprised of a senior manager and co-managers, from the pool of qualified underwriters established pursuant to an initial RFP.

While the County issues a variety of bonds, including, but not limited to, general obligation bonds, revenue bonds, refunding bonds, MSTU and Special District Bonds, Build America Bonds and Recovery Zone Bonds, requiring different skill sets from underwriters specific to each type of issue, the Authority's Single Family Bond issues require only one skill set. Therefore, in order to increase efficiency and cost-effectiveness of the selection process, the Authority will necessarily conduct a single abbreviated RFP that is consistent with the County Underwriter Selection Policy, but tailored to the needs of the Authority.

Therefore, when the Authority determines to issue a series of Single Family Bonds, it shall conduct an RFP to which all Qualified Underwriters shall be permitted to respond. The goal of the RFP shall be to identify and select, for the position of senior manager and structuring agent (as more particularly described below) for the particular Single Family Bond issue in question, the Qualified Underwriter with the most beneficial structure for that issue (taking into account the amount of Authority contribution, if any, the point structure, the mortgage loan options, down payment assistance and other factors that the Authority's Executive Director/Financial Advisor deems relevant, collectively, the

“Relevant Structuring Factors”). The Authority may also, at its discretion, based on factors including, but not limited to, the size of the Single Family Bond issue, select from the respondents to the RFP the number of co-managers (as more particularly described below), if any, it deems beneficial and appropriate for the Single Family Bond issue in question.

1. Content of RFP

The RFP shall seek the following information:

- a. An update of the information provided under the prior “Request for Qualifications” section.
- b. Description of how best to conduct a negotiated sale given current market conditions.
- c. Proposal for gross underwriting spread, including, as applicable, the following:
 - i. estimate of amounts for expenses (itemized)
 - ii. management fee
 - iii. takedown by maturity
 - iv. average takedown
 - v. risk based on current conditions for the bond issue
- d. Relevant Structuring Factors

The Authority recognizes that the price proposal shall be an estimate based on the best information available at the time regarding the market and the specific transaction, and that such prices are subject to change corresponding to changes in the market between the time such proposal is submitted and the transaction in question closes.

2. Bond Purchase Agreement

The underwriters selected from the Qualified Underwriters pool pursuant to the RFP shall enter into a Bond Purchase Agreement with the Authority to memorialize the terms and conditions under which such successful respondents shall serve as senior manager and co-manager(s), as applicable, for the Single Family Bond issue in question.

3. Senior Manager

The services to be provided by the senior manager selected pursuant to the RFP shall include, but not be limited to, the following:

- a. Developing the structure and overall marketing strategy on the bond sale transaction to which it has been assigned and work with Authority staff, bond counsel, financial advisor/executive director, rating agencies, trustees and other professionals involved in the transaction.
- b. Assisting the Authority, its financial advisor/executive director and bond and disclosure counsels in drafting the preliminary official statement, the official statement and any other documents required to authorize, market and sell the bonds.
- c. Providing analyses of market conditions, including investor demand and prevailing interest rates, and advising the Authority and its financial advisor/executive director with regard to timing and development of a marketing plan for the bonds.
- d. Assisting the Authority in developing and presenting information to the rating agencies, bond insurers, if any, and the investment community.
- e. Advising the Authority as to timing of the sale and pricing of the bonds.
- f. Providing specific information as may be requested by the Authority regarding orders and allotments of bonds and taking direction from the Authority with respect to allotment requests for the sale of the bonds.
- g. Purchasing the bonds upon terms and conditions mutually acceptable to the Authority and the underwriters pursuant to a bond purchase agreement.
- h. Preparing a pricing book subsequent to the negotiated sale of bonds; and perform other services as requested.

4. **Co-Managers**

The services to be provided by the Co-Manager(s) selected pursuant to the RFP shall include, but not be limited to, the following:

- a. Assisting the senior manager in providing the primary and secondary market support for the Authority's bond transaction.
- b. Assisting the senior manager in providing the analysis of market conditions and advising the Authority and its financial advisor/executive with regard to market timing and development of a marketing plan for the bonds.

- c. Selling bonds.

III. EXCLUSIONS

This policy shall not apply to bonds issued pursuant to a private placement. Purchasers of bonds issued in a private placement will be approved on a case by case basis by the Authority.

IV. REVISIONS

This policy shall be revised as needed to reflect revisions, amendments and/or updates to the County's Underwriter Selection Policy. In addition, the Authority reserves the right to amend, revise, repeal or otherwise alter the aforesaid policy with or without notice.

V. EFFECTIVE DATE

This policy shall be effective as of January 1, 2012 following approval of the BOCC.

CONTRACT FOR LEGAL REPRESENTATION

This **CONTRACT FOR LEGAL REPRESENTATION** (this "Agreement"), between the **HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY** (the "Authority") and **GREENSPOON MARDER, P.A.** ("General Counsel"), dated November 17, 2011.

WITNESSETH

WHEREAS, at its regular meeting held on November 17, 2011, the Authority selected Greenspoon Marder, P.A. to serve as general counsel to the Authority, subject to entering into a written agreement with such firm specifying the terms and conditions of such engagement; and

WHEREAS, both the Authority and General Counsel have determined it is in their respective best interests to reduce to writing the terms under which General Counsel is to represent the Authority.

NOW, THEREFORE, each of the Authority and General Counsel agree as follows:

1. **Scope of Representation**: The scope of General Counsel's representation shall include:

a. Generally provide legal services and advice in connection with the maintenance and operation of governmental organizations such as the Authority, in matters such as: conducting meetings, the enabling statute, ordinances and bylaws, "Sunshine Law," state ethics law and the Palm Beach County Code of Ethics and ordinances, public request and records law issues, public contracts and procurement of services, corporate governance issues, interlocal issues, rules, policies, and any other areas of law requested by the Authority;

b. Representation of the Authority in any litigation instituted by or against it, at the request of the Authority;

c. Advising the Authority and its staff as to new or changed policies related to practices and procedures, including Palm Beach County ordinances. The foregoing may include bond financing policies (by way of example, and not limitation, policies related to unrated bonds, and issuer indemnities) or matters specifically related to Authority internal matters (such as rules, policies and procedures);

d. Preparing Authority resolutions and any amendments thereto, including TEFRA resolutions, reimbursement resolutions and County resolutions authorizing issuance of Authority bond issues;

e. Preparing memoranda of understanding between the Authority and prospective borrowers;

f. Assisting in preparation of the preliminary official statement, official statement, private placement memorandum and any amendment thereto, for the sale of bonds, to the extent not prepared by disclosure counsel, if any;

g. Reviewing bond purchase agreements;

h. Bond validation, if any;

i. Issuing standard, comprehensive issuer counsel opinions as to the due formation of the Authority, due execution and delivery of the Authority's documents and pending legal matters which will affect the validity of the bonds referenced therein;

j. Structuring, preparing and reviewing documents and policies with respect to the Authority's affordable housing initiatives and related financings which include real estate development loans and purchase money mortgage loans under the Surplus Funds Loan Program;

k. Assist and advise the Authority in and during negotiations of agreements with any entity it desires to do business with; and

l. Attending meetings of the Board and its committees; and

2. **Fees for Services.** General Counsel's fees for representing the Authority as General Counsel shall be as follows:

a. For services not related to multifamily bond issues, the Authority will pay an hourly fee of \$195 for services provided by an associate of the firm and \$250 for services provided by a shareholder or of counsel of the firm, plus actual expenses incurred in the course of such representation, including but not limited to, long distance telephone calls, faxes, copies, postage, overnight express deliveries, messenger services and similar expenses (herein, "Expenses"). This paragraph applies to all single family bond issuances and mortgage credit certificate programs.

b. For services related to the issuance of multifamily family housing revenue bonds, the Authority will compensate General Counsel at the rate of \$1.50 per thousand for the first \$20,000,000, \$1.00 per thousand for the next \$20,000,000, and \$0.75 per thousand for any amount above \$40,000,000, subject to a minimum fee of Eighteen Thousand Dollars (\$18,000), plus Expenses. These fees shall be paid by the borrower from costs of issuance at the closing of a bond transaction or funds advanced by the borrower in the event the transaction does not close.

c. For matters where there will not be an issuance or remarketing of bonds, but there is an obligated source of payment (other than the Authority), General Counsel shall charge its then current hourly rates, plus Expenses.

Examples of this type of representation include, but are not limited to, amendments to bond documents, developer substitutions, Authority consent documentation to SAIL, HOME and SHIP Loans on Authority bond financed properties, easement documentation for Authority bond financed properties and all other matters requested by existing or future developers who are obligated to pay the Authority's fees and expenses.

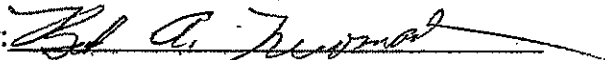
3. **Term of Agreement.** This Agreement shall be effective as of the date the last party to this Agreement has executed the same, or if later, the date of the closing pursuant to the Asset Purchase Agreement between Greenspoon Marder, P.A. and Ruden McClosky P.A. (presently anticipated to be December 1, 2011). This Agreement may be terminated at any time and without cause, by either party, upon provision of written notice to the other party.

[Signature Page Follows]

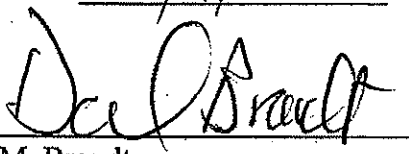
IN WITNESS WHEREOF, the parties have caused this Contract for Legal Services to be duly executed as of the day and year first above written.

"AUTHORITY"

HOUSING FINANCE AUTHORITY
OF PALM BEACH

By: 
Bob A. Newmark
Chairperson

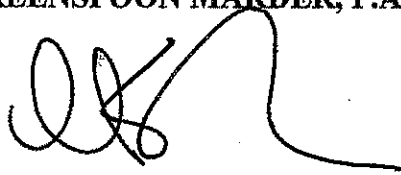
Date of Execution: 11/17/11

Attest: 
David M. Brandt
Assistant Secretary

Date of Execution: 11/17/11

"GENERAL COUNSEL"

GREENSPOON MARDER, P.A.

By: 
MICHAEL S. ROSS ~~vice president~~ & *Shareholder*
FLORIDA BAR NO.: 264997

Date of Execution: 11-14-11