



**Tax-Exempt Multifamily Housing
Financing Program
Application Package**

**Fairfax County Redevelopment and Housing Authority
3700 Pender Drive, Suite 300
Fairfax, Virginia 22030**

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Tax-Exempt Multifamily Housing Financing Program

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Introduction

The Fairfax County Redevelopment and Housing Authority (FCRHA), under authority granted by state and federal law, began a tax-exempt financing program in the late 1970s to facilitate the development and preservation of affordable housing. Through tax-exempt financing, the FCRHA is able to provide a vehicle for private developers to obtain below-market interest rate mortgages to acquire, construct and rehabilitate multifamily developments. In return for this favorable financing, developers are required to rent a specified percentage of the units in the project to low-to-moderate-income persons in accordance with the requirements of federal law pertaining to tax-exempt bonds.

The FCRHA Tax-Exempt Multifamily Housing Financing Program is intended, among other things, to:

- Encourage the creation of new rental housing units, as well as the preservation of existing rental units; and
- Ensure that not less than 20 percent of the units in a rental development are rented to lower-income households.

Under the requirements of the Tax Reform Act of 1986, multifamily rental projects financed with tax-exempt bonds must be rented to tenants in one of two categories:

1. 20 percent of the units must be rented to tenants whose income does not exceed 50 percent of the Metropolitan Statistical Area (MSA) median income, adjusted for family size; or
2. 40 percent of the units must be rented to tenants whose income does not exceed 60 percent of the MSA median income, adjusted for family size.

At the time the bonds are issued, the Developer/Owner of the project must elect which of the two income limitations will apply to the project. That election is irrevocable and will apply to the project for the duration of the “qualified project period” as specified under federal law and any additional time period that may be required by FCRHA.

Multifamily projects initially financed with tax-exempt bonds issued prior to the effective date of the Tax Reform Act of 1986 (August 16, 1986) remain subject to the income limitations in place prior to the Tax Reform Act of 1986 - namely, 20 percent of the units must be rented to tenants whose income does not exceed 80 percent of the MSA median income, with no adjustment for family size. Bonds issued to finance these projects may be refunded with the issuance of new tax-exempt bonds without becoming subject to the more restrictive income limitations of the Tax Reform Act of 1986.

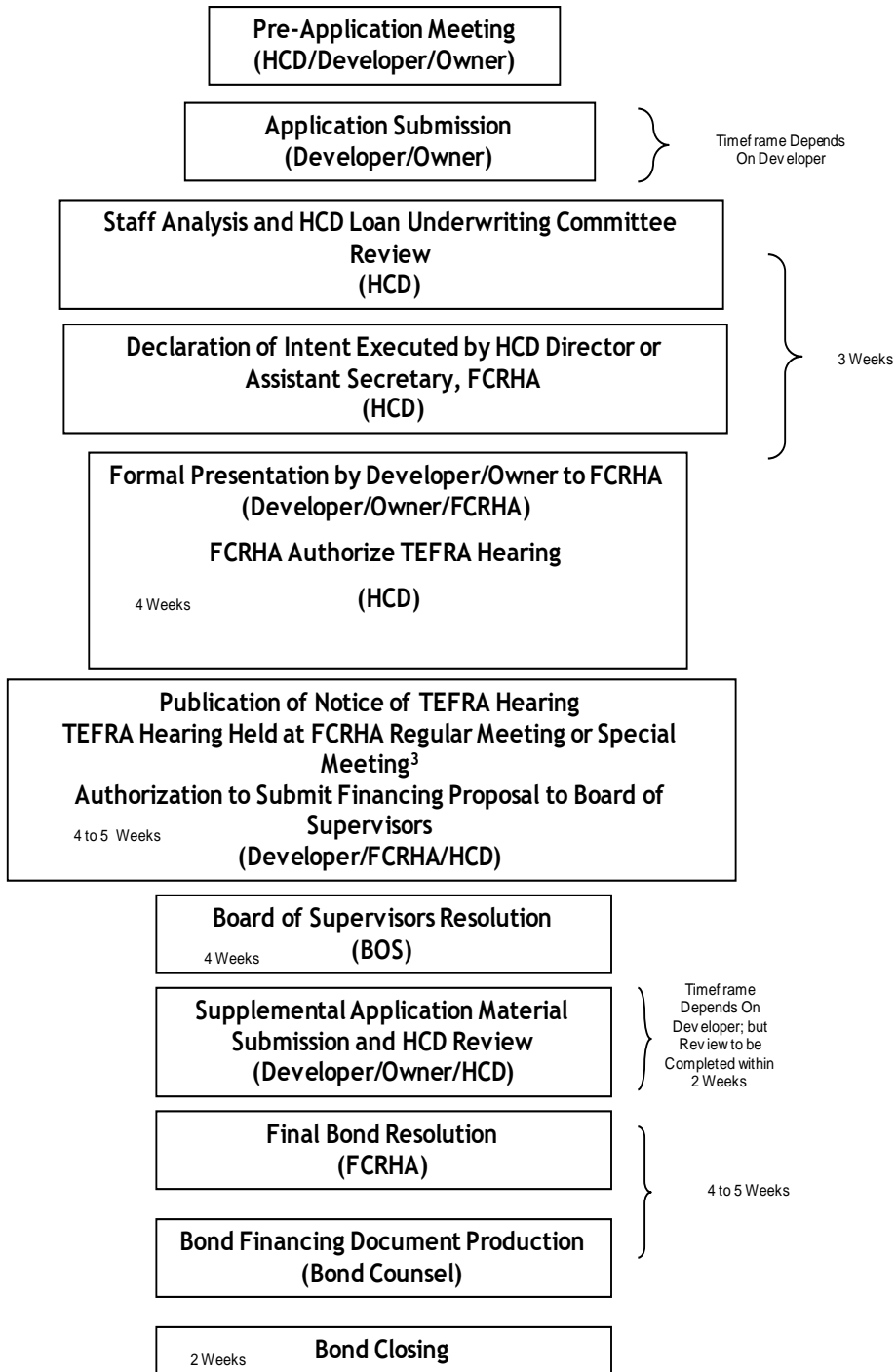
Summary of Key Steps, Sequence and Timing

The following is a summary of the key steps to apply for tax-exempt multi-family housing bonds:

1. **Pre-application Meeting:** Meeting to be held between Developer/Owner and staff of the Fairfax County Department of Housing and Community Development (HCD) to discuss the project and the requirements of the FCRHA.
2. **Application Submission:** Developer/Owner submits Application Form and Application Materials and non-refundable application fee of \$5,000 to FCRHA. In addition, the Developer/Owner executes an engagement letter with Bond Counsel pursuant to which the Developer/Owner is obligated to pay Bond Counsel's fees and expenses (whether or not the bonds are issued) and deposits a \$10,000 retainer with Bond Counsel which will be applied as a credit against the total fee at closing (or if the financing does not close, at the time the balance of the fee is due).
3. **Staff Analysis and HCD Loan Underwriting Committee Review:** Once the entire application is received, HCD will finalize its analysis and it will be reviewed by the HCD Loan Underwriting Committee.
4. **Declaration of Intent Executed:** The Declaration of Intent (sometimes referred to as an "inducement resolution") is a conditional statement of the intent by the FCRHA to consider the future issuance of tax-exempt bonds for a given project. A Declaration of Intent is not required under federal tax law and is not applicable to the issuance of refunding bonds for existing projects. However, a Declaration of Intent is important in the case of new construction financings because only those development costs incurred on or after 60 days prior to the Declaration of Intent are eligible for reimbursement with proceeds of the tax-exempt bonds.
5. **Formal Project Presentation by Developer/Owner to FCRHA:** The Developer/Owner will make a presentation to the FCRHA at the next regular meeting (or at a special meeting) following the Declaration of Intent (if applicable) and prior to the TEFRA Hearing.
6. **Publication of Notice of TEFRA Hearing and TEFRA Hearing Held at Regular or Special Meeting of FCRHA:** As required by law, FCRHA will hold the federally required TEFRA Public Hearing. The Internal Revenue Code requires issuing agencies to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings to provide the public the opportunity to comment on projects. At the conclusion of the TEFRA hearing, the FCRHA will authorize submitting the proposal for tax-exempt bond financing to the Fairfax County Board of Supervisors.

7. **Board of Supervisors Resolution:** Consistent with the requirements of TEFRA, the Board of Supervisors will be asked to approve the bond issuance. Under state law, approval by the Board of Supervisors Resolution is required to occur within 60 days after the TEFRA Hearing. Comments, if any, received at the hearing will be incorporated into the Board Item for consideration.
8. **Supplemental Application Materials Submission:** The Developer submits all Supplemental Application Materials. These will be reviewed by HCD staff following the receipt of a complete and acceptable package.
9. **Bond Financing Document Production:** One week prior to the FCRHA meeting at which the final Bond Resolution will be considered, Bond Counsel will deliver to HCD bond financing documents in substantially final form.
10. **Final Bond Resolution:** At an FCRHA meeting, the FCRHA Commissioners will act on a final Bond Resolution to approve (i) the issuance of the Bonds, (ii) the execution and delivery of the bond documents, (iii) the execution and delivery of a bond purchase agreement, (iv) the form of the Official Statement (if the bonds are publicly offered) and (v) the Underwriter for the bonds.
11. **Bond Closing:** The Bond Closing is held in the offices of Bond Counsel. At the closing, the Bonds are issued and all documentation is executed and delivered, including delivery of the credit rating on the bonds if the bond issue is publicly offered.

Summary of Key Steps, Sequence and Timing



**Total Number of Months:
Approximately 6 Months**

Developer's Fees and Expenses

The fees and expenses for the FCRHA Tax-Exempt Multifamily Housing Financing program shown below will be applicable for each type of financing approved by the FCRHA for multifamily rental developments, including ancillary facilities (i.e. construction financing only, permanent financing only, and construction and permanent financing) combined in a single issue, or refunding/refinancing.

Fees

1. **Application Fee:** A \$5,000 non-refundable fee is payable at the time an application for financing is submitted.
2. **Bond Counsel Engagement:** At the commencement of the financing, the Developer will be required to execute an engagement letter with Bond Counsel and to deposit a \$10,000 retainer with Bond Counsel. Should the project not go forward, any unspent retainer fees shall be refunded to the borrower.
3. **Commitment Fee:** This fee is based on the principal amount of the bonds issued and is payable at closing:

Principal Amount of Bonds Issues	Fee
Up to \$10 million	1 percent
Between \$10 million and \$20 million	1 percent of first \$10 million (\$100,000) plus 4/10 percent of the balance
Over \$20 million	7/10 percent of \$20 million (\$140,000) plus 2/10 percent of the balance (Note: This is equivalent to 1 percent of first \$10 million, 4/10 percent of next \$10 million, and 2/10 percent on balance.)

4. **Monitoring or Administrative Fee:** This is an annual fee for the term of the bonds, payable on each payment date: 0.25% of the aggregate principal amount of the bonds outstanding on each payment date needs to be paid above the line, as a part of the NOI calculation, for a long-term bond issuance. *For short-term bonds, there will be an upfront monitoring fee of \$65,000/yr. until the mandatory tender date (as extended, if applicable), and an annual monitoring fee of \$15,000 below the line beginning after that date.*

Expenses

1. Cost of appraisal, market study, environmental studies and if required, construction cost analysis, construction cost certification and other special studies.
2. Bond counsel, underwriter's fees, issuance expenses, trustee's fees and all other expenses incurred, regardless if the bond closing occurs.
3. FCRHA Out-of-Pocket Expenses: Developer will be responsible for paying all out-of-pocket expenses incurred by the FCRHA. These expenses may include, but are not limited to, travel, mailing and publication costs. For administrative reviews and approvals related to FCRHA-issued bonds, the developer will be responsible for staff costs, out-of-pocket expenses and costs described in number one and two above.

Attachment 1

FCRHA Tax-Exempt Multifamily Housing Financing Program

Application

Part I: Application Package Checklist

The following items must be submitted together with the \$5,000 application fee. One original and four copies of each of the items must be submitted:

Status of Application Material			Application Material Required
Included	To Be Submitted Separately	Not Applicable	
<input type="checkbox"/>	<input type="checkbox"/>		Part I: Application Package Checklist
<input type="checkbox"/>	<input type="checkbox"/>		Part II: Application Form
<input type="checkbox"/>	<input type="checkbox"/>		Financial Statements of developer and/or ownership entities and general contractor (should be most recent audited financial statements and unaudited financial statements within six months of the date of application). For refunding/refinancing, financial statements for the prior three years for the project and/or ownership entity must be submitted.
<input type="checkbox"/>	<input type="checkbox"/>		Background Information on experience of developer, proposed general contractor, design and inspecting architect, and management agent.
<input type="checkbox"/>	<input type="checkbox"/>		Market Study: See Part III for outline of Market Analysis Requirements.
<input type="checkbox"/>	<input type="checkbox"/>		Evidence of Site Control (land option agreement, deed or purchase contract agreement, if acquisition of existing property or other formal interest in the property, including a legal description).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Zoning Evidence that proposed development is permitted under the existing zoning of the proposed site and evidence of zoning of adjacent parcels.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Special Exception Applications or Approvals
<input type="checkbox"/>	<input type="checkbox"/>		Evidence of Water, Sewer, and Utility Availability. Submit letters from the sewer and water authorities indicating present capacity of systems, availability of service and location of existing sewer and water lines.
<input type="checkbox"/>	<input type="checkbox"/>		General and Specific Location Maps
<input type="checkbox"/>	<input type="checkbox"/>		Photographs of Site
<input type="checkbox"/>	<input type="checkbox"/>		Preliminary Site Plan including building footprints, vehicular circulation and major landscape features.

Status of Application Material			Application Material Required
Included	To Be Submitted Separately	Not Applicable	
<input type="checkbox"/>	<input type="checkbox"/>		Building Elevations and Typical Floor Plans
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Copy of all Pending Applications to Credit Providers , particularly in regard to projected construction and development costs, rents and operating expenses.
<input type="checkbox"/>	<input type="checkbox"/>		Support Letter: Evidence of contact with District Supervisor and FCRHA Commissioner whose district the proposed development is located.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Phase I Environmental and Phase II, if applicable
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Preliminary Relocation Plan which is in conformance with FCRHA Relocation Guidelines (see Attachment 3); preliminary tenant profile based on existing tenant records; and outline of rehabilitation work to be performed.
<input type="checkbox"/>	<input type="checkbox"/>		Evidence of Conditional Commitment for a Credit Enhancement Device
<input type="checkbox"/>	<input type="checkbox"/>		Fifteen Year Project Proforma Operating Budget with line item details sufficient to support revenues and expenditures.
<input type="checkbox"/>	<input type="checkbox"/>		Actual Operating Data of Comparable Properties owned or sponsored by applicant in the greater Washington, DC area.
<input type="checkbox"/>	<input type="checkbox"/>		Projected Interim Income and its proposed uses.
<input type="checkbox"/>	<input type="checkbox"/>		Marketing Plan and Budget prepared by the management agent (source of funds to be identified).
<input type="checkbox"/>	<input type="checkbox"/>		Management Plan
<input type="checkbox"/>	<input type="checkbox"/>		Fiscal Impact Statement (see Part IV of the Application)
<input type="checkbox"/>	<input type="checkbox"/>		Completed Disclosure Affidavit (see Part VI of the Application)
<input type="checkbox"/>	<input type="checkbox"/>		Appraisal , by an accredited independent appraiser, to consist of: appraised value of land if it is to be purchased from a related entity; or appraisal of land and improvements of existing project.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Proposed Scope of Work based on an acceptable engineering study or A & E report and estimated rehabilitation cost.

The following Supplemental Application items must be submitted following Board of Supervisor Resolution in order to move to Bond Financing Document Production:

1. **Revisions or updates to any previously submitted documents**, including application form.
2. **For existing projects: Final Relocation Plan**, including tenant profile based on a recent tenant survey and budget, indicating source and use of funds which at a minimum must be in conformance with FCRHA Relocation Guidelines.
3. **Firm commitment for a credit enhancement device.**
4. **Working drawings, final site plan, specifications, soils study, property survey.**
5. **Detailed construction cost breakdown** (including trade payment breakdown).
6. **Independent construction cost analysis** by a firm acceptable to the FCRHA.
7. **Organization documents of mortgagor**, including existing or proposed partnership agreement.
8. **Information concerning all sources of funds necessary to complete the development as proposed**, including syndication funds, if applicable.
9. **Evidence of compliance** with all previous imposed conditions of financing.

Part III: Market Analysis Outline

Following is a general outline and identification of the key points which should be covered in a Market Analysis for Tax-Exempt Multifamily Housing Financing. The analysis should present demand/supply relationships in sufficient detail to support the development for which financing is requested. Special attention should be given to accuracy in demand calculations in housing market areas. In addition, it is an FCRHA policy that primarily families be served in the lower income units and special attention should be given to the justification of bedroom mixes, especially the amount of the lower income units.

1. **Purpose of the Analysis**
2. **Summary:** Summarize the key findings of the analysis
3. **Project Description:** Location, size, physical description of proposed new construction or rehabilitation, amenities provided, propinquity to shopping, schools, day care, etc., and major transportation routes.
4. **Housing Market Area and Demographic Information:** Identify housing market area (attach map), population data and trends, employment data and trends, migration trends, economic character of area, other general characteristics of the area, present comparison of market area data to countywide data whenever possible. Note: There may be instances when the market areas extend beyond jurisdictional boundaries.
5. **Housing Supply Factors:** Describe current housing stock (number, size, type, vacancies, etc.); describe housing trends such as units authorized and condominium conversion activity where appropriate; provide listing of present or known future comparable or competitive projects and characteristics of each within market area (number of units, bedroom mix, square footage, rent per square foot, vacancies, amenities, age, etc.); and map with distances to comparable or competitive projects.
6. **Housing Demand Factors:** Household growth trends, employment growth trends and locations, conversions (if applicable), household size, income levels (be as detailed as possible), waiting lists at comparable developments, turnover experience at comparable developments, and quantify demand.
7. **Conclusion:** Supportable rents (state whether rents are the maximum obtainable); absorption rate anticipated (cite examples of other); projected income and household size of occupants; necessary or recommended development amenities and features; anticipated project turnover rate; projected displacement if acquisition with rehabilitation; present and explain any limiting conditions or factors assumed in the preparation of analysis.

Part IV: Fiscal Impact Statement

1. Maximum amount of financing sought.	\$
2. Estimated taxable value of the facility's real property to be constructed in the municipality.	\$
3. Estimated real property tax per year using present tax rates.	\$
4. Estimated personal property tax per year using present tax rates (development--tenants).	\$
5. Estimated dollar value per year of goods and services that will be purchased yearly.	\$
6. Estimated number of regular employees on year round basis.	\$
7. Average annual salary per employee.	\$

Part V: Presentation Summary

Applicant:	
Development Name:	
Developer:	
General Partner(s):	
Magisterial District:	
Contact with Supervisor or Community:	
Development Team	
Attorney:	
Architect	
Engineer:	
General Contractor (if known):	
Management Agent (if known):	
Lender (if known):	
Applicant and Developer's Background:	
Type of Project:	
Zoning:	
Site Plan Approval Status:	
Number of Units:	
Number of Buildings:	
Types of Units:	
New Construction: Style or Design of Buildings (elevations, type of construction, floor plans, amenities)	

Rehabilitation: Current building design, age, condition, description of proposed rehabilitation:	
Rents: Proposed lower-income:	
Rents: Proposed moderate-income:	
Rents: Existing (if acquisition and rehabilitation):	
Funding Requested:	
Proposed Financing Structure:	

DO NOT SUBMIT THIS FORM; IT IS FOR THE DEVELOPER’S CONVENIENCE ONLY IN MAKING THE PRESENTATION TO THE FCRHA.

Part VI: Developer's Affidavit

AFFIDAVIT ON BEHALF OF

FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA) INDUSTRIAL
REVENUE BOND APPLICATION

I, _____, do hereby make oath and affirmation that the following information is true and correct:

- 1) If applicable, all corporations which are applicants and/or users:
(a) The following constitute all the stockholders who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, all stockholders:

NAME ADDRESS

_____	_____
_____	_____
_____	_____

- 2) If applicable, all partners which are applicants and/or users:
(a) The following constitute all partners, both General and Limited, in any partnership:

NAME ADDRESS

_____	_____
_____	_____
_____	_____

- 3) If applicable, all individuals who are applicants and/or users:

NAME ADDRESS

_____	_____
_____	_____
_____	_____

- 4) If applicable, for each of the parties named in 1, 2, or 3 who is a trustee, all beneficiaries who have an interest in such land, corporation and/or partnership:

NAME ADDRESS

_____	_____
_____	_____
_____	_____

- 5) If applicable, all attorneys, real estate brokers, architects, engineers, planners, surveyors and all agents who have acted on behalf of any or the foregoing with respect to this application:

NAME	ADDRESS
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

- 6) To the best of my knowledge, no member of the Fairfax County Board of Supervisors (BOS) or the Commission of the FCRHA has any financial interest in the outcome of the decision. (If any member of the BOS or the Commission of the FCRHA does have any such interest, such interest must be disclosed with this application):

NAME	ADDRESS
_____	_____
_____	_____
_____	_____

- 7) To the best of my knowledge, within five (5) years prior to the filing of this application no member of the BOS or the Commission of the FCRHA or any member of their immediate household and family, either directly or by way of partnership in which any of them is a partner, employee, agent or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent or attorney, or holds outstanding bonds or shares of stock with a value in excess of fifty (\$50) dollars, has or has had any business or financial relationship other than ordinary depositor or customer relationship with or by a retail establishment, public utility or bank, including any gift or donation having a value of fifty (\$50) dollars or more with any of those listed in 1, 2, 3, 4, or 5 above. (If there has been any such relationship, such relationship must be disclosed with this application):

NAME	ADDRESS
_____	_____
_____	_____
_____	_____

- 8) To the best of my knowledge, within five (5) years prior to the filing of this application, none of the persons named in 1,2,3,4, or 5 has made a gift, gratuity or contribution with a value of fifty (\$50) dollars or more, directly or indirectly, to the political campaign of any member of the BOS, except as disclosed with this application:

NAME	ADDRESS
_____	_____
_____	_____
_____	_____

WITNESS the following signature this _____ day of _____, 20_____.

Applicant

The above affidavit was subscribed and confirmed by oath or affirmation before me this _____ day of _____, 20_____, in the STATE of _____.

Notary Public

My commission expires:_____

Part VII: Developer Terms and Financing Conditioning Agreement

FCRHA DEVELOPER FINANCING TERMS AND CONDITION AGREEMENT

Re: Financing of _____

Dear Mr./Mrs. _____:

The purpose of this letter is to set out certain terms and conditions relating to the proposed financing by the Fairfax County Redevelopment and Housing Authority (FCRHA) of the _____ multifamily rental project to be developed by _____ (the “Developer”).

1. Bond Issuance Fee: A bond issuance fee equal to _____ percent (____%) of the FCRHA bond issue amount shall be paid by the Developer at closing.
2. Legal Counsel and other Issuance Expenses: The Bond Counsel selected by the FCRHA for all transactions currently is Ballard Spahr, LLP. The Developer/Owner executes an engagement letter with Bond Counsel pursuant to which the Developer/Owner is obligated to pay Bond Counsel’s fees and expenses (whether or not the bonds are issued) and deposits a \$10,000 retainer with Bond Counsel which will be applied as a credit against the total fee at closing (or if the financing does not close, at the time the balance of the fee is due).
3. Trustee: The FCRHA will select a trustee bank for the proposed financing, solicit proposals and negotiate the best possible fee arrangement.
4. Underwriter: In the event of a public offering, the investment banking firm(s) to act as managing underwriter(s) for the proposed bond issue will be selected by the FCRHA.
5. Cost of Special Studies: The Developer, if formed, or _____ will be responsible for paying all costs incurred in providing the FCRHA with a satisfactory appraisal, market study, construction cost analysis, construction cost certification, or other special study or report. Prior to contracting for any special study or report required by the FCRHA, the Developer, if formed, or _____ shall have received the FCRHA’s approval of (1) the firm or individual undertaking the study or report, and (2) the scope of work and type of analysis to be performed.

6. Other FCRHA Expenses: The Developer, if formed, or _____ will be responsible for paying out-of-pocket expenses directly incurred by the FCRHA. These expenses may include, but are not limited to, travel, mailing, delivery and publication costs.

7. Override Fee: The FCRHA will require an annual monitoring fee over the term of the bond issue of 0.25% of the aggregate principal amount of the bonds outstanding on each payment date. This fee is exclusive of any mortgage servicing and trustee's fees.

I trust that these terms and conditions are acceptable. Please acknowledge your acceptance of them by signing the enclosed copy of this letter agreement and returning it to me by _____. We look forward to working with you on the _____ financing proposal.

Sincerely,

FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY
Assistant Secretary

ACCEPTED AND AGREED TO:

Applicant

General Partner

Attachment 2

Fairfax County Redevelopment and Housing Authority

Financing Program Policies

Fairfax County Redevelopment and Housing Authority Tax-Exempt Multifamily Housing Financing Program Policies

The following terms and conditions are the Fairfax County Redevelopment and Housing Authority (FCRHA) requirements, which are incorporated in the final bond documents in either the deed restrictions, loan agreement, or FCRHA Land Use Restriction Agreement:

A. Federal and State Income Requirements for Low Income Units

The income limits described below are the minimum federal and state requirements that must be met.

- a. **Income Limits**—For lower-income tenants, anticipated gross household income for the twelve month period after occupancy of a unit cannot exceed the applicable Federally required percentage of the Washington, D.C. Metropolitan Statistical Area (MSA). The limits are revised when the U.S. Department of Housing and Urban Development (HUD) publishes a new area median income figure. Federal tax rules require that either (i) twenty percent (20%) of the units must be rented to tenants whose adjusted income is fifty percent (50%) or less of the median gross income for the Washington, D.C. MSA or (ii) forty percent (40%) of the units must be rented to tenants whose adjusted income is sixty percent (60%) or less of the median gross income for the Washington, D.C. MSA. The owner must make an irrevocable election at the time the bonds are first issued with respect to the property and that election will govern the tenant income requirements for the property for so long as it is financed with tax-exempt bonds (with a minimum of 15 years meeting the set-aside requirements). Certain refundings of older tax-exempt bond projects will be subject to less stringent requirements.

(Visit <http://www.huduser.org/datasets/il.html> for income limits.)

- b. **Evidence of Compliance**—Compliance with the income limit must be demonstrated by completion of a notarized income certification form, which includes each income earner who intends to reside in the unit. The certification form for the household will be in the form provided to developers by FCRHA, as such form may be changed from time to time upon advice of FCRHA's bond counsel. In addition to completing such form, each tenant will have to supply evidence of anticipated income for the twelve month period (i) after occupancy of a unit (for newly-constructed developments), or (ii) from the date of issuance of bonds (for acquired and rehabilitated developments). This evidence shall take the form of an employer's written verification of income (in the case of employed tenants), or a copy of the previous year's executed federal tax return (in the case of self-employed or unemployed tenants) or other evidence acceptable to the FCHRA. Such evidence of compliance will be made available to the bond trustee and/or the FCRHA as determined at bond closing.

- a. **Outside Developments**--For developments located outside Fairfax County, which are financed by the FCRHA, low and moderate income limits will be established by that jurisdiction for that development consistent with state and federal law. No such development will be financed by the FCRHA unless: (1) The governing body of the jurisdiction in which the development is proposed to be located requests that the FCRHA issue bonds and consents to the development by resolution; (2) The Fairfax County Board of Supervisors authorizes the FCRHA to undertake such financing; and (3) The outside jurisdiction and FCRHA have entered into a cooperative agreement.

B. FCRHA Requirements

1. Lower-Income Units (Rents)

- a. The FCRHA reserves the right to require affordable rent restrictions on properties for which it provides financing. Typically, multifamily properties for which FCRHA tax-exempt bond financing is needed for the acquisition and rehabilitation of existing properties or for new construction will be subject to affordable rent restrictions on the percentage of units that must be rented to low income families for federal tax purposes. If the project is also using federal low income tax credits, rents will be restricted for the tax credit units. The rent schedule established for the lower-income units included in the Application or as amended will be the FCRHA rent schedule in effect at the date of bond closing.

(Visit <http://www.vhda.com> for rent information.)

Low Income Affordable Rent Determination Table

Type	Unit Adjustment Factor (to be applied to either 50 or 60 percent of MSA Income)
5 bedroom	1.28
4 bedroom	1.16
3 bedroom	1.05
2 bedroom	.9
1 bedroom	.75
Efficiency	.70

"Affordable" is defined to mean that tenants pay no more than 30 percent of gross monthly income for rent and utilities. A utility allowance for each size unit will be agreed upon based on comparable operating data, engineer estimates, or utility company estimates. Affordability is determined for each unit size using the appropriate adjusted incomes derived from the table above.

- b. Rent increases on the lower-income units in the first two years after 10 percent of newly constructed or rehabilitated units are occupied shall be limited to either (a) a maximum annual increase of 6 percent, or (b) an amount determined by the percentage increase in the Washington, D.C. MSA median income as published by HUD, whichever is the lesser. Increases in subsequent

years will be commensurate with percentage increase in Washington, D.C. MSA median income as published by HUD. Rent increases will be limited to one each 12-month period.

- c. For rehabilitation projects, any unit occupied by a Section 8 Voucher holder shall continue to be rented at or below the Section 8 existing FMRs as applicable in Fairfax County. Any unit rented under Section 8 at the date of application shall be preserved as a Section 8 unit. Existing Section 8 tenants may not be displaced due to rent increases.

C. Other FCRHA Requirements

1. At the commencement of the financing, the Developer will be required to execute an engagement letter with Bond Counsel and to deposit a \$10,000 retainer with Bond Counsel. Should the project not go forward, any unspent retainer fees shall be refunded to the borrower.
2. The Loan Agreement will provide that the Developer is responsible for all fees and expenses of the FCRHA and Bond Counsel with respect to any post-closing questions, interpretation, performance, enforcement or amendment of the bond documents or any other documents relating to the Project or the bonds.
3. If market conditions permit, those units designated as lower-income units in a new construction development shall be allocated as follows: Of the lower-income units, a maximum of 15 percent shall be efficiency and one-bedroom units; no less than 40 percent shall be two-bedroom units; and 30 percent shall be three-bedroom units. However, no more than 50 percent of all three-bedroom units in the development shall be lower-income units.

The distribution will be among all unit types (i.e. garden apartment or townhouse). The location of these units need not be permanently established. These may vary from time to time as long as the units are distributed throughout the development and not concentrated in one or more sections or buildings. For purposes of the initial rent-up period following construction or rehabilitation, the developer must provide the FCRHA with a distribution plan showing the initial location of the lower-income units.

In a rehabilitation development, the distribution of lower-income units shall reflect the existing configuration and the needs of current tenants.

4. If market conditions permit, at least 50 percent of the units in any development (exclusive of developments designed specifically for the handicapped or elderly) shall be clearly designed for family occupancy. At least one of the secondary bedrooms in the three bedroom units shall comprise a minimum of 100 square feet and shall be furnishable for two person occupancy. At least 50 percent of the secondary bedrooms in two bedroom units shall comprise a minimum of 100 square feet and shall be furnishable for two person occupancy.

5. If market conditions permit, a minimum of 10 percent of the total number of units in the development must be three bedroom units.
6. All units in the development must be similarly constructed.
7. No applicant shall be denied participation in the pool of applicants or denied the opportunity to occupy a unit within the development because of participation in the Section 8 Voucher Program or any rental assistance program administered by the FCRHA or Fairfax County as long as rents (including utilities) for the units in the development are within the eligible limits under such program.
8. Occupancy requirements cannot be less restrictive than the Fairfax County Housing Hygiene Code.
9. The rental policies established by FCRHA for lower-income units will remain in effect for a “Minimum Period” which shall begin on the first day that the first lower-income unit is rented and end on the later of (i) the end of the “qualified project period” for federal tax purposes (generally 15 years) or (ii) the date on which the bonds are no longer outstanding (bonds that have been defeased shall be deemed outstanding for the purpose of FCRHA rental policies until the date of redemption of such bonds). Each developer shall submit a plan to assure the availability of lower-income units beyond the Minimum Period. Financing priority shall be based on plans to extend the period for which lower-income units will be available beyond the Minimum Period. FCRHA rental policies will remain in effect regardless of whether federal regulations are subsequently relaxed or whether the bonds are paid off.
10. A plan to assure availability of lower-income units beyond the minimum qualified project period shall be submitted by the developer. If the project remains a rental project, there will be an agreement to make a portion of the units available to any federal, state, local, or owner sponsored rent supplement program.
11. The FCRHA must be provided with written notice of any liens placed on the subject property during the Minimum Period.
12. For the longer of the “Qualified Project Period” or the period during which the bonds are outstanding, the mortgagor must submit to the FCRHA for its review and comment copies of all proposed management agreements and management plans, the proposed operating budget, and any reports required by FHA or other credit enhancement provider. Certain terms and conditions of the financing must be included in the tenants’ leases for the development. The proposed form of lease for the lower income units and for the moderate-income units must be submitted to the FCHRA for review and approval.
13. For the longer of the “Qualified Project Period” or the period during which the bonds are outstanding, FCRHA representatives will at all times during normal business hours have the right to inspect all project books and records pertaining to the acquisition, construction, financing, operation and maintenance of the project.

14. The mortgagor must submit to the FCRHA, within 90 days after the end of each fiscal year, an annual audit including any management letter. This may be a copy of the same audit and related financial report that is required to be submitted to the limited partners (if any), the credit enhancement provider, or the purchaser of the bonds. Should an audit be required by any entity other than the FCRHA, such audit must be submitted to the FCRHA.
15. The mortgagor must keep the property insured to replacement value in accordance with FCRHA insurance requirements while the bonds are outstanding.

In the event that the development is destroyed or damaged, the mortgagor will be required to rebuild and to use insurance proceeds for such purpose except where an independent registered engineer acceptable to the FCRHA concludes that rebuilding is economically infeasible.

16. The developer will be required to establish a replacement reserve for the project based upon an analysis of components which will reasonably need replacement during the “Qualified Project Period” or the term of the bond, whichever is longer. A replacement reserve plan must be submitted by the developer and approved by the FCRHA. The replacement reserve may be reflected, initially, outside the operating budget. A replacement reserve required by a credit enhancer for the bonds will satisfy the FCRHA replacement reserve requirement, provided the reserve amount per unit per year is at a level acceptable to FCRHA.
17. Certification of all costs associated with the development is required by the FCRHA before final disbursement of bond proceeds. Where an identity of interest exists between the mortgagor and the general contractor, a cost-plus construction contract must be used unless the FCRHA approves the use of a Guaranteed Maximum Price Contract. The FCRHA shall require construction retainage in an amount up to 10 percent of the construction contract. Half of the retainage will be released upon substantial completion of the project and the balance upon the receipt and approval of a final construction cost certification prepared by an independent certified public accountant acceptable to the FCRHA, final release of liens, insurance endorsements and all occupancy permits.
18. In the case of a public offering, bond issues must be rated “A” or better by the Standard and Poor’s Corporation, Moody’s Investors Service, Inc. or Fitch, Inc. at the time of issuance. In the case of a private placement, a rating may not be required. However, should privately placed bonds subsequently be made available for any type of public offering, a rating satisfactory to the FCRHA must be obtained and a disclosure document satisfactory to the FCRHA must be prepared prior to such sale.
19. Bonds that are privately placed shall be subject to the following restrictions on transferability: (i) Authorized Denominations must be \$100,000 or any integral multiple of \$5,000 in excess of \$100,000, (ii) bonds may be transferred only to a “qualified institutional buyer” as defined in Rule 144A of the Securities Act of 1933, as amended. With the consent of the FCRHA, certain exceptions may be made in the case of a seller take-back financing as the seller knows the property and the market and may be

considered a sophisticated investor, (iii) the initial purchaser shall be required to deliver an investor letter to FCRHA in a form satisfactory to FCRHA, and (iv) the privately placed bonds shall be purchased pursuant to a Bond Purchase Agreement between the FCRHA and the bond purchaser.

20. Certain developer fees which are permitted to be capitalized with respect to the Property can be included as part of the 95 percent "good" costs for federal tax purposes.
21. The FCRHA will review all plans to determine consistency with prior representations and requirements of any Conservation, Rehabilitation, Redevelopment, or Neighborhood Revitalization Strategy Areas where applicable.
22. The FCRHA will participate in the construction draw process. The FCRHA must approve the inspecting architect and the frequency of inspections. Where a financial institution or insurance company is providing the credit enhancement, the FCRHA must be notified of all draw meetings, and have an established period of time prior to draw approval in which to review and comment on the draw request. The FCRHA's written approval of all draw requests will be required prior to the release of funds. Where the mortgage is FHA insured, the FCRHA must be notified of all draw meetings and receive copies of the approved draws. Copies of all inspection reports must be provided to the FCRHA.
23. Upon the FCRHA's discretion, the FCRHA is to receive a copy of all change orders and will have a right to approve or disapprove each single change order in the amount of \$10,000 or more, cumulative change orders of \$50,000 or more, and all diminutions to the construction contract must be approved by the FCRHA.
24. For new construction and substantial rehabilitation, a 100 percent payment and 100 percent performance bond or guaranty will be required. Cash or a letter of credit in the amount of 25 percent of the construction contract amount can be substituted for the bond or guaranty. The FCRHA may accept a different guaranty where the credit enhancer approves it.
25. FCRHA representatives will at all times during normal business hours have the right to inspect the work during the construction period.
26. The development must meet all applicable state and local zoning, building, and health codes.
27. Any funds remaining in the construction fund after completion of construction will be used to redeem bonds or to benefit the project. Any funds remaining under the indenture when the bonds are paid off shall be disbursed under the terms and conditions of the Trust Indenture.
28. The mortgagor shall provide recourse indemnification to the FCRHA, its officers, commissioners, employees and agents from damages, costs, fees and expenses arising due to (i) failure of the mortgagor to comply with its representations, covenants and warranties set forth in the bond documents, (ii) environmental hazards arising at or in connection with the Property or the land, regardless of cause, (iii) actions omissions,

accidents, injury, death, or any other event or condition at or related to the land or the Property, its construction, management or operation, (iv) any audit or inquiry by the Internal Revenue Service pertaining to the tax-exempt status of the bonds, and (iv) any “bad boy” acts or omissions, all as set forth in the Loan Agreement. The mortgagor’s obligation to pay the FCHRA on-going monitoring fee shall also be a recourse obligation.

29. A debt service coverage ratio of at least 1.2 will normally be required after construction completion. However, a lower initial ratio may be acceptable after project completion depending on provisions by the mortgagor to insure against operating deficits.
30. The fee arrangement with underwriters and gross take down must be fully disclosed to the FCRHA prior to marketing of the bonds.
31. The mortgagor agrees to comply with the Federal Fair Housing law (Title VIII of the Civil Rights Act of 1968, as Amended by the Housing and Community Development Act of 1974) to not discriminate against any person because of race, color, religion, sex, or national origin in the sale or rental of housing or in advertising the sale or rental of housing.
32. There shall be a bond trustee, which shall be selected by the FCRHA.

Attachment 3