

**FINANCING GUIDELINES
FOR CONDUIT BONDS
ISSUED OR APPROVED BY MARTIN COUNTY, FLORIDA
(Updated May 17, 2022)**

I. General

A. Scope of Financing Guidelines.

These guidelines (the “Financing Guidelines”) are promulgated by the Board of County Commissioners (the “Board”) of Martin County, Florida (the “County”), for the information and convenience of applicants intending to finance projects through the issuance of conduit bonds issued or approved by Martin County, Florida (the “County”). The Board reserves the right to require additional information be supplied or additional obligations be undertaken by an applicant as a condition of seeking approval of the application for conduit financing or approval. These Financing Guidelines serve only as a supplement to the various authorizing statutes under Florida law and are intended to be fully consistent with them. *Conduit bonds issued or approved by the County do not constitute a debt, liability, or obligation of the County or the State of Florida, or any political subdivision or agency thereof, and bondholders shall never have the power to compel the exercise of ad valorem taxation for their payment.* Instead, any bonds issued or approved by the County shall only be paid from the revenues of the applicant’s project or other funds of the applicant in connection with the applicant’s properties, assets, and operations, and the County shall never be compelled or required to expend any of its own funds for such purpose. The obligation to repay the bonds may be secured by the assets of the applicant pursuant to mortgages, trust indentures or other security agreements.

B. Nature and Purpose of Bond Issue.

The authority of the County to issue or approve conduit bonds shall be derived from state and/or federal law and/or ordinances and/or resolutions of the County.

C. General Policy of Financing or Approving Projects.

The County recognizes that capital projects covered by these Financing Guidelines should be financed in the most efficient and economical manner without jeopardizing the reputation and credit rating of the County or subjecting the County to other risks in connection with such financings. The County intends to facilitate the financing or approval of such projects to the extent that such projects are consistent with the needs of the residents of the County and sound municipal finance principles. Such determination shall be made in the sole discretion of the County and shall be final in all cases.

II. Organization

A. Governance and Officers.

The County is a political subdivision of the State of Florida and operates as a non-charter government pursuant to Article VIII, Section (1)(f) of the Constitution of the State of Florida. The County is governed by the Board, a five-member board elected at-large, but each representing a geographic district within the County. The members are elected to serve four-year, staggered terms. The Board appoints, from among its members, a Chair and Vice Chair. The Clerk of the Circuit Court for the County (the "Clerk") is the ex-officio clerk to the Board and is authorized to attest and seal documents of the County. The County Administrator is the chief administrative officer of the County in charge of overseeing day-to-day operations, and is appointed by the Board to carry out the policies and procedures established by the Board. The County Attorney is also appointed by the Board and serves as its in-house legal counsel.

B. Meetings and Minutes.

The Board meets in regular session at 9 a.m. on the second and fourth Tuesdays of every month in the Board's Chambers on the first floor of the County Administrative Center located in the City of Stuart, Florida, which is the County seat. All meetings of the County are open to the public. The Clerk is the custodian of the records and all documents and minutes of the County, which are open for public inspection in accordance with applicable laws of the State of Florida. The coordination and scheduling of conduit financing matters to be presented to the Board shall be the responsibility of the County Administrator.

C. Authorities and Other Issuers

The Board created and is responsible for appointing the members of the Martin County Health Facilities Authority and the Martin County Industrial Development Authority (collectively, the "Authorities"). These Financing Guidelines are applicable to financings issued by the Authorities which require approval by the County. These Financing Guidelines are further applicable to financings that contemplate the issuance of bonds by other issuers, but which require approval by the County as host jurisdiction of one of more projects being financed by such bonds.

III. County Bond Financing Team, Application Fee

A. For consistency purposes, the County will utilize its bond financing team in all conduit financings issued or approved by it. The bond financing team consists of the County Attorney or his or her designee (hereinafter referred to as the "County Attorney"), the County Administrator or his or her designee (hereinafter referred to as the "County Administrator"), the County's Financial Advisor and the County's Bond Counsel. Applicants are advised to contact the County Administrator early in the process to

determine the total amount of the fees to be charged, if any, in addition to the non-refundable application fee described in Section III.B. herein and the financing fee described in Section V.E.1. herein, if applicable. The amount of such additional fee will vary depending upon the size, complexity and structure of the proposed bond issue and whether such issuance or approval potentially impacts the ability of the County to issue "bank qualified" bonds or notes. All fees and expenses will be paid by the applicant. This does not restrain or inhibit the applicant from retaining other consultants such as financial advisors, legal counsel, underwriters, engineers and other consultants. The fees and expenses of the County's Financial Advisor and Bond Counsel, and all other such consultants shall be the responsibility of the applicant and are in addition to the County's fees described herein.

B. The County will charge a non-refundable application fee of \$10,000 to process the application. The applicant will bear all costs incurred by the County during the processing of any application, including the non-refundable fees described herein, and is required to enter into an Expense and Indemnity Agreement at the time of the filing of the application.

IV. Criteria for Financing

A. Community Need.

The primary criterion for financing or approving any project will be the degree to which the community needs or benefits from the proposed capital improvement. The County will require the presentation of all pertinent data and information, both objective and subjective, with respect to community needs before considering any project. In order to provide community need, a project shall make a significant contribution to the economic growth of the County; shall provide or preserve gainful employment; shall protect the environment; and/or shall serve a public purpose by advancing the economic prosperity, health, education or welfare of the County and its people.

B. Financial Feasibility.

The applicant will be required to show to the satisfaction of the County that the project and the revenues generated by it, or the revenues otherwise available for debt service, are sufficient to make the financing feasible. The degree of proof of financial feasibility will depend on the circumstances of each project, including whether the bonds are proposed to be sold publicly or through a negotiated private placement with accredited investors. The County, at its discretion, shall have the authority to require a financial feasibility study to be completed by an independent feasibility consultant of recognized competence approved by the County, at the expense of the applicant. In each case, however, the County may require the applicant's creditworthiness to be evaluated by an entity that, in the judgment of the County, is competent to perform such analysis.

C. Security.

In addition to financial feasibility, the applicant may be required to secure the payment of debt service in a manner satisfactory to the County. Depending on the circumstances, the applicant may be required to provide mortgages, security interests in related personal property, assignments of accounts, corporate or personal guaranties (including guaranties of completion, operating deficits, recourse obligations (such as fees, expenses and indemnifications) and environmental indemnity), letters or lines of credit, bond insurance or other security for the debt. In addition, when the bonds are issued by the County or by one of the Authorities, when approval of the County is requested, the bonds must meet at least one of the following criteria at the time of marketing the bonds:

1. The bonds shall be rated in one of the highest four ratings by a nationally recognized rating service, or, if rated in or below the lowest investment grade category (the lowest investment grade category being Baa for Moody's, BBB for S&P and BBB for Fitch), the bonds shall be privately placed with or otherwise sold to accredited investors providing an appropriate investor representation letter, in \$100,000 minimum denominations and \$5,000 increments thereafter to each investor.
2. The bonds shall be backed by a letter of credit from a bank, savings and loan association, or other creditworthy guarantor, or by bond insurance guaranteeing payment of principal and interest on the bonds, which shall provide one of the top three rating categories (AAA, AA or A by Moody's, S&P or Fitch) for the bonds.

In all such cases (other than privately placed bank loans), a trustee will be named to act on behalf of the bondholders during the time the bonds are outstanding.

D. Risk and Manner of Sale.

If the applicant's proposed bond issue does not meet 1 or 2 above, but because of unusual circumstances, the financial soundness of the proposed project, as shown by a successful operating history of the project, the financial feasibility study and/or proposed security as described above, is sufficient to reduce the risk involved in the project to a level acceptable to the County, the bond issue involved may, in the County's sole discretion, be offered through underwriters to the general public. The applicant is advised that this alternative is rarely used and difficult to obtain.

E. Management of Project.

In all cases, the County must be shown that the project will be managed in an efficient, economical, and competent manner. Proof of competent management may vary in form, depending of the circumstances of the project.

F. Commitment of the County when it serves as Issuer.

For every project financed with bonds issued by the County, the County may refuse to finance the project at any time up to the execution by the County of a bond purchase agreement or other instrument similarly binding the County to sale and delivery of bonds. Before then, any decision by the County to refuse approval of a financing for a project creates no liability whatsoever from the County to the applicant, and the applicant shall not be entitled to rely, as against the County, on any official action, including without limitation execution and delivery by the County of the Expense and Indemnity Agreement by the County, before the execution of such an instrument.

V. Procedures for Conduit Financing and Approval

A. Applications.

Any applicant desiring financing assistance or approval of a project from the County must submit to the County Administrator one original fully executed application form with all required attachments, in electronic form. In addition to the completed application form, submissions must include (1) a fully executed Expense and Indemnity Agreement, attached to these Financing Guidelines; and (2) copies of any feasibility studies, consultant's reports, engineering studies, etc., either preliminary or final, existing at the time of the application. The application form is attached to these Financing Guidelines and may also be obtained from the County Administrator. The non-refundable application fee described in V. - E. hereof must accompany the application submitted.

B. Initial Review and Approval.

Upon receipt of an application, the County's bond financing team shall determine whether the application is complete. No further processing of an incomplete application shall be done until the application is determined to be complete.

Once the application is determined to be complete, a copy of the application will be provided to the County's Financial Advisor to review on a preliminary basis for the purpose of determining if the financial feasibility of the proposed project is materially defective. If, in the opinion of the County's Financial Advisor, or its County Administrator, there is a need for legal advice on the basic structure of the proposed transaction, the County Attorney will provide such service and render a preliminary decision.

A preliminary meeting with the applicant will be scheduled before the County's bond financing team, at which time they may decide whether the applicant may make a presentation. SUCH MEETING WILL BE PROPERLY NOTICED IF SO REQUIRED BY FLORIDA'S SUNSHINE LAWS. At the meeting, the bond financing team may decide to recommend one of the following to the Board at a subsequent meeting.

- (i) Recommend the project for further consideration, contingent upon the applicant fulfilling all statutory requirements, the requirements of these Financing Guidelines, and any other requirements which the County may deem appropriate depending on the circumstances,
- (ii) reject the project, or
- (iii) take such other action, including approval of the project if the County will not be serving as the issuer, or the adoption of inducement or bond resolutions of the County which the County deems appropriate.

The application will not be considered by the County until meeting minimum requirements with respect to permitting, zoning, building plans, platting, streets and utility service. The project must not put a burden on existing County services or utilities beyond that which can be reasonably and economically accommodated.

C. Processing, Validation, Public Hearings, Sale and Closing.

The processing of every application will vary, depending on circumstances such as (i) whether the applicant is a not-for-profit corporation, (ii) whether the County is issuing the bonds or only providing approval of the same, (iii) whether the proposed bond issue is to be tax-exempt or taxable, (iv) the type of project to be financed, (v) whether the project is a new financing or supplemental to or a refinancing of a previous financing, (vi) the type and manner of sale, and (vii) the degree of further information and assurances required by the County. Where the County is the issuer, the process generally, will occur as follows:

- (i) All bond documents, including the appropriate resolutions, loan agreements, trust indenture, guaranty agreements and such other instruments as shall be necessary, shall be prepared by bond counsel to the applicant. The County's Bond Counsel and the County Attorney shall assist bond counsel in the preparation of documents.
- (ii) The County may require that the bonds be validated. In that case, the applicant's bond counsel shall prepare all pleadings and documents and otherwise handle the bond validation proceedings. The County's Bond Counsel and the County Attorney shall assist bond counsel in bond validation proceedings.

- (iii) Public hearings as may be required by the County under Section 147(f) of the Internal Revenue Code of 1986 and any other applicable state or federal law, will be scheduled at the convenience of the County after appropriate public notice.
- (iv) After the validation appeal period has expired, if applicable, and all required public hearings have been held, the County may adopt ordinances or resolutions with respect to the sale of the bonds. Bonds may be sold pursuant to bid or by negotiated sale. At the option of the County, the County may provide input on the number and selection of co-managers depending on the size and complexity of the issue.

D. Post Issuance Compliance

The applicant shall comply with all applicable requirements of the Internal Revenue Code, and the applicable Treasury Regulations, including, but not limited to: (i) the arbitrage and rebate requirements associated with the bonds and (ii) the qualified bonds provisions. For tax exempt bonds issued by the County or either of the Authorities, prior to the closing of the bonds, the applicant shall (i) adopt written post issuance tax compliance policies and procedures, (ii) enter into a contract for rebate services with a firm recognized as having expertise in performing arbitrage rebate calculations for tax-exempt bonds, and (iii) enter into a contract with a continuing disclosure dissemination agent, if continuing disclosure is required under applicable laws. The applicant shall be the party responsible for monitoring the conduit bonds for compliance with such requirements and to remediate nonqualified bonds in accordance with the requirements of the Code and applicable Treasury Regulations.

The applicant shall comply with the continuing disclosure requirements of Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934 (the "Rule"). The applicant must make its annual disclosure of any financial information, operating data and events that would trigger a disclosure obligation under the Rule under the Electronic Municipal Market Access (EMMA) web portal of the MSRB, located at <http://www.emma.msrb.org>.

E. Reimbursement of Fees and Costs.

1. Fees.

The applicant must attach to its application a check payable to Martin County, Florida in an amount determined from time to time by the County as its application fee. The application fee shall be non-refundable in the event that the proposed bond issue does not close for any reason. The application fee is intended to cover the preliminary expenses of the County and its consultants associated

with the review of the application. The initial application fee is established upon the adoption of these Financing Guidelines as \$10,000.

In addition to the application fee, a financing fee is required for all bonds to be issued by the County which shall be paid from the proceeds of the bonds at closing of the bond issue in an amount ~~equal to the servicing or financing fee schedule adopted from time to time by the Martin County Industrial Development Authority (although none of such fees will be shared with the Business Development Board of Martin County or any other entity, in this circumstance).~~ according to the following financing fee formula:

0.75% of issue size, first \$2.5 million
0.25% of issue size, \$2.5 - \$32.5 million
0.10% of issue size, above \$32.5 million

2. Expenses.

Whether the bonds are offered, sold or issued, the applicant shall also pay to the County an amount equal to all reasonable costs incurred by the County in issuing or approving the bonds. These costs shall include fees and expenses incurred by the County with its Financial Advisor and Bond Counsel, special counsel, and consultants, if employed, and all travel and lodging expenses, telephone expenses, postage and courier expenses due to them. For bonds issued by the County, these expenses may be deferred and collected from the proceeds of sale, provided that same shall not reduce the applicant's liability to pay the expenses in the event that no closing occurs. There may be unusual circumstances where certain expenses are required to be paid prior to closing of the bond issue, such as hiring special counsel or consultants. If this situation occurs, the applicant will be notified by the County prior to incurring the expense. For bonds approved but not issued by the County, expenses shall be due and payable on or prior to such approval.

3. Execution of Expense and Indemnity Agreement.

The applicant shall execute an Expense and Indemnity Agreement in the form attached to these Financing Guidelines and shall submit same with its application. The application will be considered incomplete if the agreement is not provided.

MARTIN COUNTY, FLORIDA

Application for Issuance or Approval of Conduit Financing

(Submit three original fully executed application forms with all required attachments and five copies of the application form with attachments and the application fee to the County Administrator, 2401 SE Monterey Road, Administrative Center, 4th Floor, Stuart, Florida 34996.)

I. APPLICANT

A. Legal Name: _____

State of Incorporation: _____

Business Address: _____

Telephone: (____) _____

Contact Person: _____

Email: _____

B. Applicant's Agent (if any)

Name:

Business

Address: _____

Telephone: (____) _____

Contact Person: _____

Email:

- C. Applicant's Legal Counsel: _____
- Telephone: (____) _____
- Contact Person: _____
- Email: _____
- D. Management of Project (if other than Applicant):

- E. Applicant shall attach copies of items 1-6 below:
1. Names and business addresses of officers and directors.
 2. Articles of Incorporation.
 3. By-Laws.
 4. If applicant is a non-profit corporation, evidence that applicant is an organization covered under Section 501(c) (3) of the Internal Revenue Code.
 5. Audited financial statements of the applicant for the preceding three (3) years.
 6. Current rating agency reports and copy of recent presentation to rating agencies, if available.
 7. If applicant is a public company under the Securities and Exchange Act of 1934, a copy of Form 10-K for the last three (3) years.

II. PROJECT

- A. Brief description: _____

- B. Type of project: _____

C. Address community needs and benefits: .

D. Location:

E. Real property to be acquired, if any (attach legal description, if available):

F. Description of equipment or other personal property to be acquired (attach list, if appropriate):

G. If the project is a health care project for which a Certificate of Need is required, has Certificate of Need been obtained:

_____ Yes _____ No

Date: _____

If yes, attach copy and give CON number:

If no, give date of application(s): _____

If no Certificate of Need is necessary, explain why: .

H. Estimated total cost of project: \$ _____

Land Acquisition: \$ _____

Design and construction: \$ _____

Acquisition of existing structures: \$ _____

Equipment purchase: \$ _____

Other (explain): \$ _____

I. Has any feasibility study been performed?

_____Yes _____No (If yes, attach copy)

(If No, provide at least a five year proforma)

J. Timetable: attach as detailed a timetable as is available for the project.

III. FINANCING.

Note: For bonds issued by the County, if this data has not yet been obtained by the applicant, leave this part blank, and the County's bond financing team will assist in structuring the transaction and selecting underwriters, feasibility consultants and other professionals. If the County is approving but not issuing the bonds, the information must be provided by applicant.

A. Amount of Bond or Note Issued: \$ _____

Total project Costs: \$ _____

Costs of issuance details: \$ _____

\$ _____

\$ _____

\$ _____

Monies available from other sources \$ _____

(attach explanation):

B. Primary source of repayment/security pledge: _____

C. Additional security or guaranties: _____

D. Credit Enhancement (Letter of Credit, Bond Insurance, Surety Bond, etc.)
Provider: _____

E. Final Maturity: _____

F. Attach any preliminary numbers for financing of the project, including any
sources and uses and debt service schedule, consistent with A and E above.

G. Are the proposed bonds to be junior in status to any other obligations or
Applicant?

_____ Yes (explain) _____ No

H. Underwriter's name: _____

Business Address: _____

Telephone: (_____) _____

Contact Person: _____

I. Underwriter's Counsel: _____

Business Address: _____

Telephone: (____) _____

Contact Person: _____

J. Feasibility Consultants: _____

Business Address: _____

Telephone: (____) _____

Contact Person: _____

K. Contact information for applicant's financial advisor, other consultants, contractors or agents, if any:

IV. REFUNDING ISSUES: If the proposed bond issue is for purpose of refunding previous debt, attach an official statement for the refunded bonds and all other "refunding documents", and a summary of the debt to be refunded.

[Remainder of page intentionally left blank]

EXPENSE AND INDEMNITY AGREEMENT

Martin County, Florida
c/o County Administrator
2401 SE Monterey Road
Administrative Center, 4th Floor
Stuart, Florida 34996

Re: Proposed Bond Issue for _____

Ladies and Gentlemen:

The undersigned [corporation] (the "Applicant") has requested you to consider its application to have you issue or approve the bonds referred to above (the "Bonds") for the benefit of the Applicant and, as an inducement to such consideration, hereby agrees with you as follows:

Section 1. Payment of Expenses. Whether or not the Bonds are offered, sold or issued, the Applicant agrees to pay and be liable for, and to hold you harmless against the payment of, any and all fees and expenses relating to the Bond issue which are described in your *Financing Guidelines for Conduit Bonds Issued or Approved by Martin County*, including without limitation the fees and disbursements of your financial advisor, county attorney, bond counsel, special counsel, and consultants, your administrative charges and out-of-pocket expenses, recording charges, expenses of printing offering circulars, official statements, and the Bonds, legal advertising and the expenses of registering the Bonds with the securities commission of any state.

Section 2. Indemnity. Whether or not the Bonds are offered, sold or issued, the Applicant agrees to indemnify you, and each of your commissioners, officers, agents, attorneys, advisors, counsel and employees against any and all claims and liability of whatsoever nature arising out of or relating directly or indirectly to the Bond issue, whether caused by you or the Applicant or otherwise, misrepresentation, fraud or other tortious conduct, breach of contractual relationships, or violation of law or administrative rule, whether predicated upon federal or state statutes, common law, principles of equity or otherwise, excepting only claims based upon willful misfeasance or nonfeasance. In furtherance of the foregoing, the Applicant agrees to pay any and all attorneys' fees and court costs incurred in the defense of any such claims upon your written demand therefor. It is further understood and agreed that you or any of the persons hereinabove indemnified shall be entitled to retain counsel acceptable to you or them to defend any such claim, but that neither you nor any such person will enter into any settlement of the same without the prior written approval of the Applicant.

Section 3. Survival of Agreement. This Agreement shall survive the closing of the Bond issue and shall not merge into or be superseded by any other agreement other than by a written amendment hereto specifically dedominated as such and executed by you and the Applicant.

If the foregoing is acceptable to you, please indicate your acceptance in the space provided below, whereupon this Agreement shall become a binding contract between us.

Dated: _____

NAME OF APPLICANT: _____

By: _____

Its: _____

Accepted and Agreed to as of the date above written:

MARTIN COUNTY, FLORIDA

ATTEST:

By: _____

Chair

By: _____

Clerk of the Circuit Court and
Comptroller

APPROVED AS TO FORM AND LEGALIT

By: _____

County Attorney