



CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	E.J. Moberg
Meeting Date:	Tuesday, January 10, 2023
Category:	CONSENT AGENDA
Type:	ACTION
Subject:	Consider approval of an updated Conduit Debt (Private Activity Tax Exempt Financing) Policy
Background Information:	<p>From the League of Minnesota Cities Handbook for Minnesota Cities Debt and Borrowing chapter (Chapter 23):</p> <p><u>Conduit Bonds</u></p> <p>Unlike almost all other bonds, “conduit bonds” are initiated by and issued for the benefit of private entities. Under the state statutes that authorize these bonds, the city issues the bonds and loans proceeds to the private entity. That private entity repays the loan in an amount sufficient to pay principal and interest on the bonds. As a practical matter, the loan is (normally) handled entirely by a separate bond trustee (usually the trust division of a bank). After the bonds are issued, the city has almost no role in payment or administration of the bonds.</p> <p>The bonds are revenue bonds—the city does not pay debt service or any other cost related to the transaction. As such, the bonds have no effect on the issuing city’s credit rating and are not counted against any statutory limitations on borrowing. When the bonds are sold, investors look only to the credit of the private borrower (and any related private security, such as mortgages and guarantees). While the city council must approve issuance of the bonds and all the bond documents, the transaction is largely handled by the private borrower and the underwriter that usually serves as the initial purchaser of the bonds. The city council does retain the responsibility to bond purchasers to disclose any material facts they may know of that could impact the bonds, such as remaining approvals for zoning approval or provision of utilities. The bond counsel for conduit bonds may be the city’s regular bond counsel or may be retained by the private entity (this is a matter of city policy and practice).</p> <p>The types of private activity bonds are governed primarily by federal tax law. Congress in effect created this kind of bond to provide tax-exempt (and therefore lower cost) borrowing to certain favored activities carried out by private entities.</p> <p>Much of today’s tax law regarding these bonds originated with the Tax Reform Act of 1986, which sharply narrowed the scope of permissible private activity bonds (previously known as “industrial development revenue bonds” or “IDR bonds”).</p> <p>The three most common conduit bonds in Minnesota are:</p> <ul style="list-style-type: none"> • Qualified 501(c)(3) bonds, where the user of bond proceeds is a nonprofit 501(c)(3) entity. Typical examples include nonprofits that own nursing homes, hospitals, senior and other affordable housing, and schools (from K-12 to college). But any nonprofit with 501(c)(3) status is eligible for this type of financing, so bonds have been issued for entities as diverse as the YMCA to Minnesota Public Radio. • Housing revenue bonds (exempt facilities), where the user of bond proceeds is a private for-profit entity that builds housing intended for occupancy by persons or families who meet specified low-income guidelines.

	<ul style="list-style-type: none"> • Small issue manufacturing bonds, where the user of the proceeds is a manufacturing business that constructs manufacturing facilities that meet certain federal requirements. Minn. Stat. § 469.178. Minn. Stat. § 469.1814. See Handbook, Community Development and Redevelopment. <p>There are other less common conduit bonds that cities may occasionally encounter, but the three listed above represent the bulk of this bond type.</p> <p>The City's existing policy was adopted in March 2005. Staff worked with BakerTilly on the policy presented.</p>
Fiscal Impact:	
Alternative/ Variations:	
Recommendations:	Approve the updated Conduit Debt (Private Activity Tax Exempt Financing) Policy, including administrative guidelines, application, and indemnification letter of agreement.