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## Special Needs Housing for Homeless Persons

### Statement of Need and Reasonableness

The 1991 Minnesota Legislature amended Minnesota Statutes 1991, section 462A.05 subdivision 20, by consolidating three previously separate housing programs for homeless persons: the Transitional Housing Program, the Low Income Persons Living Alone Program, and the Housing for Homeless Persons Program.

The Legislature consolidated the funding for the three programs into a single appropriation in the 1989 session, and the Minnesota Housing Finance Agency (hereinafter Agency) has awarded funding under the programs through a single request for proposals since 1989. The 1991 Legislature consolidated the statutory language.

Proposed Minnesota Rules Part 4900.3410 (Scope) describes the scope of the Special Needs Housing Program by referring to four target populations: the three population groups targeted by the three original special needs housing programs; and migrant farmworker families, a target population added by the 1991 legislature.

Proposed Minnesota Rules Part 4900.4311 (Definitions) provides definitions under these rules. The only dispute in the 1991 legislative session over consolidating the three special needs programs was opposition to substantial changes in the income limits for the three programs. Accordingly, in the definition of "low-income and homeless individuals and families," the Agency preserves the different income limits for permanent and transitional housing which were established in the original legislation establishing the three separate programs.

The definition of "low-income and homeless individuals and families" uses the standard of 30% of metropolitan median income for a family of four adjusted for families of five or more for permanent housing funded under the Special Needs Program. This is an appropriate and reasonable standard for a number of reasons. First, this standard preserves in general the income limits which have been used historically for the permanent housing programs under the Special Needs Program. Both permanent housing programs used income limits which were approximately 30% of the metropolitan median income.

Second, the standard uses a percentage of the median income as the benchmark which is a standard issued by the U.S. Department of Housing and Urban Development (HUD). One of the two permanent housing programs used a percentage of the poverty limit as its income limit. Even though the percent of poverty figure was roughly numerically equivalent to the percent of median income figure, it is reasonable to use the percent of median income as the standard since it is the standard used in state and federal housing programs and is familiar to housing developers.

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The definition of "low-income and homeless individuals and families" uses the standard of 50% of the greater of state or area median income as the income limit for transitional housing which is the same income limit used since the beginning of the program. It is reasonable to maintain this standard because many of programs which receive funding for capital costs under the Special Needs Program also receive operating support from the Department of Jobs and Training (DJT), and DJT uses the 50% of median income limit.

In addition, using "the greater of state or area median income" is reasonable because it alleviates a barrier to the development of affordable housing caused by the difference between very low median incomes in certain counties in Minnesota and construction costs which are roughly comparable throughout the state.

The definition of temporary or transitional housing which limits occupancy to 24 months derives from the federal McKinney Homeless Assistance Act which provides funding for transitional housing families. It is reasonable to use this definition because many of the transitional housing programs which receive funds under the Special Needs Program also receive funds from the McKinney programs.

Proposed Minnesota Rules 4900.3412 (Eligibility) sets forth five eligibility requirements. Paragraphs A, B, C, and E simply repeat the statute. Paragraph D requires the applicant to submit a comprehensive plan for the development and ongoing management of the proposed housing which includes seven items. The seven items are necessary for the Agency both to evaluate the feasibility of an individual project as well as to evaluate an individual project in comparison to others competing for the limited amount of funds.

The first factor - the need for the type of housing in the area - is a reasonable factor to use to target limited resources effectively to areas of the state with the greatest housing needs. Factors three, four, and five provide evidence necessary to evaluate the economic feasibility of a project which is necessary to ensure that state funds are used for projects with a reasonable prospect for both being completed as well as being affordable for the long term.

Factors two, six, and seven are reasonable factors to use to evaluate the capacity of the applicant to undertake the project. Factor six does not limit the Special Needs Program to applicants who have had prior experience in housing development but allows the experience of a fiscal agent to qualify a project. This is a necessary and reasonable requirement because it allows for the development of the capacity of inexperienced groups while it ensures the presence of experienced oversight of the development process.

Proposed Minnesota Rules 4900.3413 (Eligible Mortgagor) and the statute provide that an applicant must be an eligible mortgagor as defined in Minnesota Statutes Section 462A.03, subdivision 13. Minnesota Statutes Section 462A.03 is the Agency's general definition section and subdivision 13 is the definition of "eligible mortgagor" used in most Agency programs. The definition includes low

and moderate income individuals, nonprofit corporations, units of local government, and for profit limited dividend entities.

Proposed Minnesota Rules 4900.3414 (Selection Criteria) sets forth a priority consideration and twelve additional factors for use in selecting among competing projects. The Legislature required that priority must be given to viable proposals with the lowest total cost per person.

Factors I and J are specified in the legislation. Factors A and C - prior experience and ability to proceed expeditiously - are reasonable criteria because they are measures for evaluating whether or not the housing project will be completed and used for the purposes proposed. Factor E, the cost and quality of the proposed housing, is a reasonable criteria because it is important that state funds be used in housing that is neither poorly constructed nor unnecessarily expensive. Factor L is necessary to ensure that housing designed for persons with special needs is appropriately designed to meet those needs.

Factors B and H are reasonable because they are both a measure of the likelihood of the project to be completed, that is, have sufficient other funds been raised to cover the total development costs, as well as a measure of broad-based support for the project. Factors D and G - need and geographic area to be served - are reasonable because they allow the Agency to target funds to areas of the greatest and also to areas with an undersupply of low-income housing.

Factor F is reasonable because it allows the Agency to focus resources on projects which are relatively more affordable to the tenants. Factor K enables the Agency to determine, in cases where supportive services are offered, whether funds will be available over the long term to pay for the services. This is a reasonable selection criteria because it is important to target construction funds to projects which will be affordable for the long term; where the housing includes services, consideration must be given to the long term availability of the services.

The Agency recognizes the provisions of Minnesota Statutes Section 14.115, "Small Business Considerations in Rulemaking." The proposed rule does not affect small businesses directly. Small businesses which are limited dividend entities may be recipients of funds under this program.