



## REPORT/RECOMMENDATION

<b>To:</b> <b>MAYOR AND COUNCIL</b>	<b>Agenda Item</b> <b><u>No. IV. G.</u></b>
<b>From:</b> <b>Karen Kurt</b>  <b>Assistant City Manager</b>	<input checked="" type="checkbox"/> <b>Action</b> <input type="checkbox"/> <b>Discussion</b> <input type="checkbox"/> <b>Information</b>
<b>Date:</b> <b>May 1, 2012</b>	
<b>Subject:</b> <b>Approve Modifications To Edina Emerald Energy Program To Include Apartments As Eligible Properties</b>	

**ACTION REQUESTED:**

Approve modifications to the Edina Emerald Energy Program (EEEP) to include apartments as eligible properties under the program.

**INFORMATION/BACKGROUND:**

The Energy and Environment Commission (EEC) is recommending that the Edina Emerald Energy Program be modified to include apartments as eligible properties. Apartments are defined as by the City Assessor as having four or more residential units. “The Cedars” apartment complex has expressed interest in using EEEP to finance a solar energy system and other energy improvements to its complex.

Like the EEC, City staff members believe that including apartment buildings would advance the underlying objectives of EEEP and present no financing concerns to the City. At this time, EEEP does not include residential properties due to conflict surrounding the first lien on mortgages secured by Fannie Mae and Freddie Mac. This concern does not apply to apartments or commercial/industrial properties. Legislative remedies are being pursued at the federal level to address the first lien issue.

Other edits to the program are intended to clarify sections of the original version that were worded unclearly and are not intended to be substantive changes.



# **City of Edina, Minnesota Edina Emerald Energy Program PROGRAM REPORT AND ADMINISTRATIVE GUIDELINES**

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EDINA EMERALD ENERGY PROGRAM  
 Program Report and Administrative Guidelines

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## I. INTRODUCTION

In 2010, the Minnesota State Legislature approved 216C.345, authorizing cities and counties to establish voluntary contractual assessment programs to fund an array of conservation and renewable energy projects proposed by property owners. The State Legislature declared that a public purpose will be served by such programs, giving local governments the authority to finance the installation of distributed generation renewable energy sources – such as solar – and energy efficiency improvements that are permanently affixed to residential, commercial, industrial, or other real property.

To make energy efficiency and conservation improvements more affordable and to promote their installation, the legislation provides procedures for authorizing **voluntary assessments** to finance the cost of these improvements. The Edina Emerald Energy Program ("EEEE" or "Program") works at the request and with the consent of owners of the property on which the energy and water conservation improvements are to be made.

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The program will provide financing ("EEEE financing") to property owners within the City to finance the installation of energy efficiency and conservation improvements under contractual assessment agreements. Property owners will repay EEEP financing through an assessment levied against their property which is payable in semi-annual installments on property tax bills.

### A. Goals

EEEEP will help property owners of improved real property make principled investments in the long-term health of the local, state, and national economy and global environment by providing a long-term financing mechanism for energy efficiency and conservation improvements.

EEEEP provides multiple benefits. By enabling property owners to take responsible energy efficiency and conservation actions, the Program will reduce their utility bills. At the same time it boosts the local economy, supports the City's Green Steps Cities Program, and makes it possible for the City of Edina to fulfill energy efficiency and conservation and climate protection goals.

### B. Program Benefits

From the City's perspective, the program will be a key element in achieving greenhouse gas reduction goals. EEEP provides a significant tool for funneling more resources into the shift to greater efficiency and renewable energy. Lower energy use translates directly into reduced greenhouse gas emissions and helps secure our energy future.

For property owners, EEEP offers a no-money-down means of financing energy efficiency and conservation improvements, fixed-rate financing over a number of years, financing without requiring a property appraisal, a streamlined financing and repayment process, and access to financing that may not readily be available through traditional means, such as home equity loans.

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**C. Program Administration**

The City Manager shall designate an EEEP Program Administrator. The EEEP Program Administrator is authorized to enter into contractual assessments on behalf of the City. The Program Administrator will oversee professionals from the City's Finance Department. EEEP staff responsibilities will include: Community outreach; responding to property owners inquiries; Processing applications; Managing and tracking funds available for EEEP; Tracking individual and collective energy conservation; and Working and coordinating with participating jurisdictions.

EEC responsibilities include: public promotion and community education of the Program and review of Program administration activities and performance.

**II. PROGRAM REQUIREMENTS**

**A. Program Report**

In order to establish this program, the City must prepare this report setting out how the program will function (the "Program Report"). The Program Report is the guiding document for EEEP and fulfills the statutory requirements that this report contain:

- A map showing the boundaries of the territory within which contractual assessments are proposed
- A draft assessment contract between a property owner and the City
- Program policies concerning contractual assessments, including: a list of eligible improvements; identification of the City official authorized to enter into contractual assessments on behalf of the City; maximum aggregate dollar amount of contractual assessments; and a method for setting priority for applications in the event that requests appear likely to exceed the authorization amount
- A plan for funding the program
- Information on the City's cost of placing assessments on the tax roll.

**B. Geographic Parameters**

All property within the corporate limits of the City of Edina is geographically eligible to participate in the Program. A map showing the City boundaries is attached as Appendix B.

**C. Eligible Property Owners and Eligible Properties**

Property owners may be individuals, associations, business entities, cooperatives, and virtually any owner which pays secured real property taxes. Only properties classified as commercial/industrial or apartment (4 or more units) by the City Assessor are eligible for financing under the Program. Certain eligibility criteria must be satisfied. Financing may be approved if the following criteria are met:

- Property Title is vested in the applicant(s), without federal or state income tax liens, judgment liens or similar involuntary liens on the property.
- Property owner is current on property taxes.
- Property owner is not in bankruptcy, and the property is not an asset in a bankruptcy proceeding.
- Property owner is current on mortgage(s).
- The lender has signed an acknowledgement regarding EEEP financing Improvement costs are reasonable to property value.

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As a guideline, proposed improvements should not exceed 10 percent of assessed value. If the proposed project exceeds this guideline or otherwise does not appear prudent when compared to the property's value, the Program Administrator may require additional information supporting both the reasonable relationship of the improvements to the property, and information related to the ability of the property owner to repay the assessment.

These applications are reviewed on a case-by-case basis; and if property owner has been in bankruptcy in the past three years, the bankruptcy must have been concluded at least one year before application was filed. In addition, all mortgage payments due on the property must have been timely paid during the six months preceding the application. If property is subject to loan modification because of default or delinquency, the loan modification must have been completed at least one year before application was filed. In addition, all mortgage payments due on the property must have been timely paid during the six months preceding the application.

EEEEP financing is not currently available for properties that are not subject to secured property taxes, such as governmental entities and certain non-profit corporations, or for mobile homes that are not affixed to real property and subject to secured property tax. Property owners may make more than one application for funding under the program if additional energy and water conservation improvements are desired by the owner.

#### **D. Eligible Equipment**

EEEEP affords property owners in the City of Edina the opportunity to take advantage of a wide range of energy-savings and conservation measures, consistent with the following provisions:

- (1) EEEEEP financing is intended principally for retrofit activities to replace outdated inefficient equipment and to install new equipment that reduces energy consumption, produces renewable energy, or reduces energy use.. However, EEEEEP financing is also available for purchasers of new businesses that wish to add energy efficiency, renewable energy, and energy conservation improvements after taking title to the property.
- (2) EEEEEP provides financing only for improvements that are permanently affixed to real property.
- (3) EEEEEP provides financing only for improvements specified in Appendix A. Broadly, these include:
  - (a) Energy Efficiency Improvements;
  - (b) Solar Systems; and
  - (c) Custom Measures, such as large-scale commercial or industrial projects requiring engineering design and meeting the financing threshold (\$500,000) requiring approval by the City Council **or** projects involving emerging technologies for improvements that provide new ways to save or generate energy will be evaluated on a case-by-case basis.

| A detailed list of improvements is set out in EEEEEP's Eligible Improvements list.

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EEEEP financing is also available for projects that combine eligible improvements, such as bundling of, energy efficiency and renewable energy measures. For instance, a property

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owner may choose to replace an aging and inefficient furnace, install weather stripping, and install a photovoltaic system.

**E. Eligible Costs and Program Fees**

(1) Project Costs. Eligible costs of the energy efficiency and conservation improvements include the cost of equipment and installation. Installation costs may include, but are not limited to, energy evaluation consultations, labor, design, drafting, engineering, permit fees, and inspection charges. All improvements, including those normally exempt from permit requirements, will require a permit from the City. Final inspection by a building inspector will ensure that the improvements were completed and compliant with all applicable building codes..

The installation of energy savings and conservation improvements can be completed by a qualified contractor of the property owner's choice. Eligible costs do not include labor costs for property owners that elect to do the work themselves.

Property owners who elect to engage in broader projects may only receive EEEP financing for that portion of the cost of retrofitting existing structures with energy and conservation improvements. Repairs and/or new construction do not qualify for EEEP financing except to the extent that the construction is required for the specific approved improvement. The value of expected rebates but not the value of expected tax credits will be deducted from EEEP financing. "Expected rebates" do not include rebates (1) that are contingent on performance or (2) that are not available to the property owner at or shortly after completion of the project, so as to be available for use to pay for the project.

EEEEP staff will determine whether the estimated equipment and installation costs are reasonable. EEEP staff will evaluate market conditions and may require the property owner to obtain additional bids to determine whether costs are reasonable. While the property owner may choose the contractor, the amount available for EEEP financing will be limited to an amount determined reasonable by EEEP staff, and may be reviewed by the Program Administrator.

(2) Program Fees. The following program fees will be the responsibility of the property owner. The annual assessment fee will be included on the annual tax statement. The other fees must be paid at the time they are incurred.

- (a) Title costs, including title insurance, where required
- (b) Recording fee for documents required to be recorded by State law, which includes the Notice of Assessment, Assessment Contract, and Disclosure Notification
- (c) Legal fees and underwriting fees incurred by the City for the project financing

(3) Escrow fees. Some large projects, or projects with multiple contractors, may benefit from funding through an escrow process. If this process is selected by the property owner, the owner would select an escrow agent, and after the Assessment Contract is signed, the amount requested would be funded into the escrow account. Escrow instructions governing release of the funds would need to be approved by the Program Administrator. All fees related to this process would be the responsibility of the property owner but could be requested as part of Program funding. As in the Multiple Disbursement Assessment Contract, interest on the full amount of the requested disbursement will begin to accrue as

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soon as the escrow is funded. Any amount not needed at the completion of the project must be returned to the Program, and will be deducted from the amount of the assessment lien. All projects over \$500,000 must utilize an escrow process.

**F. Administrative Costs**

The Program may elect to cover all or a portion of its costs through the “spread” between its interim funding source interest rate and the EEEP financing interest rate offered to the property owner. Similarly, it may elect to recover EEEP costs through a spread between bond rates and assessment rates, or the spread between interest rates of any financial vehicle. The Program shall charge a fee as outlined in the EEEP Financial Summary section at the time of submission of the EEEP application.

**III. TRACKS FOR PARTICIPATION**

There are three categories or “tracks” of technologies under which property owners may participate in the program. Eligible improvements must meet specified minimum efficiency standards. A complete list of approved improvements is set out in the Eligible Improvements list.

**A. The Energy Efficiency Track.**

The Energy Efficiency Track covers a wide range of energy efficiency fixtures from windows and doors, attic insulation and HVAC equipment that is Energy Star rated. Packaged and central air conditioning systems must meet specified minimum efficiencies.

**B. The Solar Track.**

The Solar System Track covers solar energy generation and solar hot water systems.

**C. The Custom Measure Track.**

The development of technologies is encouraged by EEEP as a means of diversifying the City’s energy sources. The Custom Measure Track will evaluate and provide funding, if appropriate, for these innovative projects.

Applicants for the Custom Measure Track should consult with EEEP staff to determine eligibility and will be required in most cases to submit engineering plans and specifications. The Program Administrator, or designated staff, will approve the Custom Measure Track application on a case-by-case basis, and may request consultation from outside technology experts in making this decision. The applicant would be expected to bear the cost of such consultation. Cost reimbursement would be discussed with the applicant before the project was reviewed.

**IV. ENERGY AUDITS, EVALUATIONS AND SOLAR SITE CHECKS**

An onsite energy audit or evaluation is required for to participate in the Program. Your energy providers (Xcel Energy or CenterPoint Energy) may offer a energy audit or evaluation services, to help property owners determine the most cost-effective and efficient

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route to maximize investment and energy savings. Property owners may include the cost of the energy audit or evaluation in the application for EEEP financing.

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## V. PROGRAM PARAMETERS

### A. Minimum Energy Financing Amount and Duration of Assessment

EEEEP Assessment Contracts are available for ~~five and ten~~-year terms to accommodate a wide range of efficiency measures and renewable energy investments. The minimum amount for an EEEP Assessment Contract is \$2,500. ~~The term will be determined by the Program Administrator, after consultation with the property owner and, consideration of factors such as cost to value ratio, and the marketability of bonds relying on the Assessment Contract for security.~~

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Deleted: All Assessment Contracts below \$5,000 are subject to a five- or ten-year assessment repayment period. Assessments over \$5,000 are subject to a 10- assessment repayment period, requested by the property owner, and agreed to by the Program Administrator or designated Program staff.

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### B. Maximum Energy Financing Amount

Improvement costs must bear a reasonable relationship to assessed value of the property. All contracts for amounts up to \$20,000 may be approved by the Program Administrator. Amounts over \$20,000 must be reviewed and approved by the Edina City Council.

EEEEP financing will be disbursed directly to the property owner after improvements are completed and final documentation is submitted to EEEP Staff.

### C. Maximum Portfolio

The City intends to initially fund EEEP with a commitment of up to \$1 million of its total statutory debt capacity. The City will explore other financing opportunities, with the goal of expanding the Program to \$10 million of its total statutory debt capacity.

### D. Assessment Interest Rate

The Program Administrator will set the interest rate for an EEEP Assessment Contract at the time the Program and property owner enter into the contract. The interest rate will be fixed at that point and will not go up, although the City may reduce the rate for all Program participants if it is able to negotiate long term financing on sufficiently favorable terms to allow it to do so while still funding the program costs.

The interest rate for the EEEP program will be determined by the negotiated market rate of the special assessment revenue bonds. The Program will recover its administrative and overhead costs through the spread between the market rate of the revenue bonds and the interest rate charged to the applicant in the special assessment contract. Initially, the Program Administrator is recommending the interest rate for the program be set at a fixed interest rate spread of 2.00 percent.

### E. Property Assessment Lien

All property owners must sign and notarize the EEEP Assessment Contract and Implementation Agreement ("contract documents"). Upon execution of the contract documents, the program will place a lien for the full amount of the assessment on the property that secures the assessment, including capitalized interest being the amount of interest accrued from the date of disbursement through September 1 of the first tax year. If funds are disbursed to property owners by the first business day in September, the

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assessment will appear on the next tax bill. For disbursements made after the first business day of September, the assessment will not appear on the tax bill until the following tax year, but interest will accrue on the outstanding amount.

**F. Delinquent Assessment Collections**

Delinquent assessments will be collected using the laws and powers authorized under state statutes for collecting property taxes and assessments. Delinquent assessments will be collected and allocated, in accordance with state statutes. Where bonds have been sold to finance assessments, state law also allows delinquent assessments to be collected through foreclosure proceedings to protect bondholders.

**VI. THE FINANCIAL STRATEGY**

The City Finance Director will establish the Edina Emerald Energy Program Fund (the "EEEP Fund") and may accept funds from any available source and may disburse the funds to eligible property owners for the purpose of funding energy efficiency and conservation improvements. Repayments will be made pursuant to Assessment Contracts between the property owners and City of Edina and will be collected through the property assessment mechanism in the Edina City property tax system.

The City will manage the EEEP in one enterprise fund with multiple sub-funds. It is necessary to ensure that financings equal the City's receivables. Likewise, it is necessary to separate City's funds for repaying bonds, etc. to ensure funds are available when payment is due. The Program Administrator has the authority to develop the necessary accounting structure needed to run the EEEP.

Each year, the City may use assessment revenues in excess of the amounts needed to repay the loan to fund a reserve account and a program expense account. Moneys in the reserve account will provide additional security for the repayment of the loan. Moneys in the program expense fund may be used to pay or reimburse the City for expenses to administer the EEEP. The City may use surplus funds, which remain after the payment of the Bond at maturity or upon early redemption for any lawful purpose for the program.

The City will use revenues from the annual administrative assessment provided for in each assessment contract to pay for the administrative expenses of the City in connection with the bond and the collection of the assessments. It is anticipated the administrative assessment will be a nominal amount, to cover the cost of the assessment administrator and the Program Administrator cost in placing the charge on the tax roll.

For long-term and additional financing, the Program Administrator will explore funding opportunities from a number of other potential funding sources, and combinations of sources, which may include but are not limited to additional funding from any funds under the control of the City of Edina, the issuance of notes, bonds, or agreements with utilities or public or private lenders, other governmental entities and quasi-governmental entities, or any financing structure allowed by law.

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Program Administrator will report on program progress to the EEC on a quarterly basis and the City Council on an annual basis with the information necessary to further adjust the Program to encourage participation and effectiveness, with recommendation from the Program Administrator.

The Program Administrator shall have the authority to establish an EEEP budget to be ratified by the City Council.

**VII. CHANGES TO REPORT**

The Program Administrator may make changes to this Report that the Program Administrator reasonably determines are necessary to clarify its provisions. Any changes to this report that materially modify the EEEP shall only be made after review and recommendation of the EEC and approval by the City Council

The Program Administrator may modify from time to time the eligible improvements List, Assessment Contract and Application attached hereto as Appendix A, Appendix D and Appendix C, respectively, as deemed necessary by the Program Administrator to effectuate the purposes of the program.

## APPENDIX A – ELIGIBLE IMPROVEMENTS

The Edina Emerald Energy Program offers EEEP funds for a number of equipment types, including energy efficiency measures, solar systems, and other innovative, energy-saving and energy generation custom measures. In each case, if a rebate is available to the property owner to be applied to the purchase price, that amount must be deducted from the amount of financing requested. A comprehensive list of eligible improvements is available on the EEEP website.

### I. ENERGY EFFICIENCY MEASURES

The EEEP provides services and funding for a wide range of Energy Star-rated efficiency measures, including many Energy Efficiency measures for which property owners can get rebates as well as EEEP funding. Excepting the HVAC equipment as noted below, efficiency measures must meet the performance criteria stated in the list of eligible improvements or the Energy Star minimum efficiency levels. For all packaged and central air conditioning systems funded in this Program, the minimum efficiency levels shall be as required by the current minimum requirements set forth in list of eligible improvements. All other proposed efficiency measures will be considered in the Custom Measure Track. The City of Edina anticipates that Energy Star requirements will “ratchet up” to greater efficiency levels over time. Energy Star will also become more inclusive of technologies over time. Thus, the EEEP will evolve with Energy Star and the market for energy-efficient technologies. The following Energy Star measures – among others – are eligible in the Efficiency Track.

#### A. Energy Efficiency Measures

- (1) Heating, ventilating and air conditioning systems (“HVAC”)
  - (a) Minimum efficiencies
    - (i) Split **systems** with 14 SEER or 12 EER
    - (ii) Package systems with 13 SEER or 11 EER
  - (2) Geothermal exchange heat pumps
    - (a) Minimum efficiencies
      - (i) Ground source exchange open loop system 17.8 EER or higher
      - (ii) Ground source exchange closed loop system 15.5 EER or higher
  - (3) High efficiency electric hand dryer
  - (4) All applicable energy efficiency measures listed in “Residential” section

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#### B. Energy Efficiency Custom Measures

- (1) Building energy management systems,
- (2) Lighting control systems, which shall include occupancy sensors and other energy saving measures
- (3) HVAC duct zoning control systems
- (4) Motors and controls (processing or manufacturing equipment)
- (5) Customer electric vehicle plug-in station

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## II. SOLAR EQUIPMENT

Solar track funding is available for a wide range of solar equipment. EEEP funding will be available for photovoltaic equipment and installers listed by the Minnesota Energy Commission. Solar thermal equipment must be rated by the Solar Rating Certification Council (SRCC). As with efficiency measures, if a rebate is available to the property owner to be applied to the purchase price, that amount must be deducted from the amount of financing requested. Eligible solar equipment includes:

- (1) Solar thermal systems (hot water)
- (2) Solar thermal systems for pool heating
- (3) Photovoltaic systems (electricity)
  - (a) Battery back-up systems will be allowed
  - (b) Funding for off-grid systems will be allowed
  - (c) PV systems can be sized to accommodate plug-in electric vehicles
  - (d) Plug in stations
- (4) Emerging technologies – following the Custom Measures Track
  - (a) Nano/thin film photovoltaic
  - (b) High intensity (parabolic solar panels)

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## III. CUSTOM MEASURES

The Custom Measures Track is a process by which EEEP Staff can evaluate and fund projects that are not “off the shelf” improvements listed in the eligible Water Conservation, Energy Efficiency or Solar Measures. These custom projects may involve large scale industrial or commercial energy efficiency improvement projects, such as process or industrial mechanical systems, renewable energy sources and energy generation, other than the solar system (photovoltaic), such as geothermal, and potentially fuel cells, as well as more complex and cutting edge energy management solutions and emerging technologies. The Custom Measure Track will evaluate and provide funding, if appropriate, for these innovative projects.

Applicants for the Custom Measure Track should consult with EEEP staff to determine eligibility and will be required in most cases to submit engineering plans and specifications. An EEEP Custom Measure’s Track review/technical panel will meet to review the engineering documents and data for custom and emerging technology projects. EEEP may require an additional administrative fee for project evaluation by the technical review. In all cases, the City reserves the right to decline funding of a custom measure. The following types of measures – among others – will be considered for EEEP funding through the Custom Measure Track:

### A. Energy Efficiency Custom Measures

- (1) Alternative energy generation (other than photovoltaic)
- (2) Building energy management controls
- (3) HVAC duct zoning control systems
- (4) Lighting controls
- (5) Industrial and process equipment motors and controls

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As these “Custom Measures” become Energy Star rated they will be included in the list of eligible improvements.

**B. Energy Generation Custom Measures**

- (1) Fuel Cells
- (2) Natural gas
- (3) Hydrogen fuel
- (4) Other fuel sources (emerging technologies)
- (5) Co-generation (heat and energy)

Other documents including the Application, Petition for Special Assessments, Summary of Financing Process, Flowchart, and list of eligible improvements can be found online at [www.edinacityenergy.org](http://www.edinacityenergy.org) or can be obtained at Edina City Hall (4801 W. 50<sup>th</sup> Street) or at the Edina Public Works Facility (7450 Metro Blvd).