



Request for MCDA Board of Commissioners Action from the Department of Community Planning & Economic Development - CPED

Date: October 14, 2008

To: Council Member Lisa Goodman, Community Development Committee

Referral to: MCDA Board of Commissioners

Subject: A Public Hearing and Request for Preliminary and Final Approval of up to \$1.2 million in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Revenue Bonds for the Minnesota AIDS Project (MAP).

Recommendation: City Council Recommendation: Adopt the attached Resolution, giving Preliminary and Final Approval to the issuance of up to \$1.2 Million in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Revenue Bonds, Series 2008 for the Minnesota AIDS Project.

MCDA Board Recommendation: Forward this report to the Minneapolis Community Development Agency Board of Commissioners for their approval and adoption of the attached Resolution giving Preliminary and Final Approval of up to \$1.2 million in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Revenue Bonds, Series 2008 for the Minnesota AIDS Project.

Previous Directives: The City of Minneapolis has issued Tax-exempt Revenue Bonds for the Minnesota AIDS Project in 2004 in the amount of \$1.5 million to finance the purchase of the nonprofit's headquarters located at 1400 Park Avenue South. At this time, staff is requesting, on behalf the Minnesota AIDS Project, preliminary and final approval of up to \$1.2 million to refinance the outstanding balance on the Series 2004 Bonds.

Prepared by:	Jessica Green, Business Finance (612) 673-5232
Approved by:	Charles T. Lutz, Deputy Director CPED _____
	Catherine A. Polasky, Director, Economic Development _____
Presenter in Committee:	Jessica Green

Reviews

- Permanent Review Committee (PRC): Approval N.A

Financial Impact

- Other financial impact: The issuance of revenue bonds for the Minnesota AIDS Project will generate revenue bond administrative fees of approximately \$3,000 a year that are used to support the small business assistance programs of the City of Minneapolis.

Community Impact

- Neighborhood Notification: Elliot Park Neighborhood representatives have been notified of this project.
- City Goals: The project enhances the City's goals of 'A Safe Place to Call Home' and 'One Minneapolis' by providing the community with access to health care, promoting prevention through education and community outreach, and advocating public policy.
- Sustainability Targets: N.A.
- Comprehensive Plan: The project is in compliance with the policies of the Minneapolis Plan.
- Zoning Code: The project is in compliance.
- Living Wage/Business Subsidy Agreement Yes No All conduit revenue bonds allocated under State Statute Chapter 474A, refunding bonds and 501(c)(3) bonds are exempt from the State Act. City bond financing is not subject to the City's local ordinance if the intent of the bond financing is not to create jobs.
- Job Linkage Yes No

Supporting Information

Project Location & Description:

The Minnesota AIDS Project (MAP) is a nonprofit corporation that provides a broad range of health and educational services to residents of Minneapolis, the state of Minnesota, and the upper mid-west region. MAP, founded in 1983, is located at 1400 Park Avenue.

MAP works towards three primary purposes: direct services, prevention through education and outreach, and public policy advocacy. Direct services help stabilize day-to-day living via MAP's programs of "*Quick to Connect*", Case Management, Basic Needs Services, Benefits Counseling, and Legal Services. Education/Outreach occurs through: the state-wide *AIDS-Line*, *MainLine*, *PrideAlive*, *Positive Line* and *Wise@Work*.

MAP partners with many other non-profits and governmental entities to develop prevention strategies and services. Examples include: the Center for Disease Control and Prevention, The US Department of Health and Human Services' HRSA (Health Resource Services Administration), the Minnesota Department of Health, Hennepin County and the Hennepin County Medical Center (HCMC), Open Arms of Minnesota, and District 202 for Youth.

At this time, the outstanding principal balance on bonds issued for MAP in 2004 has a remaining term of 11 years. Refinancing will allow an additional 5 years to be added to the amortization, thus significantly improving the company's cash flow and overall financial position.

Type of Financing:

Industrial Development Bonds (commonly known as IDBs or tax exempt revenue bonds) have been used by the City of Minneapolis since 1972 to finance the capital needs of many small companies and organizations. In 2003, City developed a financing program to provide cost-effective tax-exempt financing for small 501(c)(3) nonprofit organizations. Tax-exempt revenue bonds have often not been a practical financing option for small organizations in the past due to the high cost of borrowing. Providing a streamlined application and documentation process has resulted in lower borrowing costs for non-profits.

Within the existing federal tax code, there is the ability to issue bank qualified debt that local lenders can purchase and take advantage of the partial tax deductions on the interest earnings. With bank qualified status, banks are allowed to deduct 80% of their "carrying costs" (interest paid on borrowed funds like deposits to purchase bonds) associated with buying tax-exempt bonds. Banks therefore can get the dual benefits of tax exemption and deductibility of carrying costs. This translates into lower borrowing costs for the nonprofit organizations that work with a city (issuer) on the issuance of bank qualified bank direct bonds. Tax-exempt revenue bonds are underwritten and collateralized just like any conventional bank loan. The bank approval process for the revenue bond program does not differ from conventional financing.

The issuance of bank qualified bank direct tax-exempt revenue bonds is limited to issuers who issue less than \$10 million a year in revenue bonds. Based on this limitation, the MCDA had the ability to issue bank qualified bank direct tax exempt revenue bonds.

Present Employment: Minnesota AIDS Project employs approximately 65 individuals.

New Employment: Minnesota AIDS Project will retain all positions.

Assessor's Estimate Annual Tax Increase: Tax-exempt facility.

Affirmative Action Compliance: MAP currently has an affirmative action plan on file with the City.

CITY IRB POLICIES:

Job Component	Minimum standard of one (1) job per 1,000 square feet of building area. MAP: In compliance.
Property Improvements	For private activity IRBs consisting of industrial/manufacturing projects, no more than 25% of the bond proceeds may be used for land and acquisition. If purchasing an existing building, an amount equal to at least 15% of the acquisition cost must be spent on rehabilitation expenditures. This IRB policy does not apply to nonprofit organizations issuing 501(c)(3) tax-exempt revenue bonds. MAP: N.A.
Development Standards	Compliance with the Land Use Plan of the City's Comprehensive Plan. MAP: In compliance.

Equipment Financing

Limited to companies that create or preserve a significant number of jobs, and the equipment financed must be sufficiently secured. No more than 10% of the bond proceeds may be used to finance movable equipment not constituting a fixture.

MAP: In compliance.

Restaurant/Bank

IRB financing is allowed for a restaurant or a bank if it is built or rehabilitated in an CPED Redevelopment Area. No more than 25% of the bond proceeds can be used to finance retail food and beverage establishments, automobile dealerships or recreation or entertainment facilities.

MAP: N.A.

Tax-exempt Institution

Refinancing is permitted when new jobs are created or when a significant number of jobs are preserved; any interest cost savings must directly reduce patient costs.

MAP: All jobs will be retained.

IRB CAP:

The project is not subject to the volume cap, in that the project is exempt from income tax under Internal Revenue Code Section 501(c)(3) for its exempt purposes and is classified thereunder as a non-profit organization.

BOND COUNSEL:

Dorsey & Whitney, LLP

UNDERWRITER:

Wells Fargo Bank, N.A.

Resolution
of the
City of Minneapolis

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE
OF A REVENUE BOND ON BEHALF OF
MINNESOTA AIDS PROJECT BY THE MINNEAPOLIS COMMUNITY DEVELOPMENT
AGENCY

WHEREAS, pursuant to Laws of Minnesota 1980, Chapter 595, as amended (“Chapter 595”), the City Council of the City of Minneapolis, Minnesota (the “City”) established the Minneapolis Community Development Agency (the “Agency”) and granted certain powers and duties to the Agency; and

WHEREAS, pursuant to such granted powers, the Agency has been authorized to issue revenue obligations for various purposes; and

WHEREAS, it has been proposed that the Agency issue a revenue bond in an amount not to exceed \$1,197,989 (the “Bond”) to refinance the Agency’s Revenue Bond (Minnesota AIDS Project), Series 2004 (the “Refunded Bond”), which Refunded Bond was issued on behalf of the Minnesota AIDS Project (the “Company”) to finance the acquisition of the Company’s headquarters building located at 1400 Park Avenue South in the City (the “Project”); and

WHEREAS, the Project is owned by the Company;

WHEREAS, at a public hearing, duly noticed and held on October 14, 2008, in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended, on the proposal to refinance the Project and to refund the Refunded Bond with proceeds of the Bond, all parties who appeared were given an opportunity to express their views with respect to the proposal to refinance the Project and to refund the Refunded Bond, and interested persons were given the opportunity to submit written comments before the time of the hearing; and

WHEREAS, the Bond shall bear interest at an initial interest rate not to exceed 8.00%, shall mature no later than sixteen years from the date of issuance thereof, and shall have such other terms as are required or permitted by the Agency’s approving resolution;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby gives preliminary and final approval to the issuance by the Agency of the Bond in a principal amount not to exceed \$1,197,989 for the purpose of refinancing the Project.

FURTHER RESOLVED, that the Bond is hereby designated a “Program Bond” and is determined to be within the “Economic Development Program” and the “Program,” all as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 97R-402 of the City adopted December 12, 1997.

RESOLUTION

of the

MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY

Relating to the Minneapolis Community Development Agency Revenue Bond (Minnesota AIDS Project), Series 2008; authorizing the issuance thereof pursuant to Minnesota Statutes, Sections 469.152 to 469.165, as amended.

Be It Resolved by the Board of Commissioners (the “Board”) of the Minneapolis Community Development Agency (the “Agency”), as follows:

Section 1. Definitions.

1.01. In this Resolution the following terms have the following respective meanings unless the context hereof or use herein clearly requires otherwise:

“Act” means Minnesota Statutes, Sections 469.152 to 469.165, as amended;

“Agreement” means the Loan Agreement to be entered into between the Agency and the Borrower relating to the Bond;

“Bond” means the Revenue Bond (Minnesota AIDS Project), Series 2008 to be issued by the Agency pursuant to this Resolution in the principal amount of up to \$1,197,989;

“Bond Documents” means the Agreement, the Pledge Agreement and the Bond;

“Borrower” means Minnesota AIDS Project, a Minnesota nonprofit corporation, its successors and assigns;

“City” means the City of Minneapolis, Minnesota;

“Holder” means the registered holder of the Bond;

“Pledge Agreement” means the Pledge Agreement to be entered into between the Agency and the Holder relating to the Agreement and the Bond;

“Project” means the building located at 1400 Park Avenue South in the City, the acquisition of which is to be refinanced with proceeds of the Bond;

“Refunded Bond” means the Revenue Bond (Minnesota AIDS Project), Series 2004 issued by the Agency.

“Resolution” means this resolution of the Agency.

Section 2. Findings.

2.01. It is hereby found and declared that:

(a) the refinancing of the Project, the issuance and sale of the Bond, the execution and delivery of the Bond Documents and the performance of all covenants and agreements of the Agency contained in the Bond Documents are undertaken pursuant to the Act;

(b) it is desirable that the Bond be issued by the Agency upon the terms set forth herein and that the Agency pledge its interest in the Agreement and grant a security interest therein to the Holder as security for the payment of the principal of, premium, if any, and interest on the Bond;

(c) the loan payments contained in the Agreement are required to produce income and revenue sufficient to provide for prompt payment of the principal of, premium, if any, and interest on the Bond when due, and the Agreement also provides that the Borrower is required to pay all expenses of the operation and maintenance of the Project, including, but not limited to, adequate insurance thereon and all taxes and special assessments levied upon or with respect to the Project and payable during the term of the Agreement;

(d) under the provisions of the Act, the Bond is not to be payable from nor charged upon any funds of the Agency or City other than the revenue pledged to the payment thereof; the Agency and City are not subject to any liability thereon; no Holder of the Bond shall ever have the right to compel any exercise of the taxing power of the Agency or City to pay the Bond or the interest thereon nor to enforce payment thereof against any property of the Agency or City; the Bond, premium, if any, and interest thereon shall not constitute an indebtedness of the Agency or City within the meaning of any constitutional, charter or statutory limitation and shall not constitute or give rise to a pecuniary liability of the Agency or City or a charge against their general credit or taxing powers and shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Agency or City;

(e) the execution and delivery of the Bond Documents shall not conflict with or constitute, on the part of the Agency, a breach of or a default under any existing agreement, indenture, mortgage, lease or other instrument to which the Agency is subject or is a party or by which it is bound, provided that this finding is made solely for the purpose of estopping the Agency from denying the validity of the Bond Documents by reason of the existence of any facts contrary to this finding;

(f) no litigation is pending or, to the actual knowledge of the members of this Board, threatened against the Agency questioning the organization of the Agency or the right of any officer of the Agency to hold his or her office or in any manner questioning the right and power of the Agency to execute and deliver the Bond or otherwise questioning the validity of the Bond or the execution, delivery or validity of the Bond Documents or questioning the pledge of revenues to payment of the Bond or the right of the Agency to loan the proceeds of the Bond to the Borrower;

(g) all acts and things required under the Constitution and the laws of the State of Minnesota to make the Bond Documents the valid and binding limited obligations of the Agency in accordance with their terms shall have been done upon adoption of this Resolution and execution of the Bond Documents; provided that this finding is made solely for the purpose of

estopping the Agency from denying the validity of the Bond Documents by reason of the existence of any facts contrary to this finding; and

(h) the Agency is duly organized and existing under the Constitution and the laws of the State of Minnesota.

Section 3. Authorization and Approval of Documents.

3.01. Authorization. The Agency is authorized by the Act to issue revenue bonds and loan the proceeds thereof to finance the acquisition, construction and installation of facilities constituting a “project” as defined in the Act, and to refinance obligations previously incurred for such purpose, and to make all contracts, execute all instruments and do all things necessary or convenient in the exercise of such authority.

3.02. Approval of Documents. Pursuant to the foregoing, there have been prepared copies of the following documents, all of which are now or shall be placed on file in the office of the Agency:

- (a) the Agreement;
- (b) the Pledge Agreement; and
- (c) the Bond.

The forms of the documents listed above are approved, with such variations, insertions and additions as are deemed appropriate by the parties and approved by the Agency.

Section 4. Execution of Bond Documents.

4.01. Upon the completion of the Bond Documents approved in Section 3.02 hereof and the execution thereof by the other parties thereto, the Executive Director (or Deputy Executive Director) and the Finance Officer (or Assistant Finance Officer) shall execute the same on behalf of the Agency, and the foregoing persons and other officers of the Agency shall execute such other certifications, documents or instruments as bond counsel shall require, subject to the approval of the Agency, and all certifications, recitals and representations therein shall constitute the certificates, recitals and representations of the Agency. Execution of any instrument or document by one or more appropriate officers of the Agency shall constitute and shall be deemed the conclusive evidence of the approval and authorization by the Agency and the Board of the instrument or document so executed.

Section 5. The Bond.

5.01. Form and Authorized Amount. The Bond shall be issued substantially in the form on file with the Agency on the date hereof with such appropriate variations, omissions and insertions as are permitted or required by this Resolution. The terms of the Bond are set forth therein, and such terms, including, but not limited to, provisions as to interest rate, dates and amount of payment of principal and interest and prepayment privileges, are incorporated by reference herein. The initial interest rate on the Bond shall not exceed an annual rate of 8.00%. The Bond shall mature within sixteen years of the date of issuance thereof.

5.02. Execution. The Bond shall be executed on behalf of the Agency by the persons described in Section 4.01 hereof. In case any officer whose signature shall appear on the Bond shall cease to be such officer before the delivery thereof, such signature shall, nevertheless, be valid and sufficient for all purposes.

5.03. Delivery and Use of Proceeds. Prior to delivery of the Bond, the documents referred to in Section 3.02 hereof shall be completed and executed in form and substance as approved by the Agency. The Agency shall thereupon deliver to the Holder the Bond together with a certified copy of this Resolution and such closing certificates as are required by bond counsel.

Section 6. Limitations of the Agency's and City's Obligations.

6.01. Notwithstanding anything contained in the Bond Documents, the Bond and any premium and interest thereon shall not constitute an indebtedness of the Agency or City within the meaning of any constitutional, charter or statutory limitation and shall not constitute or give rise to a pecuniary liability of the Agency or City or a charge against their general credit or taxing powers and shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Agency or City, and no Holder of the Bond shall ever have the right to compel any exercise of the taxing power of the Agency or City to pay the Bond or the interest thereon or to enforce payment thereof against any property of the Agency or City. The agreement of the Agency to perform the covenants and other provisions contained in this Resolution or the Bond Documents shall be subject at all times to the availability of revenues furnished by the Borrower sufficient to pay all costs of such performance or the enforcement thereof, and neither the Agency or City nor any of their officers, employees or agents shall be subject to any personal or pecuniary liability thereon.

Section 7. Agency Representative.

7.01. The Finance Officer or Assistant Finance Officer of the Agency is hereby designated and authorized to act on behalf of the Agency for purposes of the Bond Documents.

Section 8. Governmental Program.

8.01. The Bond is hereby designated as a "Program Bond" and is determined to be within the "Economic Development Program" and the "Program," all as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 97R-402 of the City adopted December 12, 1997.

Section 9. Bank Qualification.

9.01. In order to qualify the Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), the Agency makes the following representations:

(a) The Agency hereby designates the Bond as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;

(b) The reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code) which will be issued by

the Agency (and all subordinate entities whose obligations will be aggregated with those of the Agency) during this calendar year 2008 will not exceed \$10,000,000; and

(c) Not more than \$10,000,000 of tax-exempt obligations issued by the Agency during this calendar year 2008 have been designated as qualified tax-exempt obligations for purposed of Section 265(b)(3) of the Code.