Request for City Council Committee Action from the Department of

Community Planning and Economic Development

Date: September 16, 2008
To: Council Member Lisa Goodman, Chair, Community Development Committee

Subject: Public hearing and approval of the 2008 single-family housing program

Recommendation: The City Council hold a public hearing and approve the attached Resolution approving the 2008 single family housing program that permits the creation of new mortgage programs and allows the recycling of funds from older mortgage programs. Approve summary publication of the Resolution. Authorize the expenditure of up to $30,000 to pay for Minneapolis' share of the cost of the 2008 audit of the Minneapolis/Saint Paul Housing Finance Board.

Previous Directives: Each year the City Council approves the single family housing program. The 2007 program was approved February 23, 2007.

Prepared by: Mark Anderson, Senior Contract Management Specialist
Approved by: Tom Streitz, Director, Housing Policy & Development ____________
Chuck Lutz, Deputy CPED Director ____________

Presenters in Committee: Mark Anderson

Financial Impact

- No financial impact

Community Impact

- City Goals- A Safe Place to Call Home – In five years, all Minneapolis residents will have a better quality of life and access to housing and services; residents will live in a healthy environment and benefit from healthy lifestyles; the city's infrastructure will be well-maintained and people will feel safe in the city.

Supporting Information

Annually the City Council needs to approve a Single-Family Housing Program in order for the City or the Minneapolis/Saint Paul Housing Finance Board to issue mortgage revenue bonds in support of the City's various single-family mortgage or housing programs. The Housing Program establishes the structure of all future activities in connection with that year's tax-exempt housing bond allocation, with the exception that the City Council reserves the right to withdraw any uncommitted funds and can formally reallocate them to another acceptable housing activity.

With the City Council's approval of the 2008 Housing Program, staff plans to use past recycled mortgage revenue bond funds and entitlement carried forward from 2007 to create new mortgage programs. The new mortgage programs will have the following outcomes and benefits to the City:

- Mortgages will be available to low and moderate income homebuyers throughout Minneapolis at rates comparable to private lender rates, but with substantial additional assistance to borrowers. The single biggest hurdle for borrowers to overcome has been the necessary funds to close. As currently planned, this program will offer either two or four points (2% or 4%) worth of funds that can be used to help a first time homebuyer to pay for closing costs and down payment on their home. On a $150,000 mortgage this would equal an additional $3,000 or $6,000 the borrower can use to help them pay these costs. The higher level of assistance is primarily directed toward households that are purchasing foreclosed or vacant and boarded properties. These assistance funds are provided as a grant, but the borrower's primary mortgage is typically one-half percent higher than a mortgage offered without assistance. The borrower's higher interest rate is what compensates for the grant funds that are provided.

- The program will continue to take advantage of partnerships with private lenders who will do all of the lending to the Minneapolis homebuyers. This increases access to the program for the average borrowers. Past partners have included Wells Fargo Home Mortgage, Bankers Mortgage, Countrywide Home Loans, US Bank Home Mortgage, as well as a number of smaller lenders.

- One component of the program permits homebuyers or homeowners to obtain additional funds to complete substantial repairs or improvements to the residence. This has not been an active part of the program because private lenders have been reluctant to do this lending. It is more complex and requires them to manage the loan long past the time of closing while the home repairs and improvements take place. Nevertheless, staff is continuing to work to try to locate a lender who will partner with the City to offer these loans.

- The program will be done in partnership with the City of Saint Paul which increases the program identity and reduces the overall average cost to each city when selling the bonds.

In 2007, a total of over $41,000,000 was loaned out to 235 first-time homebuyers with an average household income of $50,900 which is 63% of the area median income. Staff anticipates that 2008 will not be as high because of lower activity in the housing markets, but it is expected that the program will continue to be very active.

Attached is a Resolution that outlines the housing program as well as provides the necessary City Council approval. This approval will allow the City or the Minneapolis-St. Paul Housing Finance Board to issue single family mortgage revenue bonds and it will also allow for the recycling of any bonds that are refunded or mortgages that are repaid. This means the City will be able to maximize the resources that can be put toward the City's housing needs.

Finally, the cities of Minneapolis and St. Paul require an annual audit of the Minneapolis/Saint Paul Housing Finance Board to assure the ongoing integrity of the Board's finances. Since the Board generally does not have sufficient income in and of itself to cover the cost of such an audit and since the Board is working on behalf of the two cities, it has been the ongoing practice of the cities to share the costs of these audits. The 2008 audit is anticipated to cost just over $57,400. While cost overruns seldom occur, staff is requesting that the Council approve the payment of up to $30,000 to cover Minneapolis' share of this audit along with any potential cost overruns. This cost is included as part of the annual budget approval process.

PROPOSED RESOLUTION

APPROVING A SINGLE FAMILY HOUSING FINANCE PROGRAM TO BE FINANCED BY THE ISSUANCE OF SINGLE FAMILY MORTGAGE REVENUE BONDS

WHEREAS, pursuant to the Minnesota Municipal Housing Act, Minnesota Statutes, Chapter 462C (the "Housing Act"), the City of Minneapolis, Minnesota (the "City") is authorized to carry out programs for the financing of single family housing for persons of low and moderate income; and

WHEREAS, the Minneapolis/Saint Paul Housing Finance Board (the "Board"), a joint powers board organized under a Joint Powers Agreement (the "Joint Powers Agreement") originally dated as of December 1, 1984, and as subsequently amended, by and between the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "Authority"), the City and accepted by the City of Saint Paul, Minnesota ("Saint Paul"), and under the laws of the State of Minnesota, proposes to undertake a single family housing finance program relating to the Minneapolis and the Saint Paul entitlement allocations and certain taxable bonds and refunding bonds (the "Program"), to be financed by the issuance of one or more series of mortgage revenue obligations and mortgage revenue refunding obligations pursuant to Minnesota Statutes, Sections 469.001 to 469.047, Chapters 462A, 462C and 474A and Section 471.59 (together with applicable predecessor provisions of state law, the "Act"); and

WHEREAS, pursuant to the Act, the Board is authorized to issue bonds from time to time and to use the proceeds of its bonds to make or purchase mortgage loans or to purchase participations in mortgage loans from lending institutions in order to finance the construction and rehabilitation, and to facilitate the purchase and sale, of single family housing for eligible persons or families under the Act and to issue bonds to refund previously issued bonds; and

WHEREAS, the Program will provide below market interest rate mortgage loan financing or income tax credits primarily to persons of low or moderate income purchasing single family homes to be used as their principal places of residence and located within the geographic limits of the City or Saint Paul; and

WHEREAS, the Act requires adoption of the Program after a public hearing held thereon following publication of notice in a newspaper of general circulation in the City and Saint Paul at least fifteen days in advance of the hearing; and

WHEREAS, the Community Development Committee of the City Council on September 16, 2008 conducted a public hearing on the Program after publication of notice as required by the Act; and

WHEREAS, the Program was submitted to the Metropolitan Council at or before the time of publication of notice of the public hearing thereon, and the Metropolitan Council was afforded an opportunity to present comments at the public hearing, all as required by the Act; and

WHEREAS, the Program provides for the issuance of single family mortgage revenue bonds or revenue refunding bonds in one or more series pursuant to the Act (the "Bonds") to make or purchase or cause to be made or purchased mortgage loans, or to purchase securities the proceeds of which would be used to purchase mortgage loans to finance the acquisition, primarily by low and moderate income persons and families, of single family housing located within the geographic boundaries of the City or Saint Paul; and

WHEREAS, it is proposed that the Program be approved and the Board be authorized to issue Bonds pursuant to the Program and the Joint Powers Agreement; and

WHEREAS, the Program and the issuance of Bonds by the Board are in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

1. The Program is hereby approved in its entirety in substantially the form on file with the City. The officers of the City and the Board are authorized to take all actions as may be necessary or appropriate to carry out the Program in accordance with the Act and any other applicable laws and regulations.

2. Be It Further Resolved that the issuance of the Bonds to finance the Program is hereby finally approved subject to agreement by the Board and the purchasers of the Bonds.

3. Be It Further Resolved that the Bonds may be issued in one or more series at the time or times and pursuant to terms determined by the Board, and be structured so as to take advantage of whatever means are available and are permitted by law to enhance the security for, or marketability of, the Bonds, provided that any such financing structure must be approved by the Board. All such determinations by the Board must comply with the applicable provisions of the Act and the Internal Revenue Code, of 1986, as amended, and regulations promulgated thereunder.

4. Be It Further Resolved that the Board is authorized to take all actions which may be necessary or desirable in connection with the issuance of the Bonds, and no further approval or consent of the City shall be required prior to the issuance of the Bonds by the Board, or prior to the taking of any action by the Board to undertake and implement the Program.

5. Be It Further Resolved that nothing in this Resolution or the documents prepared pursuant hereto shall authorize the expenditure of any municipal funds on the Program other than as specified and authorized by separate actions of the City and other than the revenues derived from the Program or otherwise granted to the City for such purpose. The Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property or funds of the City except the revenues and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Bonds shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal on the Bonds or the interest thereon, or to enforce payment against any property of the City. The Bonds shall recite in substance that the principal and interest thereon are payable solely from the revenues and proceeds pledged to the payment thereof. The Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation of indebtedness.

6. Be It Further Resolved that any one or more series of Bonds (to the extent authorized by law) may be issued by the City in lieu of issuance by the Board, at the discretion of the City.

MINNEAPOLIS/SAINT PAUL

2008 SINGLE FAMILY HOUSING FINANCE PROGRAM

The City of Minneapolis, Minnesota ("Minneapolis"), the City of Saint Paul, Minnesota ("Saint Paul") and the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "Authority"), acting individually or jointly through the Minneapolis/Saint Paul Housing Finance Board (the "Joint Board") (all together, the "Issuers") propose to issue mortgage revenue bonds and certain mortgage revenue refunding bonds under Section 103 of the Internal Revenue Code of 1986, as amended (together with any applicable predecessor laws and with applicable regulations, the "Code"), in one or more series, to finance the single family housing finance program described herein (the "Program") pursuant to authority conferred by Minnesota Statutes, Chapters 462C, 462A, 469 and 474A, all as amended, (and any predecessor provisions of State law or other general or special law authority for the issuance of obligations to finance a single family housing finance program or development) (all together, the "Act"). Any action specified herein to be made by the Issuers may be made by one or more of them acting in concert or individually.

In creating this Program, the Issuers find and determine:

- that the preservation of the quality of life in Minneapolis and Saint Paul (the "Cities") is dependent upon maintaining an adequate, decent, safe and sanitary housing stock;

- that maintaining such housing stock is a public purpose and will benefit the residents of the Cities;

- that a need exists within the Cities to provide additional affordable owner-occupied housing for low and moderate income persons and families and for other persons and families to the extent necessary to promote economic integration as provided in the Act; and

- that a need exists for mortgage credit to be made available for both existing and new owner-occupied housing, for rehabilitation of existing single family housing and for home improvements.

To meet such needs, the Issuers intend to issue one or more series of single family mortgage revenue bonds and single family mortgage revenue refunding bonds ("Bonds") to cause the origination of mortgage loans to finance the acquisition, construction, rehabilitation or improvement of single family housing in the Cities (or either of them). The Issuers may issue Bonds in an aggregate principal amount of up to approximately (a) $52,000,000 for Minneapolis and $30,000,000 for Saint Paul, representing certain carryforward 2007 allocation and certain 2008 entitlement bond allocation of Minneapolis and Saint Paul; (b) draw down bonds in the amount expected to be approximately $20,000,000; and (c) approximately $35,000,000 of refunding bonds to fund the acquisition of mortgage loans, but which in any event shall be an amount sufficient to refund outstanding mortgage revenue bonds and; and (d) such principal amount of taxable bonds as may be necessary or convenient to further the purposes of this Program.

Mortgage loans financed through the issuance of the Bonds will be subject to the following terms (or, for Bonds as to which these requirements do not apply as a matter of law, to such other terms approved by the Board):

<u>purchase price</u> - the maximum purchase price for financed homes shall not exceed the lesser of (a) 90% (110% in "targeted areas" or areas treated as targeted areas) of the applicable "average area purchase price" determined by the United States

Department of the Treasury or by the Issuers on the basis of more complete information, or (b) 3 times the applicable income limit for the Program imposed by Minnesota law (except that in certain areas the purchase price shall not exceed 4 times the applicable income limit to the extent consistent with applicable federal law);

income limits - the maximum income of the mortgagors shall be the lower of (a) the income restrictions imposed by federal tax law or (b) the income restrictions imposed by Minnesota Statutes, Section 462C.03, Subd. 2, including the restriction of Subd. 7 that for the first six months of the Program, 50% of the money available to make mortgage loans or the "non-issued bond amount" of MCCs must be reserved for persons and families with adjusted incomes not greater than 90% of the general Program income limits. Income limits under Section 462C.03, Subd. 2 shall be adjusted for family size by deducting $1,000 per adult and $1,200 per child in the family.

In connection with this Program:

(i) (a) in connection with any mortgage loans financed with the proceeds of mortgage revenue bonds, any financial institutions described in Section 462C.03, Subd. 4, and other mortgage lenders with offices located in the Cities and which are FHA/VA approved sellers of mortgage loans as well as other financial institutions and mortgage lenders which are FHA/VA, or FNMA/FHLMC approved sellers of mortgage loans and are reasonably acceptable to any master servicer acting on behalf of the Issuers, will be eligible for consideration for origination of such loans; the Cities will not limit participation in the Program to a single lender unless other lenders are not willing to participate for the consideration offered; the Authority shall be eligible for consideration for origination of loans;

(b) in connection with issuance of MCCs, MCCs will not be limited to loans originated by particular lenders but will be available with respect to the origination of qualifying mortgage loans by any participating lender;

(ii) loans will not be made available or set aside for the exclusive use of developers or builders;

(iii) the Issuers expect to act as, or to contract with, a program administrator and a servicer to provide services to ensure that the Program will be consistent with this Program, the Act and applicable federal law;

(iv) as indicated above, the Minneapolis 2007 entitlement allocation carried forward for single family bonds and the Cities' 2008 entitlement allocations may be used in the Program, provided, however, that no provision of this Program shall in any way prevent either Minneapolis or Saint Paul from using all or a portion of its respective entitlement allocation(s) for multifamily housing or any other authorized purpose. In addition, any election made by the Cities to issue Mortgage Credit Certificates ("MCCs") in lieu of Bonds may be revoked in whole or in part, at any time during the calendar year in which the election was made as permitted by Section 25 of the Internal Revenue Code and Section 1.25-4T(c)(3) of the Treasury Regulations. The resulting unused entitlement allocation may be used to issue bonds for single family housing or other authorized purposes;

(v) the Program will meet the needs of low and moderate income families by providing below-market rate financing for the acquisition or rehabilitation of single family homes or by providing a tax credit for mortgage interest paid, thereby enabling such persons to qualify for mortgages which would be unavailable at market rates;

(vi) no homes which are located in previously unincorporated real property annexed by the Cities within one year prior to the date of adoption of this Program will be financed under this Program;

(vii) prohibitions or limitations on assumption will be imposed to the extent required by federal law relating to the tax exempt status of Bonds issued pursuant to the Program; provided that the Issuers may impose more stringent limitations at their discretion;

(viii) the estimated amount of mortgage loans to be made or purchased pursuant to this Program is approximately equal to the aggregate principal amount of Bonds issued;

(ix) the estimated aggregate principal amount of the Bonds is set forth above;

(x) the Bonds, if issued, may be issued in one or more series timed for sale consistent with the needs of the Cities in 2008 and the duration of any origination period provided in connection with the Bonds, or, if any bond allocation is carried forward for single family purposes, in 2009;

(xi) refinancing of existing indebtedness will be permitted only where the mortgage loan also finances substantial “rehabilitation” as that term is defined under Minnesota Statutes, Section 462C.01 and Section 462C.03, Subd. 11 and under Section 143 of the Code;

(xii) to the extent required by the Act, during the first ten (10) months of the origination period, loans financed by the Bonds (but not mortgage loans assisted by MCCs) will be made for existing housing;