Request for MCDA Board of Commissioners Action
From the Department of Community Planning & Economic Development

Date: April 6, 2004

To: Council Member Lisa Goodman, Community Development Committee

Refer to: MCDA Board of Commissioners

Prepared by: Bob Lind, Manager, Business Finance, Phone 612-673-5068
Presenter in Committee: Bob Lind

Approved by: Chuck Lutz, Deputy CPED Director ______________

Subject: A Public Hearing and Request for Preliminary and Approval of up to $1,700,000 in 501(c)(3) Bank Qualified Bank Direct Tax-exempt Minneapolis Community Development Agency Refunding Revenue Bonds for the Minnesota Orchestral Association Project.

RECOMMENDATION: City Council Recommendation: Adopt the attached Resolution, following a Public Hearing held on April 6, 2004, notice of which was published in Finance & Commerce on March 20, 2004, giving Preliminary and Final Approval to the issuance of up to $1,700,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Refunding Revenue Bonds, Series 2004 for the Minnesota Orchestral Association 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 $1,700,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Refunding Revenue Bonds, Series 2004, for the Minnesota Orchestral Association Project.

Previous Directives: In 1996 and 1997, the City of Minneapolis issued $2.5 million and $1.0 million respectively for the Minnesota Orchestral Association. The project is requesting at this time that the outstanding balances be refinanced with the issuance of refunding revenue bonds.

Financial Impact (Check those that apply)

_____ No financial impact – or – Action is within current department budget.
_____ (If checked, go directly to Background/Supporting Information)
_____ Action requires an appropriation increase to the Capital Budget
_____ Action requires an appropriation increase to the Operating Budget
_____ Action provides increased revenue for appropriation increase
_____ Action requires use of contingency or reserves
____X_Other financial impact (Explain): The issuance of revenue bonds for the Minnesota Orchestral Association will generate revenue bond administrative fees of approximately $4,250 a year that are used to support the small business assistance programs of the City.
_____ Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

Ward: The Orchestra Hall project is located at 1111 Nicollet Mall in the 7th Ward.

Neighborhood Notification: The Downtown Minneapolis Neighborhood Association was notified of the refunding request on March 17, 2004.

City Goals: The Orchestra Hall project is consistent with Goal 4 of preserving and enhancing the urban institutes and amenities that define Minneapolis.

Comprehensive Plan: Project complies with the policies of the Minneapolis Plan.

Zoning Code: Project is in compliance.

Living Wage/Job Linkage: The proposed project is a 501 (c)(3) conduit financing that is not subject to Living Wage/Business Subsidy.

Background/Supporting Information:

The project is the Orchestra Hall facility located at 1111 Nicollet Mall; 7th Ward in the Downtown West neighborhood.

In 1996 and 1997, the City issued $2.5 million and $1.0 million respectively in tax-exempt revenue bonds to finance various improvements and renovations to Orchestra Hall, the orchestra performance facility for the Minnesota Orchestra. It is now being requested that these two series of bonds be refunded with the issuance of up to $1.7 million in Bank Qualified Bank Direct Tax-exempt Refunding Revenue Bonds Series 2004.

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. Drawing on the work of other development agencies across the country, CPED has 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 costs of borrowing. Providing a streamlined application and documentation process results in lower borrowing costs for nonprofit organizations.

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 deduction on the interest earnings. With the 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 revenue 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 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 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 has the ability to issue $10 million in bank qualified tax-exempt revenue bonds each year.

The refunding revenue bonds are being underwritten and purchased by Wells Fargo Brokerage Services, LLC. It is anticipated that the financing will be for a fifteen year term at an interest rate of 4.35%.

Sources:	
Bank Qualified Revenue Bonds	$1,700,000
Private equity	100,000
	$1,800,000
Uses:	
Refunding of the 1996 and 1997 bonds	$1,600,000
Professional and issuance costs	200,000
	$1,800,000

PRESENT EMPLOYMENT:	Refunding project.
NEW EMPLOYMENT:	Refunding project.
ASSESSOR'S ESTIMATED ANNUAL TAX INCREASE:	Tax-exempt facilities.
AFFIRMATIVE ACTION COMPLIANCE:	Project will have on file an approved Affirmative action plan with the City.

CPED IRB POLICIES:

Job Component	Minimum standard of one (1) job per 1,000 square feet of building area. <u>Minnesota Orchestra</u>: Refunding project.
Property Improvements	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. <u>Minnesota Orchestra:</u> N.A.
Development Standards	Compliance with the Land Use Plan of the City's Comprehensive Plan. <u>Minnesota Orchestra:</u> Project 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. <u>Minnesota Orchestra:</u> N.A.
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. <u>Minnesota Orchestra:</u> N.A.
Tax-exempt Institution	Refinancing is permitted when new jobs are created or when a significant number of jobs is preserved; any interest cost savings must directly reduce patient costs. <u>Minnesota Orchestra:</u> N.A.

<u>IRB CAP:</u> 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:	Gray Plant & Mooty
UNDERWRITER:	Wells Fargo Brokerage Services, LLC

Community Planning & Economic Development
Planning Division
350 South 5th Street, Room 210
Minneapolis, MN 55415-1385

Minneapolis
City of Lakes

MEMORANDUM

TO: Bob Lind
Manager, Business Finance Group

FROM: Jack Byers
CPED - Planning

SUBJECT: Refunding Revenue Bond Application for the Minnesota Orchestral Association Project

DATE: March 25, 2004

CC: Pamela Miner, Community Planning Supervisor

Bob, Per your request, I am writing to indicate that CPED activities related to the Refunding Revenue Bond Application for the Minnesota Orchestral Association Project are in keeping with the City's comprehensive plan.

As you know, *Minneapolis Downtown 2010* is the portion of the City's comprehensive plan that governs Downtown Minneapolis. Specifically, the "Entertainment" chapter in this plan supports the retention of and growth of entertainment venues as a means to promote a wide spectrum of cultural activities and to ensure the prominence of Downtown Minneapolis as the cultural and economic hub of the Upper Midwest.

If you have further questions, please do not hesitate to call me at 673-2634.

City Resolution

Giving preliminary and final approval to and authorizing a project on behalf of The Minnesota Orchestral Association (the “Company”), and authorizing the issuance of a revenue bond of the Minneapolis Community Development Agency therefor.

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 the amount of approximately $1,700,000 (the “Bond”) to refinance (through the refunding of obligations previously issued by the City) certain improvements to the Company’s orchestra performance facility known as Orchestra Hall and located at 1111 Nicollet Mall in the City (the “Project”); and

Whereas, the Agency expects to give final approval to the issuance of the Bond by a resolution to be adopted on the date hereof; and

Whereas, the Bond shall bear interest at an interest rate not to exceed five percent (5.00%) per annum, shall have a final maturity date not later than December 1, 2019, and shall have such other terms as required or permitted by the Agency’s resolution, which terms are to be incorporated herein by reference;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City Council hereby gives preliminary and final approval to the issuance by the Agency of the Bond in the principal amount of approximately $1,700,000 for the purpose of refinancing the Project.

That 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.

RESOLUTION

of the

MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY

By ______________________________

Relating to the Minneapolis Community Development Agency Revenue Bond (The Minnesota Orchestral Association Project) Series 2004; authorizing the issuance thereof pursuant to Minnesota Statutes, Sections 469.152 to 469.1651, 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 469.1651, 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 (The Minnesota Orchestral Association Project), Series 2004 to be issued by the Agency pursuant to this Resolution in the principal amount of up to $1,700,000;

"Bond Documents" means the Agreement, the Pledge Agreement and the Bond;

"Borrower" means The Minnesota Orchestral Association, 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 refinancing of certain improvements to the Borrower's orchestra performance facility located at 1111 Nicollet Mall in the City, through the refunding of revenue obligations previously issued by the City;

"Resolution" means this resolution of the Agency.

Section 2. Findings.

2.01. It is hereby found and declared that:

(a) based upon representations made to the Agency by representatives of the Borrower as to the nature of the Project as described in the Agreement, the Project constitutes a project authorized by the Act;

(b) the purpose of the Project is and the effect thereof is to promote the provision of cultural facilities;

(c) 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 and of all other acts and things required under the Constitution and laws of the State of Minnesota to make the Bond Documents valid and binding obligations of the Agency in accordance with their terms are authorized by the Act;

(d) 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;

(e) the loan payments contained in the Agreement are fixed and are required to be revised from time to time as necessary, so as 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;

(f) 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;

(g) 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;

(h) no litigation is pending or, to the best 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;

(i) 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

(j) the Agency is duly organized and existing under the Constitution and the laws of the State of Minnesota and is authorized to issue the Bond in accordance with the Act.

Section 3. <u>Authorization and Approval of Documents</u>.

3.01. <u>Authorization</u>. 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 refund obligations previously issued 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. <u>Approval of Documents</u>. 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. <u>Execution of Bond Documents.</u>

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 interest rate on the Bond shall not exceed an annual rate of 5.00%. The Bond shall mature on or before December 1, 2019.

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 Executive Director or Deputy Executive Director 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 2004 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 2004 have been designated as qualified tax-exempt obligations for purposed of Section 265(b)(3) of the Code.

RECORD OF COMMISSIONER VOTE

Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust	Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust
Benson							Ostrow						
Colvin Roy							Samuels						
Johnson							Schiff						
Johnson Lee							Zerby						
Lane							Zimmermann						
Lilligren							Goodman, chair						
Niziolek													

Vote: NV - Not Voting Abs - Absent Ovrd - Vote to Override Sust - Vote to Sustain

ADOPTED ____________________. ____________________________________.
Chairperson

APPROVED
NOT APPROVED ____________________. ____________________________________.
VETOED **Mayor**

Minneapolis Community Development Agency
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Minneapolis, MN 55401