

Request for City Council Action

Date: September 30, 2003

To: Council Member Lisa Goodman, Community Development Committee

Prepared by Bob Lind, Manager, Business Finance, Phone 612-673-5068

Approved by Lee Sheehy, CPED Executive Director
Chuck Lutz, CPED Deputy Executive Director _____

Subject: Request for Final Approval of \$13,800,000 in 501(c)(3) Tax-exempt Revenue Bonds Series 2003 for the Children's Theatre Company Project.

Previous Directives: On August 8, 2003 the Minneapolis City Council gave preliminary approval to the issuance of revenue bonds for the project. At this time Children's Theatre is requesting final approval on the issuance of revenue bonds for their project.

Ward: 6th

Neighborhood Group Notification: On July 11, 2003 the Whittier Alliance was notified of this proposed revenue bond project.

Consistency with *Building a City That Works*: The proposed project is consistent with Goal 4 of preserving and enhancing the urban institutes and amenities that define Minneapolis.

Comprehensive Plan Compliance: The proposed project complies with the policies of the Minneapolis Plan.

Zoning Code Compliance: The proposed project is in compliance.

Impact on the MCDA Budget:

- No financial impact
- Action requires an appropriation increase to the MCDA Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): The issuance of tax-exempt revenue bonds will generate annual administrative fees that are used to support the small business assistance programs of the City.

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

Job Linkage: Does not apply to revenue bond financing. The Agency will work with the Children's Theatre Company on a job linkage agreement.

Affirmative Action Compliance: The Children's Theatre Company will complete its Affirmative Action Plan prior to the bond closing.

RECOMMENDATION:

City Council Recommendation: The Executive Director recommends that the City Council adopt the attached Resolution, giving Final Approval to the issuance of \$13,800,000 of City of Minneapolis Tax-exempt 501(c)(3) Revenue Bonds, Series 2003, for the Children's Theatre Company Project.

Background/Supporting Information

PROJECT LOCATION & DESCRIPTION:

The Children's Theatre Company, a Minnesota nonprofit formed in 1965, has requested the use of tax exempt revenue bond financing for their project. The proposed project is located at their current facility at 2400 Third Avenue South in the Whittier neighborhood.

The proposed project consists of a 45,000 sq. ft. addition to and renovation of the theatre. The 45,000 sq. ft. addition consists of a new 280-seat flexible stage theater and accompanying lobby, classrooms, rehearsal space and backstage facilities. Also included are a number of renovations to the existing space and various building code upgrades.

TYPE OF FINANCING:

It is anticipated that the tax-exempt revenue bonds will be structured as seven-day variable rate demand obligations secured by a bank letter of credit. The bond issue is expected to be rather short-term, about 5-7 years, with the bonds repaid from the capital pledge drive. The total project costs are \$24 million, with \$5 million coming from a State of Minnesota grant, \$13,800,000 from the issuance of the tax-exempt revenue bonds and the balance financed by pledges collected to date.

Sources:

Revenue Bonds	\$13,800,000
State Grant	5,000,000
Equity - Pledges	5,200,000
Total	<u>\$24,000,000</u>

Uses:

Construction & Renovation Costs	\$22,900,000
Professional & Issuance Costs	1,100,000
Total	<u>\$24,000,000</u>

PRESENT EMPLOYMENT: 90 F.T.E.s

NEW EMPLOYMENT: 30 F.T.E.s

ASSESSOR'S ESTIMATED ANNUAL TAX INCREASE: Tax-exempt facility.

AFFIRMATIVE ACTION COMPLIANCE: Affirmative Action Plan will be on file with the City prior to bond closing.

MCDA IRB POLICIES:

Job Component Minimum standard of one (1) job per 1,000 square feet of building area.
Children's Theatre: N.A.

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.

Children's Theatre: In compliance.

Development Standards

Compliance with the Land Use Plan of the City's Comprehensive Plan.

Children's Theatre: 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.

Children's Theatre: In compliance.

Restaurant/Bank

IRB financing is allowed for a restaurant or a bank if it is built or rehabilitated in an MCDA 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.

Children's Theatre: 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.

Children's Theatre: N.A.

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.

COUNCIL MEMBER INFORMED:

Yes, 6th Ward

CITY COUNCIL PRELIMINARY APPROVAL:

August 8, 2003

BOND COUNSEL:

Faegre & Benson

UNDERWRITERS:

RBC Dain Rauscher, Inc.
Wells Fargo Brokerage Services, LLC

PROVIDING FOR THE ISSUANCE AND SALE OF \$13,800,000 VARIABLE RATE DEMAND REVENUE BONDS (THE CHILDREN'S THEATRE PROJECT), SERIES 2003 AND AUTHORIZING EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS

RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

1. Authority. This City is, by the Constitution and Laws of the State of Minnesota, including Sections 469.152 to 469.165, Minnesota Statutes, as amended (the "Act"), authorized to issue and sell its revenue bonds for the purpose of financing the cost of acquisition and construction of authorized projects and to enter into contracts necessary or convenient in the exercise of the powers granted by the Act.

2. Authorization of Bonds. The City hereby determines that it is necessary and expedient to authorize, and the City does hereby authorize, the issuance and sale of the City's Revenue Bonds (The Children's Theatre Project), Series 2003 (the "Bonds") pursuant to the Act to provide money to be loaned to The Children's Theatre Company, a Minnesota nonprofit corporation (the "Borrower") in the aggregate principal amount of Thirteen Million Eight Hundred Thousand Dollars (\$13,800,000) to finance costs of acquiring and constructing an addition to the Borrower's theater and educational facility (the "Project") to be leased to and operated by the Borrower.

3. Documents Presented. Forms of the following documents relating to the Bonds and the Project have been prepared or reviewed by bond counsel, and submitted to the City and are now on file in the office of the City:

(a) Loan Agreement (the "Loan Agreement") dated as of October 1, 2003, between the City and the Borrower, whereby the City agrees to make a loan of the proceeds of the Bonds to the Borrower to finance the Project and the Borrower agrees to pay amounts sufficient to provide for the full and prompt payment of the principal of, premium, if any, and interest on the Bonds;

(b) Indenture of Trust (the "Trust Indenture") dated as of October 1, 2003, between the City and a bank or trust company (the "Trustee"), pledging the revenues to be derived from the Loan Agreement as security for the Bonds, and setting forth proposed recitals, covenants and agreements relating thereto;

(c) Bond Purchase Agreement (the “Bond Purchase Agreement”) among the City, the Borrower and RBC Dain Rauscher Inc. and Wells Fargo Brokerage Services, LLC (the “Underwriters”); and

(d) Preliminary Official Statement (the “Preliminary Official Statement”), from which an Official Statement pertaining to the Bonds will be generated (this document and the Official Statement not to be executed by the City).

4. Findings. It is hereby found, determined and declared that:

(a) The Project furthers the purposes and policies of the Act.

(b) The City held a public hearing relating to the Project, the application for approval of the Project was approved by the Commissioner of Employment and Economic Development and, in the opinion of bond counsel based on representations of the Borrower, the Bonds will be qualified Section 501(c)(3) bonds within the meaning of Section 145 of the Code.

(c) The Loan agreement provides for payments by the Borrower to the Trustee for the account of the City of such amounts as will be sufficient to pay the principal of and interest on the Bonds when due. The Loan Agreement obligates the Borrower to provide for the operation and maintenance of the Project, including adequate insurance, taxes and special assessments. The Loan Agreement further provides for the payment of fees to the City as set forth therein.

(d) The payment of principal and interest on the Bonds is supported by a bank Letter of Credit.

(e) The Borrower has approved and requested the City to accept the proposal of the Underwriters to purchase the Bonds on the terms set forth herein and in the Bond Purchase Agreement, and the proposal appears feasible and reasonable.

(f) The Bonds are, and are hereby designated to be, program bonds as defined in Resolution 88R-021 of the City Council adopted January 29, 1988, and as amended by Resolution 97R-402 of the City adopted December 12, 1997.

(g) Under the provisions of Section 469.162 of the Act and as provided in the Loan Agreement and Indenture, the Bonds are not to be payable from nor charged upon any funds other than amounts payable pursuant to the Loan Agreement and moneys in the funds and accounts held by the Trustee which are pledged to the payment thereof; the City is not subject to any liability thereon; no holders of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay any of the Bonds or the interest thereon, nor to enforce payment thereof against any property of the City; the Bonds shall never constitute an indebtedness of the City, within the meaning of any constitutional, statutory or charter limitation and shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; the Bonds shall not

constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City; and each Bond issued under the Trust Indenture shall recite that the Bond, including interest thereon, shall not constitute nor give rise to a charge against the general credit or taxing powers of the City and does not grant to the owner or holder of any Bond the right to have the City levy taxes or appropriate any funds for the payment of principal thereof or the interest or premium, if any, thereon and the Bond is not a general obligation of the City or individual officers or agents thereof.

5. Approval and Execution of Documents. The forms of Indenture, Loan Agreement and Bond Purchase Agreement referred to in paragraph 3 are approved and shall be executed in the name and on behalf of the City by the Mayor and attested by the Clerk and Finance Officer or the officers authorized to act on behalf of the foregoing officers, in substantially the form on file, but with all such changes therein, not inconsistent with the Act or other law, as may be approved by the officers executing the same, which approval shall be conclusively evidenced by the execution thereof. The Bonds shall be executed as provided by the Indenture. The Bonds shall contain a recital that they are issued pursuant to the Act and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

6. Certifications. The officers of the City are authorized and directed to prepare and furnish to bond counsel, to the Borrower, to the Underwriters and to counsel for the Borrower and the Underwriters, certified copies of all proceedings and records of the City relating to the Project and the Bonds, and such other affidavits and certificates as may be required to show the facts appearing from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the trust of all statements contained therein.