

**Request for City Council Committee Action  
from the Department of Community Planning & Economic Development - CPED**

Date: May 12, 2009

To: Council Member Lisa Goodman, Community Development Committee  
Council Member Paul Ostrow, Ways & Means/Budget Committee

**Subject:** Minneapolis Economic Recovery Strategy: A Public Hearing and Request for Preliminary Approval of up to \$20,000,000 in City of Minneapolis, Limited Tax-Supported Economic Development Revenue Bonds, Series 2009, for Open Access Technology International, Inc. (OATI) to be issued through the Minneapolis Common Bond Fund.

**Recommendation:** **The CPED Director recommends that the City Council adopt the attached Resolution giving Preliminary Approval to the issuance of up to \$20,000,000 in Limited Tax Supported Economic Development Revenue Bonds, Common Bond Fund Series 2009, for Open Access Technology International, Inc. to be issued through the Common Bond Fund and designating the bonds as bonds entitled to the security provided by Ordinance No. 87-OR-084, Chapter 424, Tax Reserve and Pledge Ordinance.**

**Previous Directives:** None

Prepared by: Charles Curtis, Business Finance 612-673-5069

Approved by: Charles T. Lutz, Deputy Director CPED \_\_\_\_\_

Catherine A. Polasky, Director, Economic Development \_\_\_\_\_

Presenters in Committee: Charles Curtis

**Reviews**

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

**Financial Impact**

- Other financial impact: The issuance of revenue bonds for the proposed OATI project will generate revenue bond administrative fees of approximately \$75,000 a year that are used to support the small business assistance programs of the City of Minneapolis.

**Community Impact**

- Neighborhood Notification: The Columbia Park Neighborhood has been notified of the proposed project.
- City Goals: The proposed project promotes the economic leadership of the City, promotes private business investment in the City, promotes job retention and creation and increases the City tax base.
- Sustainability Targets: N.A.
- Comprehensive Plan: The proposed project is in compliance with the Minneapolis Plan.
- Zoning Code: The proposed project is in compliance.
- Living Wage/Business Subsidy Agreement: To be determined.
- Job Linkage: To be determined

## Supporting Information

### Project Location & Description:

OATI was founded in 1995 and its headquarters is currently located in Plymouth. The company also has offices in San Mateo, California and Houston, Texas.

OATI is the largest North American provider of proprietary software services for the gas and electrical energy industries. The software services provide for scheduling, trading, evaluating risk management, transmission reservations, congestion management and compliance monitoring related to the distribution of energy to meet the demands of society. The company also provides similar services related to emission credits and allowances. OATI provides its software services for all of the United States and parts of Mexico and Canada.

OATI is requesting financing for the purchase, renovation and equipping of a facility located at 3660 Technology Drive in Minneapolis.

OATI's existing facility in Plymouth will remain as its emergency backup system.

### Type of Financing:

The proposed project calls for the issuance of revenue bonds through the Minneapolis Common Bond Fund, currently rated "A+" by Standard Poor's.

It is anticipated that the Bonds will be publicly issued with sales to both the institutional and retail markets. The Bonds will be secured by the property and equipment, one year's debt service reserve and the corporate and personal guaranty of the company owners.

The Bonds will provide the permanent "take-out" financing for the project.

### Sources:

Revenue Bonds	\$20,000,000
Equity	<u>11,300,000</u>
Total	\$31,300,000

### Uses:

Site Acquisition	\$7,100,000
Renovation/Equipment	21,600,000
Issuance costs/Reserve	<u>2,600,000</u>
Total	\$31,300,000

**Present Employment:** 400

**New Employment:** 50 to 100

**Assessor's Estimate Annual Tax Increase:** To be determined.

**Affirmative Action Compliance:** An Affirmative Action Plan will be completed.

### CITY IRB POLICIES:

Job Component

Minimum standard of one (1) job per 1,000

square feet of building area.

OATI: 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.

OATI: In compliance.

Development Standards

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

OATI: 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.

OATI: In compliance.

Restaurant/Bank

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

OATI: 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.

OATI: N.A.

IRB CAP:

The project is not subject to the volume cap in that there is no volume limitation for Taxable Revenue Bonds.

The project is subject to the State's limit on tax-exempt bond financing. An allocation for tax-exempt bonding authority will be requested from the State following the Preliminary Approval.

OATI: The proposed project will likely be financed with the issuance of taxable bonds. However, there is a possibility that an opportunity to issue tax-exempt bonds may develop as the administrative regulations and conditions on the issuance of Recovery Zone Facilities Bonds are clarified in the coming months. A final decision will be made prior to submission of a request for Final Approval.

FINANCIAL ADVISOR:

Dougherty & Company, LLC

BOND COUNSEL:

Gray, Plant & Mooty

UNDERWRITER:

RBC Capital and Piper Jaffray

RESOLUTION  
of the  
City of Minneapolis

Giving preliminary approval to a project on behalf of Open Access Technology International, Inc. and authorizing the issuance of revenue bonds or notes of the City of Minneapolis therefor; referring the proposed project to the Department of Employment and Economic Development for approval; and authorizing the preparation of necessary documents.

WHEREAS, under Sections 469.152 through 469.1651 of the Minnesota Statutes, as amended (the "Act"), the City of Minneapolis, Minnesota (the "City") is authorized to issue revenue bonds or notes for the purpose of providing financing for the acquisition, construction, rehabilitation and installation of projects consisting of real and personal properties used or useful in connection with a revenue-producing enterprise engaged in any business; and

WHEREAS, the City has assumed the obligations of the Minneapolis Community Development Agency (the "Agency") with respect to a certain common bond fund and intends to continue to issue revenue bonds to be secured thereby (the "Common Fund Bonds"); and

WHEREAS, the City has authority to issue Common Fund Bonds and is the successor to the Common Fund Bonds issued by the Agency; and

WHEREAS, in enacting the Act, the Legislature found that the welfare of the State of Minnesota requires the active promotion, attraction, encouragement and development of economically sound industry and commerce to prevent, as far as possible, the emergence of blight and areas of chronic unemployment and to prevent economic deterioration; and

WHEREAS, other factors necessitating such active promotion and development of industry and commerce within the City are the increasing movement of population and business to suburban areas, the steady and rapid increase in the amount and cost of governmental services required to meet the needs of the central City area and the need for more intensive development and use of land within the City to provide an adequate tax base to finance these costs; and

WHEREAS, the promotion, attraction, encouragement and development of economically sound industry and commerce provides employment opportunities for residents of the City and encourages land development, thereby increasing the tax base of the City and overlapping taxing districts; and

WHEREAS, Open Access Technology International, Inc., a Minnesota corporation, or an affiliate thereof (the "Company"), has proposed to acquire, improve and equip an existing building located at 3660 Technology Drive in the City (hereinafter, the "Project"), to be used in the operation of its software solutions business for the energy industry; and

WHEREAS, the Company has proposed that the City issue one or more series of its Common Fund Bonds (the "Bonds"), for the purpose of financing the Project, including certain incidental expenses thereto, in a principal amount expected to not exceed \$20,000,000, and the proposal calls for the proceeds realized upon the sale of the Bonds to be applied by the Company pursuant to a revenue agreement wherein the Company will be obligated to acquire, improve and equip the Project and to make payments under the revenue agreement at the times and in the amounts sufficient to provide for the prompt payments of principal of, premium, if any, and interest on the Bonds and all costs and expenses of the City incident to the issuance and sale of the Bonds; and

WHEREAS, the City has been advised by representatives of the Company that conventional, commercial financing to pay the capital cost of the Project has not been obtained and is available only on a limited basis and at such high costs and on such terms of borrowing that the economic feasibility of the Project would be significantly impaired, such that the Project might not be undertaken but for the availability of industrial development bond financing under the Act; and

WHEREAS, the City Council has been advised that the proposed bond issue has been submitted to the Mayor and the Planning Commission of the City at least fourteen (14) days prior to consideration hereof; and

WHEREAS, it is proposed that the Bonds would be further secured by Chapter 424 of the City Code of Ordinances; and

WHEREAS, the proposed Project consists of real and/or personal properties to be used in a revenue-producing enterprise engaged in business, as authorized by the Act; and

WHEREAS, the undertaking of the proposed Project and the issuance of the Bonds to finance the cost thereof will further promote the public purposes and legislative objectives of the Act by encouraging the location and retention of revenue-producing enterprises within the City, by increasing the tax base of the City and overlapping taxing jurisdictions, by providing additional or retaining existing employment opportunities for residents of the City and surrounding area or by stimulating the development and redevelopment of marginal lands within the City; and

WHEREAS, except as may be authorized by Chapter 424 of the City Code of Ordinances, the full faith and credit of the City will not be pledged or responsible for the Project or for the payment of the principal of, premium, if any, and interest on the Bonds;

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

A. That it is hereby found and determined that the Project might not be undertaken but for the availability of industrial development bond financing under the Act.

B. That the undertaking of the Project and the issuance by the City of its Bonds pursuant to the Act in an approximate aggregate principal amount of \$20,000,000 or such other amount approved by the City not exceeding such sum by more than ten percent (10%), to finance the costs thereof, all as referred to above, is hereby authorized and approved by the City, subject to the approval of the Project by the Department of Employment and Economic Development of the State of Minnesota (the "Department") under the Act, and to the agreement of the City, the Company and the purchaser or purchasers of the Bonds on the detailed terms and conditions on which the Project will be acquired, improved and equipped and the Bonds will be issued, sold and secured.

C. That in accordance with Sections 469.152 through 469.1651, Minnesota Statutes, staff of the City is hereby authorized and directed to submit the proposal for undertaking the Project to the Department requesting approval of the Project. The Finance Officer, the City Attorney and other officers, employees and agents of the City are hereby authorized to provide the Department such preliminary information as may be required for this purpose. The City Attorney is also authorized, in cooperation Gray, Plant, Mooty, Mooty & Bennett, P.A., as bond counsel, to initiate preparation of such documents as may be appropriate to the Project in order that, when and if the Project is approved by the Department, it may be carried forward expeditiously.

D. That the adoption of this resolution by the City does not constitute a guarantee or a firm commitment that the City will issue the Bonds as requested by the Company. The City reserves the right, in its sole discretion, to withdraw from participation

and accordingly not issue any Bonds to finance the Project at any time prior to the adoption of the resolution authorizing the issuance of such Bonds should the City so determine.

E. That the City shall not adopt a resolution authorizing the issuance of the Bonds until all persons and entities, including the Company, involved in the operations or ownership of the Project have complied with all requirements of and had their respective affirmative action plans and equal opportunity requirements approved by the affirmative action office of the City.

F. That if and when the Bonds are issued by the City such Bonds shall be designated by the City Council of the City as bonds entitled to the security provided by Chapter 424 of the City Code of Ordinances and that the Bonds hereby requested to be designated shall not exceed \$20,000,000 or such other amount approved by the City not exceeding such sum by more than ten percent (10%).

G. This Resolution shall constitute the official intent of the City to reimburse expenditures by the Company with respect to the Project, within the meaning of Section 1.150-2 of the Treasury Regulations.