



**Request for City Council Committee Action  
from the Department of Community Planning and Economic Development**

**Date:** December 12, 2006

**To:** Lisa Goodman, Chair Community Development Committee

**Subject:** A Public Hearing and Request for Issuance of Refunding Bonds of up to \$11,700,000 of 501(c)(3) Tax Exempt Revenue Refunding Bonds and up to \$800,000 of Taxable Revenue Refunding Bonds for 17<sup>th</sup> Avenue Housing, LLC.

**Recommendation:** It is recommended that the City Council adopt the attached resolution on the issuance of up to \$11,700,000 of 501(c)(3) Tax Exempt Revenue Refunding Bonds and up to \$800,000 of Taxable Revenue Refunding Bonds for 17<sup>th</sup> Avenue Housing, Limited Liability Company.

**Previous Directives:** In 1991 the City Council approved Housing Revenue Bonds issued through the Minneapolis Common Bond Fund.

On June 24<sup>th</sup>, the City Council gave preliminary approval and a public hearing was held for tax exempt multi-family housing revenue bonds for 17<sup>th</sup> Avenue Housing LLC.

On September 19, 2002, the City Council gave final approval of up to \$10,710,000 of 501(c)(3) Tax Exempt Multi-family Housing Revenue Bonds and \$520,000 in Taxable Bonds for 17<sup>th</sup> Avenue Housing Limited Liability Company.

Prepared by: Cherré Palenius, Senior Project Coordinator
Approved by: Charles T. Lutz, Deputy CPED Director _____
Elizabeth Ryan, Director Housing Policy/Development _____
Presenter in Committee: Cherré Palenius (612.673.5241)

**Financial Impact**

- Other financial impact: Annual bond fees will be collected when the bonds are issued.

**Community Impact**

- Neighborhood Notification: The Marcy Holmes and Prospect Park Neighborhoods were notified of this request.

- City Goals: A Safe Place to Call Home. Minneapolis residents will have access to housing and services and benefit from healthy lifestyles.
- Sustainability Targets: Not applicable.
- Comprehensive Plan: This project complies.
- Zoning Code: The project complies.
- Other: This financial refinancing transaction is exempt from Living Wage/Business Subsidy and job linkage requirements.

**Background/Supporting Information:**

The Wedum Foundation is a 501(c)(3) family foundation, based in Minneapolis, whose primary focus is the support of youth through the advancement of higher education by generating new sources of scholarship funds and providing scholarships to worthy students. The Foundation has been assisted in achieving this mission through the development and ownership of multi-family housing, both senior and student housing. The Keeler Apartments facility is a student housing project whose owner is 17<sup>th</sup> Avenue Housing, LLC, a limited liability company organized in the State of Minnesota that is a wholly owned subsidiary of the Wedum Foundation.

In September, 2002, 17<sup>th</sup> Avenue Housing LLC received approval for up to \$10,710,000 in tax-exempt housing revenue bonds and up to \$520,000 in taxable bonds for the Keeler Apartments located at 317 Seventeenth Avenue S. E. The financing included a Series A and B Bonds. The Series 2002A and B Bonds were secured by a guarantee provided by Wedum Foundation (borrower), were privately placed, and carried a 35-year amortization schedule.

In order to secure a lower interest rate on the Series A and B Bonds, 17<sup>th</sup> Avenue Housing, LLC is requesting a refunding of the Series 2002A Tax-Exempt Housing Revenue Refunding Bonds and Series 2002B Taxable Housing Revenue Refunding Bonds in an amount not to exceed \$12,500,000. The bonds will be secured by a guarantee provided by the Wedum Foundation. The developer has agreed to make 20% of the units available to students whose household incomes do not exceed 50% of the metropolitan median income.

HRB Entitlement – Refunding bonds; no entitlement authority is needed.

BOND COUNSEL- Kennedy and Graven

UNDERWRITER – Dougherty & Company, LLC

COUNCIL MEMBER INFORMED – Yes, Ward 2

Attachments:

Multifamily Project Data Worksheet  
City Council Resolution

**PROPOSED RESOLUTION  
OF THE  
CITY OF MINNEAPOLIS**

**Authorizing the issuance, sale, and delivery of revenue bonds for the benefit of 17th Avenue Housing, LLC to refinance the Keeler Apartments project; approving the form of and authorizing the execution and delivery of the revenue bonds and related documents; and providing for the security, rights, and remedies with respect to the revenue bonds**

Resolved by the City Council of the City of Minneapolis, Minnesota:

Section 1. Recitals.

1.01. The City. The City of Minneapolis, Minnesota (the "City"), is a municipal corporation duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota.

1.02. Statutory Authorization. Pursuant to the laws of the State of Minnesota, particularly Minnesota Statutes, Chapter 462C, as amended (the "Act"), the City is authorized to carry out the public purposes described therein and contemplated thereby by issuing revenue bonds to provide funds to finance the acquisition, rehabilitation, or construction of multifamily housing developments within the City, and is authorized to enter into any agreements made in connection therewith and pledge those agreements as security for the payment of the principal of, premium, if any, and interest on any such revenue bonds. Under the terms of the Act, the City may also issue revenue bonds for the purpose of refunding any revenue bonds of the Issuer issued under the Act including the payment of any redemption premium and any interest to accrue to the redemption date.

1.03. Prior Bonds. On October 21, 2002, the City issued the following obligations at the request of 17th Avenue Housing, LLC, a Minnesota limited liability company (the "Borrower"), whose sole member is J.A. Wedum Foundation, a Minnesota nonprofit corporation ("Wedum"), pursuant to the terms of an Indenture of Trust, dated as of October 1, 2002 (the "Prior Indenture"), between the City and U.S. Bank National Association, as trustee: (i) Housing Revenue Bonds (Keeler Apartments Project), Series 2002A (the "Series 2002A Bonds"), issued by the City in the original principal amount of \$10,035,000; and (ii) Taxable Housing Revenue Bonds (Keeler Apartments Project), Series 2002B (the

"Series 2002B Bonds"), issued by the City in the original principal amount of \$495,000 (the "Series 2002A Bonds and the Series 2002B Bonds are hereinafter referred to collectively as the "Prior Bonds"). The proceeds derived from the sale of the Prior Bonds were loaned to the Borrower pursuant to the terms of a Loan Agreement, dated as of October 1, 2002 (the "Prior Loan Agreement"), between the City and the Borrower. The proceeds of the loan made pursuant to the Prior Loan Agreement were applied to finance the development, design, acquisition, construction, and equipping of a forty-four (44) unit student housing facility, known as Keeler Apartments, located at 317-17th Avenue S.E. in the City of Minneapolis (the "Project"). The Project was designed and constructed primarily for rental to and occupancy by students attending the University of Minnesota.

1.04. The Borrower and the Project. The Borrower has proposed that the City issue the following series of revenue bonds pursuant to the terms of a Trust Indenture, dated as of January 1, 2007 (the "Indenture"), between the City and U.S. Bank National Association, as trustee (the "Trustee"): (i) Housing Refunding Revenue Bonds (Keeler Apartments Project), Series 2007A (the "Series 2007A Bonds"), in an original aggregate principal amount not to exceed \$11,700,000, and (ii) Taxable Refunding Housing Revenue Bonds (Keeler Apartments Project), Series 2007B (the "Series 2007B Bonds"), in an original aggregate principal amount not to exceed \$800,000 (the Series 2007A Bonds and the Series 2007B Bonds are hereinafter referred to collectively as the "Series 2007 Bonds"). The proceeds derived from the issuance and sale of the Series 2007 Bonds will be loaned by the City to the Borrower pursuant to the terms of a Loan Agreement, dated as of January 1, 2007 (the "Loan Agreement"), between the City and the Borrower, and applied to the following purposes: (i) the defeasance of the Prior Bonds; (ii) the funding of a debt service reserve fund for the Series 2007 Bonds, and (iii) the payment of the costs of issuance and certain other costs associated with the issuance of the Series 2007 Bonds.

## Section 2. Terms of the Series 2007 Bonds.

2.01. The Series 2007 Bonds. The Series 2007 Bonds will be issued under the Indenture. The principal of, premium, if any, and interest on the Series 2007 Bonds: (i) shall be payable solely from the revenue pledged therefor; (ii) shall not constitute a debt or a general or moral obligation of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute nor give rise to a pecuniary liability of the City or a charge against the City's general credit or taxing powers; and (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Project.

2.02. The Loan. The City will loan the proceeds derived from the issuance and sale of the Series 2007 Bonds to the Borrower pursuant to the terms of the Loan Agreement. The loan repayments to be made by the Borrower under the Loan Agreement are fixed to produce revenue sufficient to provide for the prompt payment of the principal of, premium, if any, and interest on the Series 2007 Bonds. The Loan Agreement and the Indenture also provide that the Borrower is required to pay all expenses of the operation and maintenance of the Project, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all lawfully imposed taxes and special assessments levied upon or with respect to the Project and payable during the terms of the Loan Agreement and the Indenture.

2.03. The Security for the Series 2007 Bonds. The repayment of the loan under the terms of the Loan Agreement and the payment of the principal of, premium, if any, and interest on the Series 2007 Bonds will be secured by a Combination Leasehold Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases, dated as of January 1, 2007 (the "Mortgage"), between the Borrower and the City, to provide security for the payment of the Series 2007 Bonds and for the performance of the Borrower's obligations under the Loan Agreement; and (ii) a Guaranty Agreement, dated as of January 1, 2007 (the "Guaranty"), between Wedum and the Trustee for the benefit of the Holders of the Series 2007 Bonds.

2.04. Affordability Standard. The Borrower will comply with City of Minneapolis/Community Development Agency's Affordable Housing Policy by ensuring that at least twenty percent (20%) of the units will be affordable to households earning fifty percent (50%) or less of the metropolitan median income. Pursuant to the Act, specifically Section 462C.05, subdivision 2, the Project is designed to be affordable by persons and families with adjusted gross income not in excess of the limits set forth in Section 462C.03 subdivision 2, of the Act and by other persons and families to the extent determined to be necessary in furtherance of the policy of economic integration stated in Minnesota Statutes, Section 462A.02, subdivision 6, as amended. To ensure compliance with the occupancy restrictions established by the City and the occupancy restrictions under Section 462C.05, subdivision 2 of the Act, the Borrower will covenant under the terms of the Loan Agreement that it will comply with the City of Minneapolis/Community Development Agency's Affordable Housing Policy and the affordability standard under Section 462C.05, subdivision 2, of the Act.

2.05. Assignment of City Interests. The City will assign its interests in the Loan Agreement, except for the City's rights to certain fee payments, indemnification, and rights to reimbursement of certain expenses, including the loan repayments required to be made by the Borrower under the terms of the Loan Agreement, to the Trustee under the terms of the Indenture. The City will also assign its interests in the Mortgage to the Trustee, for the benefit of the bondholders, pursuant to an Assignment of Mortgage, dated as of January 1, 2007 (the "Assignment"), between the City and the Trustee.

2.06. Documents. Forms of the following documents have been submitted to the City and are now on file with the City: (i) the Loan Agreement; (ii) the Indenture; (iii) the Mortgage; (iv) the Assignment; (v) the Guaranty; (vi) the Tax Exemption Agreement, dated as of the date of issuance of the Bonds (the "Tax Exemption Agreement"), between the Borrower and the Trustee; (vii) the Disbursing Agreement, dated as of January 1, 2007 (the "Disbursing Agreement"), between the Borrower, the Trustee, and Commercial Partners Title, LLC, a Minnesota limited liability company, as disbursing agent; and (viii) the Bond Purchase Agreement, of even date herewith (the "Bond Purchase Agreement"), among the City, the Borrower, and Dougherty & Company LLC (the "Underwriter").

### Section 3. Issuance of Series 2007 Bonds.

3.01. Findings. The City Council of the City hereby finds, determines, and declares that:

(a) The issuance and sale of the Series 2007 Bonds, the execution and delivery by the City of the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Mortgage, and the Assignment and the performance of all covenants and agreements of the City contained in the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Mortgage, and the Assignment are (i) authorized by the Act, (ii) consistent with the purposes of the Act, and (iii) constitute a public purpose and are in the best interests of the City.

(b) The housing program prepared with respect to the Project and the Borrower at the time the Prior Bonds were issued has been amended and restated (the "Amended and Restated Housing Program"). The City submitted the Amended and Restated Housing Program to the Metropolitan Council for review and comment.

(c) A public hearing was held with respect to the Project and the Amended and Restated Housing Program on December 12, 2006 after publication of notice on November \_\_\_\_, 2006 in *Finance and Commerce*, the official newspaper and a newspaper of general circulation in the City, with respect to: (i) the required public hearing under Section 147(f) of the Code; and (ii) the preliminary approval of the issuance of the Series 2007 Bonds.

3.02. Authorization. The City Council of the City, for the purposes set forth above, hereby authorizes:

(a) The issuance, sale, and delivery of the Series 2007 Bonds in an original aggregate principal amount not to exceed \$12,500,000 and in the form, and upon the terms and conditions set forth in the Indenture.

(b) The Loan Agreement, the Indenture, the Mortgage, the Assignment, and the Bond Purchase Agreement are hereby approved in substantially the forms on file with the City on the date hereof, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof (including changes to the principal amount of the Series 2007 Bonds, the determination of the interest rates on the Series 2007 Bonds, changes to the terms of redemption of the Series 2007 Bonds, and changes to the terms of the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Mortgage, and the Assignment, as hereinafter defined), or as the Finance Officer, in his discretion, shall determine, and the execution thereof by the Finance Office shall be conclusive evidence of such determination. The Finance Officer is authorized and directed to execute and deliver, on behalf of the City, the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Mortgage, the Assignment and such other documents as are necessary or appropriate in connection with the issuance, sale, and delivery of the Series 2007 Bonds, including UCC-1 financing statements, an Endorsement to the Borrower's Tax Compliance Certificate (including certifications as to arbitrage and rebate under Section 148 of the Code), the Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038 (Rev. January 2002), and all other documents and certificates as shall be necessary and appropriate in connection with the issuance, sale, and delivery of the Series 2007 Bonds (the "City Documents"). Copies of all City Documents and all other documents necessary to the transaction herein described shall be delivered, filed and recorded as provided herein, in

the Loan Agreement and in the Indenture. All of the provisions of the City Documents, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof.

(c) The City hereby authorizes the Trustee to execute and deliver the Indenture, the Tax Exemption Agreement, the Assignment, the Continuing Disclosure Agreement, the Disbursing Agreement, and any other document which is necessary or appropriate in connection with the issuance, sale, and delivery of the Series 2007 Bonds.

(d) The Amended and Restated Housing Program is hereby adopted, ratified, and approved in all respects without further amendment. The preparation of the Amended Housing Program and the submission of the Housing Program to the Metropolitan Council are hereby ratified, confirmed, and approved.

3.03. Special, Limited Obligations. The Series 2007 Bonds shall be special, limited revenue obligations of the City, and the proceeds derived from the issuance and sale of the Series 2007 Bonds shall be disbursed pursuant to the terms of the Indenture, the Loan Agreement, and the Disbursing Agreement, and the principal of, premium, if any, and interest on the Series 2007 Bonds shall be payable solely from the proceeds of the Series 2007 Bonds, the revenues derived from the Loan Agreement and the other sources set forth in the Indenture.

3.04. Trustee as Paying Agent. The Trustee is hereby appointed as Paying Agent and Bond Registrar for the Series 2007 Bonds.

3.05. Disclosure Documents. The City has not participated in the preparation of any disclosure document with respect to the Series 2007 Bonds, including the Preliminary Official Statement (the "Preliminary Official Statement") or the Official Statement relating to the Series 2007 Bonds (the "Official Statement") and has made no independent investigation with respect to the information contained therein, including the Appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy, or completeness of such information. Subject to the foregoing, the City hereby consents to the distribution and the use by the Underwriter in connection with the sale of the Series 2007 Bonds of the Preliminary Official Statement and the Official Statement. The Preliminary Official Statement and the Official Statement are the sole materials consented to by the City for use in connection with the offer and sale of the Series 2007 Bonds. The City hereby approves the Continuing Disclosure Agreement, dated as of January 1, 2007 (the "Continuing Disclosure Agreement"), between the Borrower and the Trustee, in the form now on file with the City, and hereby authorizes the Trustee to execute and deliver the Continuing Disclosure Agreement, substantially in the form now on file with the City with such omissions and insertions as do not materially change the substance thereof, or as the Borrower and the Trustee, in their discretion, shall determine.

3.06. Rights Conferred. Nothing in this resolution or in the City Documents is intended or shall be construed to confer upon any person (other than as provided in the

Indenture and the other agreements, instruments, and documents hereby approved) any right, remedy, or claim, legal or equitable, under and by reason of this resolution or any provision of this resolution.

3.07. Severability. In case any one or more of the provisions of this resolution, other than the provisions contained in the first sentence of Section 3.03 hereof, or of the City Documents, or of the Series 2007 Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the City Documents, or of the Series 2007 Bonds, but this resolution, the City Documents, and the Series 2007 Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein.

3.08. Validity. The officers of the City, bond counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the City Documents, and the Series 2007 Bonds for the full, punctual and complete performance of all the terms, covenants and agreements contained in the Series 2007 Bonds, the City Documents and this resolution. In the event that for any reason the Finance Officer is unable to carry out the execution of any of the documents or other acts provided herein, any other officer or employee of the City delegated to act in lieu of the Finance Officer shall be authorized to act in the capacity of the Finance Officer and undertake such execution or acts on behalf of the City with full force and effect, which execution or acts shall be valid and binding on the City.

3.09. Program Bonds. The Bonds are hereby designated as "Program Bonds" and are determined to be within the "Housing Program" and the "Program," as all defined in Resolution 88R-021 of the City of Minneapolis adopted January 29, 1988, as amended by Resolution 97R-402 of the City of Minneapolis, adopted December 12, 1997.

3.10. Effective Date. This resolution shall be in full force and effect from and after its approval and publication.

MN130-155 (JAE)

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