

# Request for MCDA Board of Commissioners Action from the Department of Community Planning & Economic Development - CPED

Date: April 14, 2009

To: Council Member Lisa Goodman, Community Development Committee

Referral to: MCDA Board of Commissioners

**Subject:** Minneapolis Economic Recovery Strategy: A Public Hearing and Request for Preliminary and Final Approval of up to \$2,850,000 in 501(c)(3) Bank Qualified Bank Direct Tax-exempt Minneapolis Community Development Agency Revenue Bonds for the Open Arms of Minnesota Project.

**Recommendation: City Council Recommendation: Adopt the attached Resolution, giving Preliminary and Final Approval to the issuance of up to \$2,850,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Revenue Bonds, Series 2009 for the Open Arms of Minnesota 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 \$2,850,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Revenue Bonds, Series 2009 for the Open Arms of Minnesota project.**

**Previous Directives: None.**

Prepared by: Becky Shaw, Business Finance Phone: 612-673-5066
Approved by: Charles T. Lutz, Deputy Director CPED _____
Catherine A. Polasky, Director, Economic Development _____
Presenters in Committee: Becky Shaw

## Reviews

- Permanent Review Committee (PRC): Approval \_N.A.\_ Date \_\_\_\_\_

## Financial Impact

- Other financial impact: The issuance of revenue bonds on behalf of will generate revenue bond administrative fees of approximately \$7000 a year that are used to support the small business assistance programs of the City of Minneapolis.

### **Community Impact**

- Neighborhood Notification: The Midtown Phillips Neighborhood has been notified of this project.
- City Goals: This project promotes the City's 5 year goal for providing Housing, Health and Safety where residents will have a better quality of life and access to housing and services.
- Sustainability Targets: N.A.
- Comprehensive Plan: The proposed project is in compliance with the policies of the Minneapolis plan.
- Zoning Code: The proposed project is in compliance.
- Living Wage/Business Subsidy Agreement Yes \_\_\_\_ No X All conduit revenue bonds allocated under State Statute 474A, refunding bonds and 501(c)(3) bonds are exempt from the State Act. City bond financing is not subject to the City's local Ordinance if the intent of the bond financing is not to create jobs.
- Job Linkage Yes \_\_\_\_ No X

### **Supporting Information**

#### **Project Location & Description:**

Open Arms of Minnesota is a non-profit Minneapolis organization which prepares and provides free meals specifically tailored to meet the nutritional needs of individuals living with serious and life threatening diseases. Open Arms started in 1986 in the apartment kitchen of founder Bill Rowe. Mr. Rowe began shopping, cooking and preparing meals for a group of men living with AIDS who were too ill to shop and cook for themselves. A dedicated pool of volunteers soon began streaming in to assist in the meal preparation and delivery. From the very beginning, Open Arms staff and volunteers have committed themselves to feeding anyone living in a household affected by disease. From apartment kitchens to church basements then to their current facility on Franklin Avenue, Open Arms has once again outgrown its kitchen and facility. In 2007, over 193,000 meals were delivered to over 900 clients living with HIV/AIDS, ALS, breast cancer, and MS. In 2008 over 250,000 meals were prepared and delivered.

At this time, Open Arms of Minnesota is requesting Revenue Bond financing to assist in the construction of a new facility which will be their designated headquarters. The facility located at the corner of 25<sup>th</sup> and Bloomington, will include a new kitchen, office spaces, conference rooms and storage. The construction of the new facility will enable Open Arms to enhance services offered to their current clients while expanding operations to provide food and nutrition to many more people facing illness and hunger.

#### **Type of Financing:**

Bank Qualified Bank Direct Tax-exempt bonds will be underwritten by Bremer Bank. The proceeds of the bonds will be used to construct a 20,000 sq. ft. headquarters containing office space, conference rooms, a kitchen and storage facilities at 2500 Bloomington Avenue South. Other sources of funds including capital campaigns, a CPED 2% loan and an

environmental cleanup grant obtained through the City of Minneapolis for Hennepin County, Met Council and the State of MN DEED. Proposed sources and uses of funding for this project are as follows:

Sources of funds:

BQ Bonds	\$2,850,000
Capital Campaigns	4,865,200
Environmental Clean-up Grant	309,000
CPED 2% Funds (pending)	<u>75,000</u>
Total Sources:	\$8,099,200

Uses of funds:

Construction	\$4,000,000
Land	705,000
Kitchen Equipment	800,000
Agency Costs	685,000
Professional Fees	553,000
General Project Contingency	590,000
Financing	267,700
Fundraising Budget	353,000
FF&E	<u>145,500</u>
Total uses:	\$8,099,200

**Present Employment:** Open Arms currently employs 14 Full Time individuals and has over 1400 volunteers.

**New Employment:** Open Arms will create 7 Full Time positions after constructing the new facility.

**Assessor’s Estimate Annual Tax Increase:** Tax-exempt facility.

**Affirmative Action Compliance:** Open Arms of Minnesota is working with the City to write an affirmative action plan.

**CITY IRB POLICIES:**

Job Component Minimum standard of one (1) job per 1,000 square feet of building area.

Open Arms: 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.
	Open Arms: In compliance.
Development Standards	Compliance with the Land Use Plan of the City's Comprehensive Plan.
	Open Arms: 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.
	Open Arms: In compliance.
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.
	Open Arms: 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.
	Open Arms: In compliance.
<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.
<u>BOND COUNSEL:</u>	Leonard, Street and Deinard
<u>UNDERWRITER:</u>	Bremer Bank

**RESOLUTION**  
**of the**

# CITY OF MINNEAPOLIS

By \_\_\_\_\_

**Giving preliminary and final approval to and authorizing the financing of a project on behalf of Open Arms of Minnesota, Inc. (the "Company"), and authorizing the issuance of a revenue bond of the Minneapolis Community Development Agency therefore.**

Whereas, pursuant to Laws of Minnesota 1980, Chapter 55, 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 \$2,850,000 (the "Bond") to finance the construction of new Company headquarters, including office, conference room, kitchen and storage facilities located at 2500 Bloomington Avenue South in the City; 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 a variable interest rate, shall have an expected maturity date of five (5) years, 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 a principal amount of \$2,850,000 for the purpose of financing the construction described above.

Be It Further Resolved 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.

Certified as an official action of the City Council:

RECORD OF COUNCIL VOTE (X INDICATES VOTE)													
COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN	COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN
President Johnson							Goodman						
							Glidden						
Ostrow							Schiff						
Gordon							Remington						
Hofstede							Benson						
Samuels							Colvin Roy						
Lilligren							Hodges						

PASSED \_\_\_\_\_  
 VETOED \_\_\_\_\_  
 DATE

APPROVED  NOT APPROVED

ATTEST \_\_\_\_\_  
 CITY CLERK

\_\_\_\_\_  
 MAYOR DATE

## RESOLUTION

of the

# MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY

By \_\_\_\_\_

**Relating to the Minneapolis Community Development Agency Revenue Bond (Open Arms of Minnesota Project) Series 2009; 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 Company relating to the Bond;

"Bond" means the Revenue Bond (Open Arms of Minnesota Project), Series 2009 to be issued by the Agency pursuant to this Resolution in the principal amount of \$2,850,000;

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

"City" means the City of Minneapolis, Minnesota;

"Company" means Open Arms of Minnesota, Inc., a Minnesota nonprofit corporation, its successors and assigns;

"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 construction of the Company's new headquarters, including office, conference room, kitchen and storage facilities located at 2500 Bloomington Avenue South in 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 Company 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 nonprofit services;

(c) the financing 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 payments contained in the Agreement are designed 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 Company 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 make available the proceeds of the Bond to the Company;

(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. Authorization and Approval of Documents.

3.01. Authorization. The Agency is authorized by the Act to issue revenue bonds and enter into revenue agreements to finance the construction of facilities constituting a "project" as defined in the Act, and to make all contracts, execute all instruments and do all things necessary or convenient in the exercise of such authority.

3.02. Approval of Documents. 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. Execution of Bond Documents.

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 Bond initially shall bear a variable interest rate. The Bond shall have a term of approximately five years.

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 Company 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 Finance Officer or Assistant Finance Officer of the City 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 Company will make the following representations in the Agreement:

(a) The Company 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 private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) as to which the Company will be the borrower during this calendar year 2009 will not exceed \$30,000,000; and

(c) Obligations in a principal amount not greater than \$30,000,000, as to which the Company will be the borrower during this calendar year 2009, have been designated by the Company for purposes of Section 265(b)(3)(G)(ii) of the Code.

RECORD OF COMMISSIONER VOTE													
Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust	Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust
Benson							Lilligren						
Colvin Roy							Ostrow						
Glidden							Remington						
Gordon							Samuels						
Hodges							Schiff						
Hofstede							Goodman, chair						
Johnson													
Vote: NV - Not Voting			Abs - Absent			Ovrd - Vote to Override			Sust - Vote to Sustain				

**ADOPTED** \_\_\_\_\_ . \_\_\_\_\_  
**APPROVED** \_\_\_\_\_ . \_\_\_\_\_  
**NOT APPROVED** \_\_\_\_\_ . \_\_\_\_\_  
**VETOED** \_\_\_\_\_ . \_\_\_\_\_

**Chairperson**  
**Mayor**

Minneapolis Community Development Agency  
 Crown Roller Mill, 105 Fifth Ave. S.  
 Minneapolis, MN 55401