

Minneapolis Community Development Agency

Request for City Council Action

Date: December 2, 2003

To: Council Member Lisa Goodman, Community Development Committee

Refer to: MCDA Board of Commissioners

Prepared by Mark S. Anderson, Senior Contract Compliance Specialist,
Phone 612-673-5289

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

Subject: Approval of an amendment to the By-Laws and Joint Powers Agreement for the Minneapolis/St. Paul Housing Finance Board

Previous Directives: This issue deals with the transfer of MCDA's activities to the City. There have been no previous directives relating to such a transfer in connection with the Minneapolis/St. Paul Housing Finance Board.

Ward: Not applicable

Neighborhood Group Notification: Not applicable

Consistency with *Building a City That Works*: Not applicable

Comprehensive Plan Compliance: Not applicable

Zoning Code Compliance: Not applicable

Impact on MCDA Budget: (Check those that apply)

- 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):

Living Wage / Business Subsidy: Not applicable

Job Linkage: Not applicable

Crown Roller Mill,
105 Fifth Ave. S., Suite 200
Minneapolis, MN 55401-2534
Telephone: (612) 673-5095
TTY: (612) 673-5154
Fax: (612) 673-5100
www.mcda.org

Affirmative Action Compliance: Not applicable

RECOMMENDATION:

City Council Recommendation: The Executive Director recommends that the City Council adopt the attached Resolution authorizing an amendment to the Joint Powers Agreement and Bylaws of the Minneapolis/Saint Paul Housing Finance Board.

MCDA Board Recommendation: The Executive Director recommends that the Board of Commissioners adopt the attached Resolution authorizing an amendment to the Joint Powers Agreement and Bylaws of the Minneapolis/Saint Paul Housing Finance Board.

Background/Supporting Information

Since 1984, the City and the MCDA have partnered with the City of Saint Paul and the Saint Paul Housing and Redevelopment Authority to create and maintain the Minneapolis/Saint Paul Housing Finance Board (Joint Board). The purpose of the Joint Board has been to act as the bond issuing entity on behalf of the two cities. This allows the two cities to maximize their exposure in the bond market and to benefit from cost efficiencies that can be attained through coordinated use of resources such as attorneys, financial consultants, bond underwriters, rating agencies, and so on.

This action complies with the City's directive to transfer assets and responsibilities from the MCDA to the City. Approving the attached Resolutions will be the last action of the MCDA relating to this Joint Board. All future activities will be the sole responsibility of the City as it relates to Minneapolis' interests.

APPROVING THIRD AMENDMENT OF JOINT POWERS AGREEMENT
REGARDING CREATING THE MINNEAPOLIS/SAINT PAUL HOUSING FINANCE
BOARD

WHEREAS, the City of Minneapolis (“Minneapolis”) acknowledged and accepted the Joint Powers Agreement Creating the Minneapolis/Saint Paul Housing Finance Board (the “Board”) as of December 1, 1984, entered into by the Housing and Redevelopment Authority of the City of Saint Paul (the “HRA”), the Minneapolis Community Development Agency (the “MCDA”), and which was acknowledged and accepted by the City of Saint Paul (“Saint Paul”); and

WHEREAS, such agreement was amended by a First Amended Joint Powers Agreement Creating the Minneapolis/Saint Paul Housing Finance Board dated as of November 1, 1986, by and between the MCDA, the HRA and Minneapolis and accepted by Saint Paul; and

WHEREAS, such agreement was further amended by a Second Amendment to Joint Powers Agreement, dated as of October 1, 1994, by and between the MCDA, the HRA and Minneapolis and accepted by Saint Paul; and

WHEREAS, in light of the enactment by Minneapolis of Section 415.10 through 415.70 of its Minneapolis Code of Ordinances, it is in the best interest of the public health, safety and welfare that the joint powers agreement creating the Board be further amended;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Minneapolis as follows:

1. That the Mayor and Finance Officer of Minneapolis are hereby authorized and directed to execute and deliver, on behalf of Minneapolis, a Third Amended Joint Powers Agreement Creating the Minneapolis/Saint Paul Housing Finance Board, dated as of November 1, 2003, in substantially the form on file with Minneapolis as of the date hereof.
2. Be it further resolved that the staff of Minneapolis are authorized and directed to take any and all actions as may be necessary or convenient to effect the changes made by such Third Amended Joint Powers Agreement.

THIRD AMENDED JOINT POWERS AGREEMENT

Creating the

**MINNEAPOLIS/SAINT PAUL
HOUSING FINANCE BOARD**

Originally Dated as of December 1, 1984

First Amendment Dated as of November 1, 1986

Second Amendment Dated as of October 1, 1994

Third Amendment Dated as of November 1, 2003

JOINT POWERS AGREEMENT

THIS JOINT POWERS AGREEMENT is entered into as of the 1st day of December, 1984, by and between the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "HRA"), and the Minneapolis Community Development Agency (the "CDA"), each a body corporate and politic organized under the laws of the State of Minnesota, pursuant to Minnesota Statutes, Section 471.59, including subdivision 11 thereof, and Sections 469.001 to 469.047 (formerly Chapter 462), first amended as of November 1, 1986 by the HRA, CDA and the City of Minneapolis ("Minneapolis"), a political subdivision of the State of Minnesota; second amended as of October 1, 1994 by the HRA, CDA and Minneapolis and now amended as of November 1, 2003 by the HRA, CDA and Minneapolis.

1. Statement of Purpose and Powers to be Exercised. There is a need in both the City of Saint Paul, Minnesota, and the City of Minneapolis, Minnesota (collectively, the "Cities"), to preserve the quality of life through the maintenance, provision and preservation of adequate housing stock, to encourage new housing construction and the rehabilitation of substandard structures, to provide in a timely fashion affordable housing primarily to persons of low and moderate income who are unable to afford housing at current market interest rates or to obtain housing financing because of the severely restricted mortgage credit market, and to provide financing to providers of residential housing at rents and interest rates which permit the development or rehabilitation of housing at costs affordable to persons of low and moderate income. In order to promote the public health, welfare and prosperity, the HRA and Minneapolis hereby undertake to act jointly in furtherance of the foregoing purposes and to undertake to create the joint housing finance board provided for herein for the public purposes of providing decent, safe, sanitary and affordable housing to residents of the Cities.

The powers to be exercised by the HRA and Minneapolis or by the Board (as hereafter defined) are the powers conferred upon each City (and, in the case of St. Paul, the HRA) in Minnesota Statutes, Chapter 462C, the powers conferred on the HRA and Minneapolis by Minnesota Statutes, Section 469.001 *et seq.*, and the powers now or hereafter conferred upon the Cities and the HRA under any general or special law of the State of Minnesota, and, in the case of Minneapolis, the powers formerly conferred on the CDA under general or special law or by ordinance and reserved to the City of Minneapolis by its Ordinance No. 86-OR-36, and transferred to the City by its Ordinance No. 2003-OR-104, including without limitation, the (i) power to undertake financing programs to implement individual components of the housing plan developed by and for each City pursuant to Minnesota Statutes, Chapter 462C, and to issue revenue bonds to finance such programs, (ii) the power to undertake projects and programs to implement the purposes of Minnesota Statutes, Chapter 469, and to issue revenue bonds to finance such programs and projects, (iii) the power to issue revenue bonds and to use the proceeds thereof to carry out the powers conferred upon either City or the HRA by any general or special law heretofore or hereafter enacted and approved, and (iv) the power to act as a joint board to implement any project or program and to use for that purpose the proceeds of revenue bonds issued by the Board or by the HRA or Cities. Subject to any further action of such City, the City of Saint Paul hereby specifically designates the HRA and the Board to exercise its powers under Minnesota Laws 1981, Chapter 222, and Minnesota Statutes, Chapter 474A, or any successor bonding authority allocation law, to issue bonds subject to the Internal Revenue Code

of 1986, as amended, in the amount set out in said Chapter 222 or as allocated to either City under said Chapter 474A or any successor bonding authority allocation law and to use the proceeds thereof within either City. Subject to any further action by such City, the City of Minneapolis hereby specifically designates the Board to exercise its powers under Minnesota Laws 1981, Chapter 222, and Minnesota Statutes, Chapter 474A, or any successor bonding authority allocation law, to issue bonds subject to the Internal Revenue Code of 1986, as amended, in the amount set out in said Chapter 222 or as allocated to either City under said Chapter 474A, or any successor bonding authority allocation law, and to use the proceeds thereof within either City.

2. Method by Achieving Purpose; Manner of Exercising Power. The City of Saint Paul has previously adopted an ordinance designating the HRA to exercise its powers under Minnesota Statutes, Chapter 462C or any related special law. Pursuant to the approval and consent of the Cities provided by their respective ordinances and evidenced by their acknowledgement and acceptance of this Agreement below, the HRA and the City of Minneapolis, shall exercise the powers of a City or its designated housing and redevelopment authority under Minnesota Statutes, Chapter 462C, or any related special law, either jointly by and through the Board or jointly by themselves.

The HRA and Minneapolis have each adopted a resolution designating the Board to implement any project or program which either the HRA or Minneapolis is authorized to undertake under Minnesota Statutes, Chapter 469 or 462C and to exercise the powers conferred on the HRA or Minneapolis under Minnesota Statutes, Section 469.001 et seq. or any general or special Law of the State of Minnesota and to issue revenue bonds and use the proceeds thereof as set forth herein.

The Board created hereby shall have the same powers, except as provided herein, subject to the same conditions and limitations which would apply if the powers enumerated above, including the power to issue the bonds or obligations, were exercised by the HRA or Minneapolis, and for that purpose any reference in any statute, law or charter provisions authorizing the exercise of said powers or authorizing the issuance of bonds under Chapters 469 or 462C or any general or special law may be considered a reference to the Board. Accordingly, the Board shall have the power to adopt such regulations or resolutions as shall be necessary or convenient to exercise such powers and to the extent permitted by law, to issue and sell revenue bonds or obligations with respect to which the Board shall be obligated, and to adopt or enter into such other resolutions, documents and agreements as shall be necessary or convenient to properly manage, administer and operate the projects or programs utilizing the proceeds of bonds or obligations issued by the Board or the HRA or Minneapolis and such other funds as may be made available for use in conjunction with the projects or programs.

The projects or programs shall be managed, administered and operated in the manner provided herein and in the documents related thereto. Except as otherwise provided herein, the Board may act singularly, without any consent by or action of the HRA or Minneapolis, with respect to the administration of the projects or programs to the extent provided in the related documents.

3. Limitations on the Powers of the Board. The powers of the Board are hereby expressly limited to those powers necessary or convenient for the implementation of projects and programs for the acquisition, development, construction, rehabilitation, improvement and financing of decent, safe, sanitary and affordable residential housing facilities and facilities functionally related and subordinate thereto or necessary in connection therewith.

The powers of the Board shall be further limited as follows:

(a) The Board shall not undertake to issue bonds or obligations under Chapter 462C or otherwise implement a Chapter 462C program or project until and unless either the City of Saint Paul or the City of Minneapolis (if the proceeds are to be used solely within one City) or both Cities (if the proceeds are to be used within both Cities) have approved the financing program as provided in Chapter 462C and adopted a resolution or resolutions authorizing any or all of the HRA or the Cities to undertake the financing programs by the issuance of bonds or obligations by the Board and any or all of the HRA or the Cities, as appropriate, have adopted a resolution designating the Board to issue the bonds or obligation on their behalf. Any action herein required to be taken by Saint Paul may be taken by the HRA upon authorization by such City in accordance with applicable laws and ordinances.

(b) The Board shall not undertake to issue bonds or obligations under Chapter 469 or implement any project or program under Chapter 469 until and unless either the HRA or Minneapolis (if the proceeds are to be used within the jurisdiction of one City) or both of them (if the proceeds are to be used within the jurisdiction of both Cities) have adopted a resolution or resolutions approving the financing of the project or program and designating the Board to issue the bonds or obligations on their behalf.

(c) The Board shall not undertake to issue bonds or obligations under any other general or special law or implement any project or program hereunder until and unless: (i) if bond proceeds are to be used in Minneapolis, Minneapolis; (ii) if bond proceeds are to be used in Saint Paul, both Saint Paul and the HRA; and (iii) if bond proceeds are to be used in both Cities, Minneapolis, Saint Paul and the HRA; has or have adopted a resolution or resolutions approving the financing of the project or program and designating the Board to issue the bonds or obligations on their behalf.

(d) The Board may not pledge the full faith and credit or taxing power of either City or the HRA for any purpose whatsoever.

(e) The bonds or obligations shall be issued in conformance with the provisions of Chapter 469, Chapter 462C, Chapter 474A or any other applicable general or special law, as appropriate.

(f) The Board shall not undertake any other project or program except pursuant to a resolution or resolutions adopted by either or both of the HRA and Minneapolis, as appropriate.

(g) The Board shall not issue bonds or obligations in its own name unless the Board has received an opinion of recognized bond counsel to the effect that the Board has the requisite

power and authority to issue bonds or obligations which are valid and enforceable under Minnesota law, and further to the effect (if the Board proposes to issue tax exempt bonds or obligations) that the Board has the requisite power and authority to issue bonds or obligations the interest on which is exempt from federal income taxation.

Nothing herein shall be construed to limit the powers of the Board to the issuance of revenue bonds or obligations the interest on which is exempt from federal income taxation.

4. Definitions. In this Agreement, unless a different meaning clearly appears from the context, the following terms shall have the following respective meanings:

Board: The Minneapolis/Saint Paul Housing Finance Board created herein;

Bonds: Any bonds or other obligations issued by the Board in the exercise of its powers granted hereunder or by the Cities or the HRA in the exercise of their joint powers granted hereunder; and such bonds or obligations may be issued, for any particular series, in the form of a single debt instrument, or upon such terms and conditions, consistent with this Agreement, as the Board or the HRA and Minneapolis shall deem appropriate;

Cities: The City of Minneapolis, Minnesota, and the City of Saint Paul, Minnesota;

Minneapolis: The City of Minneapolis, Minnesota;

Program: Any housing finance program pursuant to Minnesota Statutes, Chapters 469 and 462C, or any other general or special law, approved by the respective governing bodies of the Cities and, in the case of Saint Paul, the HRA, or all of them, as appropriate, and pursuant to which the proceeds of a series of Bonds shall be used to finance the purposes of the Program;

Project: Any residential housing project or development authorized under Minnesota Statutes, Chapters 469 or 462C, or any other general or special law to be financed from the proceeds of one or more series of Bonds;

Saint Paul: The City of Saint Paul, Minnesota.

5. Creation of the Minneapolis/Saint Paul Housing Finance Board; Powers and Duties. There is hereby created the Minneapolis/Saint Paul Housing Finance Board representative of the HRA and Minneapolis, consisting of not more than six members and having the powers and duties provided herein with respect to the development, implementation and administration of Programs and Projects and the issuance of Bonds therefor.

6. Members.

(a) The Board shall consist of not more than six members provided that acting members may be appointed as provided in Section 6(b) below. One-half of the members shall be nominated by the Chair of the HRA and approved by its governing body, and shall reside in the City of Saint Paul. Members and acting members of the Board appointed by

the HRA must be commissioners of the HRA. One-half of the members shall be appointed by the Minneapolis City Council, and shall reside in the City of Minneapolis. Members and acting members of the Board appointed by Minneapolis must be members of the City Council. Members shall hold office for a term of four years or until their successors are appointed and qualified; provided that the initial members of the Board may be appointed for terms of more or less than four years, if so nominated and approved by the appropriate governing body. Acting members shall serve for a term equal to the period for which such person is designated as an acting member pursuant to Section 6(b). Vacancies (other than temporary vacancies filled by an acting member) shall be filled in the manner provided above for appointment. A member or acting member may be removed at any time with or without cause by the appropriate governing body and shall be removed upon ceasing to be a Commissioner of the HRA or a Minneapolis Council member, as applicable. Members and acting members shall receive no compensation, but may be reimbursed for their actual costs and expenses incurred in carrying out their duties as members of the Board.

(b) In the case of the temporary absence or disability of any regular member of the Board, the chair of the governing body of which such member of the Housing Finance Board is also a member may designate any other member of said governing body to be an acting member of the Board. Such designation may be for the purpose of a single meeting of the Housing Finance Board, or to perform a specific function of a member of the Housing Finance Board, or for a specific period of time. Upon expiration of such designation, the member of the Housing Finance Board replaced temporarily by the acting member shall resume his or her duties and obligations as a member of the Housing Finance Board. For all purposes of this Joint Powers Agreement, an acting member of the Housing Finance Board shall be entitled to exercise all of the powers and duties of a regular member for the period such person is designated to be an acting member. Specifically, but without limitation: such acting member shall be counted for the purposes of determining whether a quorum of members is present for a meeting of the Housing Finance Board; the acting member shall be entitled to vote upon any matter coming before the Housing Finance Board during the period of the acting member's designation; the acting member may execute and deliver contracts and other instruments for and on behalf of the Housing Finance Board as specified in the resolution of the members of the Housing Finance Board relating to the specific matter.

7. Meetings. Meetings of the Board shall be held at such times, but at least once annually, and at such places and with such notice as shall be provided in such by-laws as the Board may adopt. Matters concerning the agenda of meetings, minutes of meetings, rules of order or procedure, quorum requirements and the number of votes required for effective Board action shall be as set forth in any bylaws or resolutions adopted by the Board.

8. Officers and Employees. The members of the Board shall elect from among their number a Chair, a Treasurer (who shall also act as Vice Chair) and a Secretary. The Board may employ or retain such employees, staff, legal counsel, advisors, consultants or investment bankers as the Board shall deem necessary or desirable in connection with its Projects or Programs. The compensation, benefits and expenses of such persons shall be as agreed to between such persons and the Board, provided that any such compensation, benefits or expenses

shall only be paid for services rendered or expenses incurred in furtherance of the purposes for which the Board is created, and then only to the extent not inconsistent with Section 15 hereof.

9. Source and Contribution of Funds. The source of funds for the Board and for the Projects and Programs undertaken by the Board shall be the proceeds of the Bonds and such other properties and revenues as shall be loaned or contributed to or derived from a Program or Project.

10. Budget and Disbursements. The Board may, but need not, require an annual budget for itself or for any Project or Program. Moneys and funds shall be held, applied, disbursed, and accounted for as set forth in the documents, agreements or instruments relating to each Project or Program or in such manner not inconsistent with such documents, agreements or instruments as the Board may determine.

11. Liability for Debts and Obligations. The Board shall not do any act or thing the effect of which is to create a charge on or lien against the property or revenues of the HRA or the Cities, other than the revenues of a Program or Project financed by Bonds issued by the Board, and then only to the extent required by or not inconsistent with the indenture of trust or other instrument or resolution entered into by the Board in connection with the issuance of the Bonds.

The Bonds shall be special, limited obligations of the Board or the HRA or Minneapolis, as appropriate, payable solely from proceeds, revenues and other amounts pledged thereto and more fully described in the indenture of trust or other instrument or resolution relating thereto. The Bonds and the interest thereon shall neither constitute nor give rise to an indebtedness, pecuniary liability, general or moral obligation or a pledge of the faith or loan of credit of the HRA, either of the Cities, the State of Minnesota or any political subdivision of the above, within the meaning of any Constitutional or statutory provisions.

12. Terms of Agreement; Termination. This Agreement may be terminated by concurrent action of the HRA and Minneapolis upon the retirement or defeasance of the last outstanding Bonds, and this Agreement may not be terminated in advance of such retirement or defeasance.

13. Distribution of Assets upon Termination. Upon termination of this Agreement and dissolution of the board, all properties acquired by the board and any surplus moneys shall be returned or distributed to the HRA and Minneapolis in such proportion as the Board shall then determine.

14. Amendments. This Agreement may be amended by the HRA and Minneapolis at any time by a written instrument executed by both of them, which amendment, to be effective, must be consented to by the City of Saint Paul. To the extent Minnesota Statutes, Section 471.59, or Minnesota Statutes, Chapters 469 or 462C, or Minnesota Laws 1981, Chapter 222, or any other applicable general or special law of the State of Minnesota, shall be amended or supplemented, this Agreement shall be deemed amended to the extent required to conform to such law as amended or supplemented, subject however to the next succeeding sentence. No amendment hereto may impair the rights of the holders of any of the Bonds, unless they have

consented to such amendment in the manner provided for amendment of the indenture of trust or other resolution, instrument or resolution pertaining thereto.

15. Benefit. Any net earnings of the Board (beyond those required for retirement of Bonds or to implement the public purposes for which the board is created) may not inure to the benefit of any person other than the HRA and Minneapolis.

16. Effective Date. The modifications made by this Third Amended Joint Powers Agreement shall be effective from and after November 1, 2003. All other provisions hereof shall continue in full force and effect.

IN WITNESS WHEREOF, The Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, has caused this Agreement to be executed on its behalf by its Chair, Executive Director and Director, Office of Financial Services, and duly attested by its Secretary; and the Minneapolis Community Development Agency has caused this Agreement to be executed on its behalf by its Chair, Executive Director and Finance Officer and duly attested by its Secretary; and the City of Minneapolis has caused this Agreement to be executed on its behalf by its Mayor and Finance Officer, and has caused the seal of said City to be hereunto affixed and duly attested by its City Clerk.

THE HOUSING AND REDEVELOPMENT
AUTHORITY OF THE CITY OF
SAINT PAUL, MINNESOTA

By _____
Its Chair

By _____
Its Executive Director

By _____
Its Director, Office of Financial Services

Approved as to Form:

Secretary

MINNEAPOLIS COMMUNITY
DEVELOPMENT AGENCY

By _____
Its Chair

Approved as to form:

By _____
Its Executive Director

Assistant City Attorney

By _____
Its Finance Officer

Attest:

By _____
Its Secretary

CITY OF MINNEAPOLIS, MINNESOTA

By _____
Its Mayor

(SEAL)

By _____
Its Finance Officer

Attest:

By _____
Its City Clerk

Department Head Approval:

Approved as to form:

Assistant City Attorney

ACKNOWLEDGEMENT AND ACCEPTANCE

The foregoing has been consented to and approved by the City of Saint Paul, Minnesota. Said City agrees to be bound by the terms and conditions of the foregoing Agreement and to take no action In derogation thereof.

IN WITNESS WHEREOF, said City has caused this Agreement to be executed by its Mayor and its Director, Office of Financial Services, and attested by its City Clerk, and its seal to be hereunto duly affixed and attested.

CITY OF SAINT PAUL, MINNESOTA

(SEAL)

By _____
Its Mayor

By _____
Director, Office of Financial Services

Attest:

City Clerk

Approved as to Form:

Assistant City Attorney