

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

Date: April 6, 2010

To: Council Member Lisa Goodman, Community Development Committee

Subject: Request for Approval Authorizing the Execution of Documents Related to Amendments to the Series 2003 Bonds for the Guthrie Theatre.

Recommendation: The CPED Director recommends that the City Council adopt the attached Resolution authorizing the execution of various documents to amend the Series 2003 Bonds issued for the Guthrie Theatre.

Previous Directives: In 2003 the City of Minneapolis issued \$85 million in Tax-exempt 501(c)(3) revenue bonds for the Guthrie Theatre project. The Issue's documents were approved for amendment in October 2009 to allow for the merger of Wells Fargo & Company and Wachovia Corporation.

Prepared by: Charles Curtis, CPED Business Finance	
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. Date _____

Financial Impact

- Other financial impact: The issuance of revenue bonds in 2003 for the Guthrie Theatre is generating revenue bond administrative fees of approximately \$46,000 a year that are used to support the small business assistance programs of the City of Minneapolis.

Community Impact

- Neighborhood Notification: At the time of the bond issuance in 2003 the Downtown Minneapolis Neighborhood Association was notified of the bond project.
- City Goals: The project was consistent with the City Goal of preserving and enhancing the urban institutes and amenities that define Minneapolis.
- Sustainability Targets: N.A.

- Comprehensive Plan: The project continues to be in compliance with the policies of the Minneapolis Plan.
- Zoning Code: 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 X No ____ The Guthrie Theatre Foundation signed a Business Subsidy Agreement and a Job Linkage Agreement as part of the Redevelopment Contract with the City.

Supporting Information

Project Location & Description:

The Guthrie Theatre has requested an approval from the City of Minneapolis of an amendment to documents related to its Series 2003 Bonds. The original bond issue was for \$85 million and was marketed as a Letter of Credit secured, variable rate bond. The Guthrie Theatre has reduced the outstanding bonds to \$20 million. The requested amendment of documents will allow the bonds to qualify as "qualified tax-exempt obligations" (Bank Qualified Bank Direct Bonds). The bonds will be purchased and held directly by two banks. This will result in savings for the Guthrie Theatre related to the Letter of Credit and Underwriting fees. The attached resolution authorizes the execution of the necessary amendments to the bond documents to allow for the conversion of the existing bonds to the new form of bonds and their placement.

Type of Financing:

Proceeds from the \$85 million in Series 2003 Bonds were used to construct the three-theater complex of approximately 285,000 sq. ft. with an aggregate seating capacity of approximately 2,150, together with associated production and administrative office space, an educational center and associated retail, beverage and food service facilities.

Bond Counsel: Dorsey & Whitney

Participating Banks: Wells Fargo & Company

U. S. Bank

RESOLUTIONS RELATING TO AMENDMENT OF
TERMS OF ADJUSTABLE RATE REVENUE BONDS
(GUTHRIE ON THE RIVER PROJECT), SERIES 2003A

WHEREAS, pursuant to Minnesota Statutes, Section 469.152 through 469.165, as amended, the City of Minneapolis (the "City") has previously issued on behalf of the Guthrie Theater Foundation, a Minnesota nonprofit corporation (the "Corporation"), its Adjustable Rate Revenue Bonds (Guthrie on the River Project), Series 2003A (the "Bonds").

WHEREAS, the Bonds were issued pursuant to the terms of an Indenture of Trust between the City and U.S. Bank National Association, as trustee, dated as of October 1, 2003 (the "Bond Indenture").

WHEREAS, the City loaned the proceeds of the Bonds to the Corporation pursuant to a Loan Agreement between the City and the Corporation dated as of October 1, 2003 (the "Loan Agreement").

WHEREAS, all of the Bonds presently bear interest at a Variable Rate, as such term is defined in the Bond Indenture.

WHEREAS, the Corporation has advised the City that in order to provide for one or more additional Interest Rate Periods (as defined in the Bond Indenture) for the Bonds, it will be necessary to amend the Bond Indenture and Loan Agreement to implement modifications and amendments to the terms of the Bonds and the Bond Indenture and the Loan Agreement, and the Corporation has requested that the City enter into an amendment to the Bond Indenture (the "Bond Indenture Amendment") and an amendment to the Loan Agreement (the "Loan Agreement Amendment") for these purposes.

WHEREAS, in connection with the amendment of the terms of the Bonds pursuant to the Bond Indenture Amendment and Loan Agreement Amendment, the Corporation will designate the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW THEREFORE, BE IT RESOLVED that the City hereby consents to the amendment of the terms of the Bonds to provide for one or more additional Interest Rate Periods, and subject to the approval of the forms thereof by City Attorney's Office, the Bond Indenture Amendment and the Loan Agreement Amendment are directed to be executed in the name and on behalf of the City by the City Finance Officer. Any reaffirmations requested to be executed by the City from time to time (the "Reaffirmations") of (i) the Ground Lease Estoppel Certificate, dated October 8, 2003, executed by the City and the Corporation in favor of Wells Fargo Bank, National Association (the "Bank"), (ii) the Lessor's Agreement, dated October 9, 2003, executed by the City in favor of the Bank, and (iii) the Subordination Agreement, dated as of March 31, 2004, executed by the City in favor of the Bank, are directed to be executed in the name and on behalf of the City by the City Finance Officer. Any other City documents and certificates necessary in connection with the amendment of the terms of the Bonds and execution of the Bond Indenture Amendment and Loan Agreement Amendment shall be executed by the appropriate City officers. The execution of any of the Bond Indenture Amendment, the Loan Agreement Amendment, the Reaffirmations or any other document or instrument by the City

Finance Officer or by the appropriate officer or officer of the City shall be conclusive evidence of the approval of such document in accordance with the terms hereof.

FURTHER RESOLVED, the Mayor, the City Clerk, the City Finance Officer and all other officers of the City are hereby authorized and directed to execute and deliver all other documents which may be required under the terms of the Bond Indenture Amendment or the Loan Agreement Amendment, and to take such other action as may be required or appropriate for the performance of the duties imposed thereby or to carry out the purposes thereof.

FURTHER RESOLVED, that the City joins in the designation by the Corporation of the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code in connection with the amendment of the terms of the Bonds pursuant to the Bond Indenture Amendment and Loan Agreement Amendment.

FURTHER RESOLVED, in the absence or disability of the Mayor, the City Clerk, the City Finance Officer or any other officer of the City named in any instrument to be executed on behalf of the City in connection with the amendment of the terms of the Bonds, the acting Mayor, Assistant City Clerk, Assistant City Finance Officer or other officer may execute such instrument.