

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

Date: October 20, 2009

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.

Prepared by: Bob Lind, CPED Business Finance

Approved by: Charles T. Lutz, Deputy Director CPED _____

Catherine A. Polasky, Director, Economic Development _____

Presenters in Committee: Bob Lind

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 are 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. As part of the December 31, 2008 merger of Wells Fargo & Company and Wachovia Corporation, the Public Finance business of Wells Fargo Brokerage Services will be consolidated with the Public Finance business of Wachovia Bank, on or about November 6, 2009. As part of this consolidation, legal counsel has been reviewing a number of outstanding agreements for revenue bonds issued by the City of Minneapolis. It has been determined that the Indenture of Trust between the City and Wells Fargo Bank will need to be amended to reflect the merger of Wells Fargo and Wachovia as to role and assignment of the remarketing agent for the variable rate bonds. The attached resolution authorizes the execution of the necessary amendments to the bond documents to handle the issues raised by the merger of Wells Fargo Bank and Wachovia Bank. Similar actions are being requested from other cities throughout the service areas of Wells Fargo and Wachovia. There may be additional requests made to the City of Minneapolis by other outstanding revenue bond projects and CPED staff will handle as appropriate.

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

Underwriters: RBC Capital Markets
Wells Fargo Brokerage Services
Piper Jaffray Inc.

RESOLUTION AUTHORIZING THE AMENDMENT OF TERMS OF THE SERIES 2003A
BONDS ISSUED ON BEHALF OF THE GUTHRIE THEATER FOUNDATION AND
AUTHORIZING THE EXECUTION OF DOCUMENTS

WHEREAS, the City of Minneapolis (the "City") has previously issued its Adjustable Rate Demand Revenue Bonds (Guthrie Theater on the River Project), Series 2003A (the "Bonds") pursuant to Minnesota Statutes, Sections 469.152 to 469.165 and an Indenture of Trust dated as of October 1, 2003 (the "Indenture") between the City and U.S. Bank National Association, as trustee (the "Trustee").

WHEREAS, the functions of the Remarketing Agent, as defined in the Indenture, for the Bonds are being assigned by Wells Fargo Brokerage Services, LLC (as successor to RBC Dain Rauscher Inc.) to Wachovia Bank, National Association, effective as of November 6, 2009, pursuant to an Assignment, Assumption and Amendment Agreement (the "Assignment Agreement"), a draft of which has been made available to the Council prior to this meeting and which has been reviewed to the extent deemed necessary.

WHEREAS, in conjunction with such assignment, the Remarketing Agent has requested that the City and the Trustee enter into an amendment to the Indenture (the "Indenture Amendment"), a draft of which has been made available to the Council prior to this meeting and which has been reviewed to the extent deemed necessary.

NOW, THEREFORE, BE IT RESOLVED, that the Assignment Agreement and the Indenture Amendment are hereby made a part of this Resolution as fully as though set forth in full herein and are hereby approved in the form submitted to this meeting, and the City Finance Officer is hereby authorized and directed to execute, acknowledge and deliver the Assignment Agreement and the Indenture Amendment on behalf of the City with such changes, insertions and omissions therein as do not change the substance of the Assignment Agreement or the Indenture Amendment and as may be approved by the City Finance Officer, such approval to be evidenced conclusively by his execution of the Assignment Agreement and the Indenture Amendment.

FURTHER RESOLVED, in the absence or disability of the City Finance Officer, the Acting Finance Officer or other officer may execute such instrument. The execution of any instrument by an officer of the City shall be conclusive evidence of its approval.