

Minneapolis Community Development Agency

Request for City Council Action

Date: December 2, 2003

To: Council Member Lisa Goodman, Community Development Committee

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: Public hearing and approval of the 2004 single family housing program and recycling program

Previous Directives: There have been no previous directives relating to the 2004 single family housing program.

Ward: All wards

Neighborhood Group Notification: Not applicable

Consistency with *Building a City That Works*: This action is consistent with Goal 2: Ensure that an array of housing choices exist to meet the needs of our current residents and attract new residents to the city.

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

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Affirmative Action Compliance: Not applicable

RECOMMENDATION: The Executive Director recommends that the City Council hold a public hearing, approve the attached Resolution approving the 2004 single family housing program that permits the creation of new mortgage programs, and approve the second Resolution attached to continue the mortgage revenue bond recycling program. Approve summary publication of these Resolutions.

Background/Supporting Information

Annually the City Council needs to approve a Single Family Housing Program in order for the City or the Minneapolis/Saint Paul Housing Finance Board to issue mortgage revenue bonds or mortgage credit certificates in support of the City's various single family mortgage or housing programs. The housing program establishes the structure of all future activities in connection with that year's tax-exempt housing bond allocation, with the exception that the City Council reserves the right to withdraw any uncommitted funds and can formally reallocate them to another acceptable housing activity.

With the City Council's approval of the 2004 housing program, staff plans to use past recycled mortgage revenue bond funds to create a new mortgage program with an anticipated release date of March 1, 2004. This new mortgage program will have the following outcomes and benefits to the City:

- Mortgages will be available to low, moderate, and middle income homebuyers throughout the Minneapolis at rates comparable to private lender rates, but with substantial additional assistance to borrowers. The single biggest hurdle for borrowers to overcome has been the necessary funds to close. This program will offer up to four points (4%) worth of funds that can be used to help a first time homebuyer to pay for closing costs and down payment on their home. On a \$150,000 mortgage this would equal an additional \$6,000 the borrower can use to help them pay these costs. These funds are not repaid since repayment is figured into the actual interest rate for the mortgages.
- The program will take advantage of partnerships with private lenders who will do all of the lending to the consumers. This will increase access to the program for the average borrowers. Past partners have included Wells Fargo Home Mortgage, Irwin Mortgage Corporation, TCF Mortgage, Countrywide Home Loans, as well as a number of smaller lenders.
- Because of the potential middle income component of the program, this will be a resource to encourage middle income homebuyers or homeowners to buy or maintain their home in the City.
- One component of the program will be making funds available for homebuyers or homeowners to complete substantial repairs or improvements to the residence.

- The anticipated size of Minneapolis' share of this bond issue is \$15 million with the possibility of making additional resources available if the program is successful.
- This new program will be done in partnership with the City of Saint Paul and Fannie Mae, who will be the purchaser of the bonds that finance the program.

Attached is a Resolution that outlines the housing program as well as provides the necessary City Council approval. This approval will allow the City or the Minneapolis/St. Paul Housing Finance Board to either issue single family mortgage revenue bonds or to convert some or all of the bonding authority to mortgage credit certificates, which are offered in connection with the *Take Credit!* mortgage credit certificate program. While this technically will a mortgage credit certificate program to go forward, staff does not anticipate recommending such a program because it could reduce future entitlement allocation by the amount of the bonds that are converted.

In addition, the City Council is requested to approve a tax-exempt mortgage revenue bond recycling program for 2004. Under this program any mortgage repayments or bond refundings are recycled by the City, which allows the City to maximize the available resources that may be directed toward future mortgage programs that would be offered under the *CityLiving*[™] home programs.

**MINNEAPOLIS/SAINT PAUL
2004 SINGLE FAMILY HOUSING FINANCE PROGRAM**

The City of Minneapolis, Minnesota (“Minneapolis”), the City of Saint Paul, Minnesota (“Saint Paul”) and the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the “Authority”), acting individually or jointly through the Minneapolis/Saint Paul Housing Finance Board (the “Joint Board”) (all together, the “Issuers”) propose to issue mortgage credit certificates (“MCCs”) under Section 25 of the Internal Revenue Code of 1986, as amended (together with regulations promulgated thereunder, the “Code”), or new money mortgage revenue bonds and certain mortgage revenue refunding bonds under Section 143 (or prior applicable sections) of the Code in one or more series, in either case to finance the single family housing finance program described herein (the “Program”) pursuant to authority conferred by Minnesota Statutes, Chapters 462C, 462A, 469 and 474A, all as amended, (and any other general or special law authority for the issuance of obligations to finance a single family housing program or development) (all together, the “Act”). Any action specified herein to be made by the Issuers may be made by one or more of them acting in concert or individually.

In creating this Program, the Issuers find and determine:

- that the preservation of the quality of life in Minneapolis and Saint Paul (the “Cities”) is dependent upon maintaining an adequate, decent, safe and sanitary housing stock;
- that maintaining such housing stock is a public purpose and will benefit the residents of the Cities;
- that a need exists within the Cities to provide additional affordable owner-occupied housing for low and moderate income persons and families and for other persons and families to the extent necessary to promote economic integration as provided in the Act; and
- that a need exists for mortgage credit to be made available for both existing and new owner-occupied housing, for rehabilitation of existing single family housing and for home improvements.

To meet such needs, the Issuers intend to issue one or more series of single family mortgage revenue bonds and single family mortgage revenue refunding bonds (“Bonds”) to cause the origination of mortgage loans to finance the acquisition, construction, rehabilitation or improvement of single family housing in the Cities (or either of them). In addition to or in lieu of issuing Bonds, the Issuers (or any one or more of them) may undertake a MCC program to issue MCCs to mortgagors who obtain mortgage loans to finance the purchase, construction, rehabilitation or improvement of single family housing in the Cities (or either of them). The Issuers may issue Bonds, or will elect not to issue bonds in favor of MCCs, in an aggregate principal amount of approximately (a) \$33,690,000 for Minneapolis and \$25,390,000 for Saint Paul, representing certain 2004 entitlement bond allocation of Minneapolis and Saint Paul; (b) an amount estimated to be \$135,000,000, but which in any event shall be an amount sufficient to refund outstanding mortgage revenue bonds and to recycle refund prepayments and repayments of certain outstanding bonds; and (c) such principal amount of taxable bonds as may be necessary or convenient to further the purposes of this Program.

Mortgage loans financed through the issuance of the Bonds and those in connection with which the MCCs will be issued, will be subject to the following terms (or, for Bonds as to which these requirements do not apply as a matter of law, to such other terms approved by the Board):

purchase price - the maximum purchase price for financed homes shall not exceed the lesser of (a) 90% (110% in “targeted areas” or areas treated as targeted areas) of the applicable “average area purchase price” determined by the United States Department of the Treasury or by the Issuers on the basis of more complete information, or (b) 3 times the applicable income limit for the Program imposed by Minnesota law

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(except that in certain areas the purchase price shall not exceed 4 times the applicable income limit to the extent consistent with applicable federal law);

income limits - the maximum income of the mortgagors shall be the lower of (a) the income restrictions imposed by federal tax law or (b) the income restrictions imposed by Minnesota Statutes, Section 462C.03, Subd. 2, including the restriction of Subd. 7 that for the first six months of the Program, 50% of the money available to make mortgage loans or the “non-issued bond amount” of MCCs must be reserved for persons and families with adjusted incomes not greater than 90% of the general Program income limits. Income limits under Section 462C.03, Subd. 2 shall be adjusted for family size by deducting \$1,000 per adult and \$1,200 per child in the family.

In connection with this Program:

- (i) (a) in connection with any mortgage loans financed with the proceeds of mortgage revenue bonds, any financial institutions described in Section 462C.03, Subd. 4, and other mortgage lenders with offices located in the Cities and which are FHA/VA approved sellers of mortgage loans as well as other financial institutions and mortgage lenders which are FHA/VA, or FNMA/FHLMC approved sellers of mortgage loans and are reasonably acceptable to any master servicer acting on behalf of the Issuers, will be eligible for consideration for origination of such loans; the Cities will not limit participation in the Program to a single lender unless other lenders are not willing to participate for the consideration offered; the Authority shall be eligible for consideration for origination of loans;
- (b) in connection with issuance of MCCs, MCCs will not be limited to loans originated by particular lenders but will be available with respect to the origination of qualifying mortgage loans by any participating lender;
- (ii) loans will not be made available or set aside for the exclusive use of developers or builders except, in the case of mortgage loans financed with the proceeds of mortgage revenue bonds, for new housing described in Section 462C.071, Subd. 2;
- (iii) the Issuers expect to act as, or to contract with, a program administrator and a servicer to provide services to ensure that the Program will be consistent with this Program, the Act and applicable federal law;
- (iv) as indicated above, the Cities respective 2004 entitlement allocations may be used in the Program, provided, however, that no provision of this Program shall in any way prevent either Minneapolis or Saint Paul from using all or a portion of its respective entitlement allocation(s) for multifamily housing or any other authorized purpose. In addition, any election made by the Cities to issue MCCs in lieu of Bonds may be revoked in whole or in part, at any time during the calendar year in which the election was made as permitted by Section 25 of the Internal Revenue Code and Section 1.25-4T(c)(3) of the Treasury Regulations. The resulting unused entitlement allocation may be used to issue bonds for single family housing or other authorized purposes ;
- (v) the Program will meet the needs of low and moderate income families by providing below-market rate financing for the acquisition or rehabilitation of single family homes or by providing a tax credit for mortgage interest paid, thereby enabling such persons to qualify for mortgages which would be unavailable at market rates;
- (vi) no homes which are located in previously unincorporated real property annexed by the Cities within one year prior to the date of adoption of this Program will be financed under this Program;

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(vii) prohibitions or limitations on assumption will be imposed to the extent required by federal law relating to the tax exempt status of Bonds or to the continued validity of MCCs issued pursuant to the Program; provided that the Issuers may impose more stringent limitations at their discretion;

(viii) the estimated amount of mortgage loans to be made or purchased pursuant to this Program is approximately equal to the aggregate principal amount of Bonds issued and the amount which either of the Issuers may elect not to issue in favor of MCCs;

(ix) the estimated aggregate principal amount of the Bonds, or estimated "non-issued bond amount" (as such term is used in Section 25(d)(2)(B) of the Code) of MCCs issued in lieu of the Bonds, is set forth above;

(x) the Bonds, if issued, may be issued in one or more series timed for sale consistent with the needs of the Cities in 2004, or, if any bond allocation is carried forward for single family purposes, in 2005;

(xi) refinancing of existing indebtedness will be permitted only where the mortgage loan also finances substantial "rehabilitation" as that term is defined under Minnesota Statutes, Section 462C.01 and Section 462C.03, Subd. 11 and under Section 143 of the Code;

(xii) to the extent required by the Act, during the first ten (10) months of the origination period, loans financed by the Bonds (but not mortgage loans assisted by MCCs) will be made for existing housing;

(xiii) the following additional provisions shall apply only to issuance of MCCs pursuant to this Program:

(1) the "certificate credit rate" (as used in Section 25 of the Code) will be 20%;

(2) a copy of the form which will be used to elect the nonissued bond amount is attached hereto as Exhibit A; and

(3) the Issuers will ensure compliance with the requirements of Section 25 of the Code by use of an MCC procedural manual for the Program and by use of the program administrator referenced in item (iii) above.

EXHIBIT A
TO
JOINT BOARD PROGRAM
MORTGAGE CREDIT CERTIFICATE ELECTION
(Pursuant to Temp. Reg. § 1.25-4T)

(i) Issuer name:

[Name]

[Address]

TIN:

[Number]

(ii) Issuer's Applicable limit, per § 146 of the Internal Revenue Code of 1986:

[ALLOCATION FOR 2004: \$_____]

[CARRYFORWARD ALLOCATION FROM PREVIOUS YEAR: \$_____]

- (iii) The aggregate amount of qualified mortgage bonds issued during the calendar year:
[Amount]
- (iv) The amount of the Issuer's applicable limit that it has surrendered to other issuers during the calendar year:
[Amount]
- (v) The date and amount of any previous elections under 1.25-4T(c) for 2004:
[Date and amount]
- (vi) The amount of qualified mortgage bonds that the issuer elects not to issue:
[Amount]

State Certification attached.

Dated: _____, 2004.

CITY OF [CITY]

By _____
Mayor

APPROVING A SINGLE FAMILY HOUSING PROGRAM TO BE FINANCED BY THE
ISSUANCE OF SINGLE FAMILY MORTGAGE REVENUE BONDS AND/OR MORTGAGE
CREDIT CERTIFICATES

WHEREAS, pursuant to the Minnesota Municipal Housing Act, Minnesota Statutes, Chapter 462C (the "Housing Act"), the City of Minneapolis, Minnesota (the "City") is authorized to adopt a housing plan and carry out programs for the financing of single family housing for persons of low and moderate income; and

WHEREAS, the Minneapolis/Saint Paul Housing Finance Board (the "Board"), a joint powers board organized under a Joint Powers Agreement (the "Joint Powers Agreement") originally dated as of December 1, 1984, and as subsequently amended, by and between the Minneapolis Community Development Agency, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "Authority") and the City and accepted by the City of Saint Paul, Minnesota ("Saint Paul"), and under the laws of the State of Minnesota, proposes to undertake a single family housing program relating to the Minneapolis and the Saint Paul entitlement allocations available in 2004 and certain recycling refunding bonds (the "Program"), to be financed by the issuance of one or more series of mortgage revenue obligations, mortgage revenue refunding obligations and/or mortgage credit certificates ("MCCs") pursuant to Minnesota Statutes, Sections 469.001 to 469.047, Chapters 462A, 462C and 474A and Section 471.59 (collectively, the "Act"); and

WHEREAS, pursuant to the Act, the Board is authorized to issue bonds from time to time and to use the proceeds of its bonds to make or purchase mortgage loans or to purchase participations in mortgage loans from lending institutions and to issue MCCs in order to finance the construction and rehabilitation, and to facilitate the purchase and sale, of single family housing for eligible persons or families under the Act and to issue bonds to refund previously issued bonds; and

WHEREAS, the Program will provide below market interest rate mortgage loan financing or income tax credits primarily to persons of low or moderate income purchasing single family homes to be used as their principal places of residence and located within the geographic limits of the City or Saint Paul; and

WHEREAS, the Act requires adoption of the Program after a public hearing held thereon following publication of notice in a newspaper of general circulation in the City and Saint Paul at least fifteen days in advance of the hearing; and

WHEREAS, the Community Development Committee of the City Council on December 2, 2003 conducted a public hearing on the Program after publication of notice as required by the Act; and

WHEREAS, the Program was submitted to the Metropolitan Council at or before the time of publication of notice of the public hearing on such Program, and the Metropolitan Council was afforded an opportunity to present comments at the public hearing, all as required by the Act; and

WHEREAS, the Program provides for the issuance of single family mortgage revenue bonds or revenue refunding bonds in one or more series pursuant to the Act (the "Bonds") to make or purchase or cause to be made or purchased mortgage loans, or to purchase securities the proceeds of which would be used to purchase mortgage loans, and the issuance of MCCs to finance the acquisition, primarily by low and moderate income persons and families, of single family housing located within the geographic boundaries of the City or Saint Paul; and

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WHEREAS, it is proposed that the Program be approved and the Board be authorized to issue Bonds and MCCs pursuant to the Program and the Joint Powers Agreement; and

WHEREAS, it appears that the Program and the issuance of Bonds and/or MCCs by the Board are in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

1. That the Program is hereby approved in its entirety in substantially the form on file with the City. The officers of the City are authorized to take all actions as may be necessary or appropriate to carry out the Program in accordance with the Act and any other applicable laws and regulations.

2. Be It Further Resolved that the issuance of the Bonds or of MCCs to finance the Program is hereby finally approved subject to agreement by the Board and the purchasers of the Bonds, if any, and by the Board as issuer of the MCCs, as to the exact terms of the Bonds and the MCCs.

3. Be It Further Resolved that the Bonds may be issued in one or more series at the time or times and pursuant to terms determined by the Board, and be structured so as to take advantage of whatever means are available and are permitted by law to enhance the security for, or marketability of, the Bonds, provided that any such financing structure must be approved by the Board. The MCCs may be issued at the time or times and pursuant to terms determined by the Board. All such determinations by the Board must comply with the applicable provisions of the Act and the Internal Revenue Code, of 1986, as amended, and regulations promulgated thereunder.

4. Be It Further Resolved that the Board is authorized to take all actions which may be necessary or desirable in connection with the issuance of the Bonds and the MCCs, and no further approval or consent of the City shall be required prior to the issuance of the Bonds or the MCCs by the Board, or prior to the taking of any action by the Board to undertake and implement the Program.

5. Be It Further Resolved that nothing in this Resolution or the documents prepared pursuant hereto shall authorize the expenditure of any municipal funds on the Program other than as specified and authorized by separate actions of the City and other than the revenues derived from the Program or otherwise granted to the City for such purpose. The Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property or funds of the City except the revenues and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Bonds shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal on the Bonds or the interest thereon, or to enforce payment against any property of the City. The Bonds shall recite in substance that the principal and interest thereon are payable solely from the revenues and

proceeds pledged to the payment thereof. The Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation of indebtedness.

6. Be It Further Resolved that any one or more series of Bonds (to the extent authorized by law) or the MCCs may be issued by the City in lieu of issuance by the Board, at the discretion of the City.

APPROVING A PROGRAM OF REFUNDING SINGLE FAMILY MORTGAGE REVENUE BONDS TO PROVIDE FOR THE RECYCLING OF PROGRAM MONIES TO MAKE ADDITIONAL LOANS FOR LOW OR MODERATE PERSONS AND FAMILIES AND APPROVING AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS IN CONNECTION THEREWITH

WHEREAS, the City of Minneapolis (*the City*), either (a) on its own behalf or (b) acting through the Minneapolis/Saint Paul Housing Finance Board (*the MHFB*), pursuant to that certain Joint Powers Agreement, as amended, by and between the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (*the HRA*), the Minneapolis Community Development Agency and the City of Minneapolis (*Minneapolis*) and accepted by the City of Saint Paul (*Saint Paul*), from time to time has issued individually or jointly with other issuers various series of single family mortgage revenue bonds (*the Prior Bonds*), for the purpose of providing below-market interest rate financing to low and moderate income persons and families (*Qualified Buyers*); and

WHEREAS, the federal tax law permits the issuance of tax-exempt refunding bonds to refund certain principal amounts of the Prior Bonds as they mature or become subject to redemption prior to maturity; and

WHEREAS, it is the policy of the City to “recycle” the resource represented by the Prior Bonds by authorizing the MHFB to issue refunding bonds (*the Refunding Bonds*) to the greatest extent possible to provide for the origination of additional single family loans to Qualified Buyers; and

WHEREAS, because the various series of Prior Bonds are due and become subject to redemption at various times during the calendar year in relatively small principal amounts which cannot efficiently and economically be refunded by the issuance of separate series of Refunding Bonds, the City, in cooperation with Saint Paul, proposes to make a loan or loans to the MHFB in amounts sufficient, from time to time, to permit the MHFB to refund the Prior Bonds, which loan or loans would be repaid with the proceeds of Refunding Bonds issued periodically by the MHFB;

NOW THEREFORE, be it resolved by the City Council of the City of Minneapolis, as follows:

1. The Director of Department of Community Planning and Economic Development or his designee is hereby authorized and directed to take such actions as are necessary or convenient to implement the City’s policy of maximizing the resource represented by the Prior Bonds. Without limiting the generality of the foregoing, the Director is specifically authorized to execute and deliver, from time to time, agreements, including any amendments thereto, and to do all other things necessary or convenient to provide for the loan of funds to the MHFB, which loan is to be secured by escrow deposits made by MHFB of proceeds of the Prior Bonds (*Escrow Deposits*) and to provide for the repayment of such loan from the proceeds of Refunding Bonds to be issued by the MHFB from time to time.

2. The City intends that the MHFB will issue Refunding Bonds at such times and in such amounts as are effective and economical and will use the proceeds to reimburse the City for any and all Escrow Deposits described in paragraph 1, all for the purpose of providing for the origination of additional single family mortgage loans to be made to Qualified Buyers.

3. All actions of the members, employees and staff of the City heretofore taken in furtherance of the policies of the City stated herein are hereby approved, ratified and confirmed.

Prior Bonds

<i>Single Family Mortgage Revenue Bonds or Refunding Bonds:</i>	<i>Issue Date</i>
Phase IV, Series A, B & C	5/1/1987
Phase V, Series A, B & C	11/1/1987
Phase VI, Series A	8/1/1988
Phase IX, Series A	8/29/1991
Phase X, Series A	11/30/1994; 9/1/1996
Phase XI, Series A & B	7/23/1997
Phase XII, Series A & B	12/29/1998
Home Ownership and Renovation, Phase III	12/1/1993
Home Ownership Program, Phase V	10/5/1995
Home Ownership Program	8/11/1998
CityLiving Home Programs Convertible Option Bonds, Series A & B	12/29/1998 (remarketed 6/22/1999)
CityLiving Home Programs, Series A-1, A-2 & A-3	8/19/1999
CityLiving Home Programs, Series B-1 & B-2	8/31/1999
CityLiving Home Programs, Series A-1 & A-2	4/18/2000
CityLiving Home Programs Convertible Option Bonds Series A-3	10/4/2000
CityLiving Home Programs Series B	10/4/2000; 9/7/2001
CityLiving Home Programs, Series A-1, A-2, A-3 & A-4	5/3/2001
CityLiving Home Programs, Series 2002A-3 & Series 2002B-1	4/25/2002
CityLiving Home Programs, Series 2002A,-1, Series 2002A-2 & Series 2002A-4	5/29/2002
CityLiving Home Programs, Series 2003A-1 & Series 2003B-1	4/30/2003
CityLiving Home Programs, Series 2003A-2 & Series 2003B-2	10/1/2003