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

Date: March 22, 2011

To: Council Member Lisa Goodman, Community Development Committee

Referral to: MCDA Board of Commissioners

Subject: A Public Hearing and Request for Preliminary and Final Approval of up to $6,100,000 in 501(c)(3) Bank Qualified Bank Direct Tax-exempt Minneapolis Community Development Agency Revenue Bonds for Mount Olivet Home.

Recommendation: City Council Recommendation: Adopt the attached Resolution, giving Preliminary and Final Approval to the issuance of up to $6,100,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Revenue Bonds, Series 2011 for Mount Olivet Home.

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 $6,100,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Revenue Bonds, Series 2011, for Mount Olivet Home.

Previous Directives: August 9, 2002 the Minneapolis City Council approved the issuance of $7,500,000 of Tax-exempt Revenue Bonds for improvements to Mount Olivet Home's existing facility, located at 5517 Lyndale Avenue South.

Prepared by: Charles Curtis, Senior Economic Development Specialist, 673-5069
Approved by: Charles T. Lutz, Deputy Director CPED ________________
Catherine A. Polasky, Director, Economic Development ________________
Presenters in Committee: Charles Curtis, Senior Economic Development Specialist

Reviews

- Permanent Review Committee (PRC): NA

Financial Impact

- Other financial impact: The issuance of revenue bonds for the Mount Olivet Home will generate revenue bond administrative fees of approximately $15,250 a year that are used to support the small business assistance programs of the City of Minneapolis.

Community Impact
- Neighborhood Notification: Windom Community Council has been notified.
- City Goals: The proposed refinancing fosters the development and preservation of a mix of quality housing types that is available, affordable, meets current needs, and promotes future growth.
- Sustainability Targets: NA
- Comprehensive Plan: The project is in compliance with the Minneapolis Plan.
- Zoning Code: The project is in compliance.
- Living Wage/Business Subsidy Agreement Yes ____ No __X__
- Job Linkage Yes ____ No __X__
- Other: NA

Supporting Information

Project Location & Description: 5517 Lyndale Avenue South

Ward 11

The applicant is a Minnesota non-profit corporation providing nursing home services since 1965. The nursing home, that accommodates 94 residents, is a skilled care facility.

The current proposed financing is a refunding of City of Minneapolis Series 2003 Tax-exempt Revenue Bonds. No new funds are being sought.

Interest rate savings will be used to support the facility's operation.

Type of Financing: The proposed refunding will be applied to outstanding debt, with Mount Olivet Home contributing sufficient funds to pay the Costs of Issuance.

Present Employment: 260

New Employment: None Refunding only

Assessor's Estimate Annual Tax Increase: Tax-exempt Facility

Affirmative Action Compliance: Updated plan will be completed prior to closing.

Health Care Facilities Revenue Bond Policies

ALL HEALTH CARE REVENUE BONDS ISSUED BY THE CITY OF MINNEAPOLIS TO BE OFFERED FOR SALE TO THE PUBLIC MUST BEAR AT LEAST A "BBB" (OR EQUIVALENT) RATING FROM AN ESTABLISHED RATING AGENCY OR BE SECURED BY A LETTER OF CREDIT OR INSURANCE FROM A FINANCIAL INSTITUTION RATED AT LEAST "BBB" (OR EQUIVALENT) SUFFIECIENT AT ALL TIMES TO COVER DEBT SERVICE.

The Bank Qualified Bank Direct Bonds will not be offered to the Public. The Bonds will be placed with a Banking Institution.

ALL APPLICATIONS FOR HEALTH CARE REVENUE BONDS MUST INCLUDE A FEASIBILITY STUDY, UNLESS EXEMPTED UNDER POLICY CONDITIONS.

The proposed financing is a refunding only.

A feasibility study was not conducted due to the nature of the project.

Mount Olivet Home is not expanding in size.

ALL NURSING HOME REVENUE BONDS ISSUED BY THE CITY OF MINNEAPOLIS FOR A PROJECT WHICH IS NOT CURRENTLY PAYING REAL ESTATE PROPERTY TAXES, SHALL BE SUJECT TO A P.I.L.O.T. AGREEMENT AS A CONDITION OF FINAL APPROVAL ON THE ISSUANCE OF REVENUE BONDS.

Tax-exempt facility. Mount Olivet Home is under a PILOT Agreement, which is suspended due to Mount Olivet Home's election to be classified under the State of Minnesota's Alternative Payment Plan. While enrolled in the Alternative Payment Plan, the PILOT expenses are not a pass-through expense for the nursing home.

CITY IRB POLICIES:

Job Component	Minimum standard of one (1) job per 1,000 square feet of building area. Mount Olivet Home: NA Refunding only
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.

	Mount Olivet Home: NA 501 (c)(3)
Development Standards	Compliance with the Land Use Plan of the City's Comprehensive Plan. Mount Olivet Home: Existing facility. 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. Mount Olivet Home: NA Refunding only.
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. Mount Olivet Home: NA
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. Mount Olivet Home: Interest savings will be reflected in client fees.
IRB CAP:	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>	Gray, Plant & Mooty
<u>UNDERWRITER:</u>	Northland Securities

Resolution
of the
City of Minneapolis

Giving preliminary and final approval to and authorizing the refinancing of a project on behalf of Mount Olivet Home (the "Company"), and authorizing the issuance of a revenue bond of the Minneapolis Community Development Agency therefor.

Whereas, pursuant to Laws of Minnesota 1980, Chapter 595, 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 refunding revenue bond in an amount not to exceed $6,100,000 (the "Bond") to refund revenue bonds previously issued by the City with respect to Company's 94-bed boarding care facility located at 5517 Lyndale Avenue South in the City (the "Project"); and

Whereas, the property included in the Project is owned by the Company, which is a Minnesota nonprofit corporation;

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 an initial interest rate expected to not exceed 4.50% per annum, shall have a final maturity date not later than December 1, 2026, 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 not to exceed $6,100,000 for the purpose of refinancing the Project.

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.

Resolution
of the
Minneapolis Community Development Agency

Relating to the Minneapolis Community Development Agency Revenue Bond (Mount Olivet Home Project) Series 2011; 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 Borrower relating to the Bond;

"Bond" means the Revenue Bond (Mount Olivet Home Project), Series 2011 to be issued by the Agency pursuant to this Resolution in the principal amount of up to $6,100,000;

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

"Borrower" means Mount Olivet Home, a Minnesota nonprofit corporation, its successors and assigns;

"City" means the City of Minneapolis, Minnesota;

"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 Borrower's 94-bed boarding care facility located at 5517 Lyndale 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 Borrower 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 health care facilities;

(c) the refinancing 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 loan payments contained in the Agreement are fixed and are required to be revised from time to time as necessary, so as 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 Borrower 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 actual 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 loan the proceeds of the Bond to the Borrower;

(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 loan the proceeds thereof to finance the acquisition, construction, installation and equipping of facilities constituting a "project" as defined in the Act and to refund bonds previously issued for such purposes, 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 shall bear an initial interest rate that does not exceed 4.50% per annum. The Bond shall mature on or before December 1, 2026.

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 Borrower 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 Agency 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 Agency makes the following representations:

(a) The Agency 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 obligations described in clause (ii) of Section 265(b)(3)(C) of the Code) which will be issued by the Agency (and all subordinate entities whose obligations will be aggregated with those of the Agency) during this calendar year 2011 will not exceed $10,000,000; and

(c) Not more than $10,000,000 of tax-exempt obligations issued by the Agency during this calendar year 2011 have been designated as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Code.