



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

Date: November 19, 2013

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 \$1,850,000 in 501(c)(3) Bank-Qualified Bank-Direct Tax-Exempt Minneapolis Community Development Agency Revenue Bonds for the Catalyst Five Points, LLC project at 2119 West Broadway Avenue.

Recommendation:

City Council Recommendation: Adopt the attached Resolution, giving Preliminary and Final Approval to the issuance of up to \$1,850,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Revenue Bonds, Series 2013 for Catalyst Five Points, LLC project at 2119 West Broadway Avenue.

MCDA Board Recommendation: Approval and adoption of the attached Resolution giving Preliminary and Final Approval of up to \$1,850,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Revenue Bonds, Series 2013, for Catalyst Five Points, LLC project.

Previous Directives:

1. On August 4, 2009, the City Council authorized a \$450,000 Great Streets Gap Financing Loan to Catalyst Five Points LLC for redevelopment of the properties 2119 West Broadway, 2310 Penn Avenue N and 2312 Penn Avenue N
2. On February 20, 2009, the City Council approved the sale of City-owned real property at 2119 West Broadway, 2310 Penn Avenue N and 2312 Penn Avenue N to Catalyst Five Points, LLC for \$17,175.
3. On June 29, 2007, the City Council authorized staff to negotiate the sale of City-owned real property at 2119 West Broadway, 2310 Penn Avenue N and 2312 Penn Avenue North to Catalyst Five Points, LLC.
4. On August 3, 2007, the City Council accepted and appropriated a grant of \$47,500 from the Metropolitan Council Livable Communities Act Tax Base Revitalization Account Grant Program for asbestos abatement within the building located at 2119

West Broadway Avenue and directed staff to execute grant and subrecipient agreements.

5. On July 1, 1994, the City Council authorized staff to acquire 2310 Penn Avenue N and on October 7, 1999, the City Council authorized staff to acquire the property at 2119 West Broadway and 2312 Penn Avenue (along with a number of other properties) from the Hennepin County tax forfeiture list.

Prepared by: Erik Hansen, Principal Project Coordinator (612-673-5022)

Approved by:

Catherine A. Polasky, Dir. Of Economic Policy and Development _____

Charles T. Lutz, Deputy Director CPED _____

Presenter in Committee: Erik Hansen

Reviews

- Permanent Review Committee (PRC): Approval N.A.

Financial Impact

- The issuance of revenue bonds for Catalyst Five Points, LLC project will generate revenue bond administrative fees of approximately \$4,500 a year that are used to support the small business assistance programs of the City of Minneapolis.
- Catalyst Five Points, LLC will pay off an existing City 2-percent loan (\$52,000 of remaining principal) with the bond proceeds.

Community Impact

- Neighborhood Notification: Staff notified the Northside Residents Redevelopment Council of this project.
- City Goals: This project promotes the *Jobs and Economic Vitality* goal addressing *Strong commercial corridors, thriving business corners*
- Sustainability Targets: N.A.
- Comprehensive Plan: The proposed project is in compliance with the policies of the Minneapolis plan.
- Zoning Code: The project is in compliance with the zoning code.
- Living Wage/Business Subsidy Agreement Yes ____ No X All conduit revenue bonds allocated under State Statute Chapter 474A, refunding bonds and 501(c)(3) bonds are exempt from both the City Ordinance and the State Act unless the intent of the bond financing is to create jobs and the net benefit is greater than \$100,000.
- Job Linkage Yes ____ No X

Supporting Information

Project Location & Description:

The Catalyst Five Points, LLC project at 2119 West Broadway is a 15,000 square foot commercial office building at the corner of Penn and West Broadway avenues in North Minneapolis. Catalyst Community Partners ("Catalyst") formed Catalyst Five Points, LLC and purchased 2119 West Broadway, 2310 Penn Avenue N and 2312 Penn Avenue N from the City of Minneapolis in 2009. Catalyst rehabilitated the building and reopened it in 2010. KMOJ-FM/The Center for Communication and Development and the Northside Achievement Zone are the building's two tenants.

Catalyst financed the \$2.5 million rehabilitation of the building with four loans from two lenders, Sunrise Banks and the City of Minneapolis (see table on below). Sunrise has a first mortgage valued at \$1.5 million in outstanding principal and a third mortgage valued at \$200,000 in outstanding principal. The City participates in the first mortgage loan with a 2-

percent loan valued at \$52,000 in outstanding principal. The City has a second mortgage securing a Great Streets Loan valued at \$431,000 in outstanding principal. Catalyst is current on payments of all loans in the project.

Mortgage	Lender	Est. Principal Balance
1a*	Sunrise Banks - Conventional Financing	\$1,545,000
1b*	City of Minneapolis – 2-percent Loan	\$52,000
2	City of Minneapolis - Great Streets Loan	\$431,000
3	Sunrise Banks - Conventional Financing	\$200,000

*Same mortgage

Catalyst's loans with Sunrise Banks are coming due. The bank has approved refinancing the loans into one Bank-Qualified Bank-Direct Tax-Exempt bond not to exceed \$1.85 million (see table below). Proceeds from the this bond issue will pay-off the City's 2-percent loan, combine Sunrise's first and third position loans, and cover bond transaction costs.

New Mortgage	Lender	Est. Principal Balance	Mortgage Amount
1	Sunrise Banks - BQ Bonds	\$1,850,000	\$1,597,000
2	City of Minneapolis - Great Streets Loan	\$431,000	\$431,000

While the first mortgage will increase in principal from approximately \$1.6 million to \$1.85 million, Sunrise Banks has chosen not to change the amount of their first mortgage. The new first mortgage will remain valued at approximately \$1.6 million, so the City's collateral position on the Great Streets loan will not be affected by this refinancing action. Sunrise will use collateral from other sources that the Catalyst controls as a substitute to a full-value real estate mortgage on the Catalyst Five Points, LLC project property.

Type of Financing:

Industrial Development Bonds (commonly known as IDBs or tax-exempt revenue bonds) have been used by the City of Minneapolis since 1972 to finance the capital needs of many small companies and organizations. In 2003, the City of Minneapolis developed a financing program to provide cost-effective tax-exempt financing for small 501(c)(3) nonprofit organizations. Tax-exempt revenue bonds have often not been a practical financing option for small organizations in the past due to the high costs of borrowing. Providing a streamlined application and documentation process has resulted in lower borrowing costs for nonprofits.

Within the existing federal tax code, there is the ability to issue bank qualified debt that local lenders can purchase and take advantage of the partial tax deduction on the interest earnings. With the bank qualified status, banks are allowed to deduct 80-percent of their "carrying costs" (interest paid on borrowed funds like deposits to purchase bonds) associated with buying tax-exempt bonds. Banks therefore can get the dual benefits of tax-exemption and deductibility of carrying costs. This translates into lower borrowing costs for the nonprofit organizations that work with a city (issuer) on the issuance of bank qualified bank direct bonds. Tax-exempt revenue bonds are underwritten and collateralized just like any conventional bank loan. The bank approval process for the revenue bond program does not differ from conventional financing.

The issuance of Bank-Qualified Bank-Direct Tax-Exempt Revenue Bonds is limited to issuers who issue less than \$10 million a year in revenue bonds. Based on this limitation, the MCDA has the ability to issue these bonds.

Sunrise Banks is underwriting the Bank-Qualified Bank-Direct Tax-Exempt Revenue Bonds for Catalyst Five Points, LLC. Sunrise will buy and hold all \$1,850,000 in bonds the MCDA issues.

Sources:

Bank Qualified Revenue Bonds	\$1,850,000
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Uses:

Sunrise First-position Loan Principal Outstanding	\$1,545,000
City of Minneapolis 2-percent Loan Principal Outstanding	\$ 52,000
Sunrise Third-position Loan Principal Outstanding	\$ 200,000
Cost of Issuance	\$ 37,000
Additional Fees/Other Expenses	<u>\$ 16,000</u>
Total:	\$1,850,000

Present Employment: The two tenants in the Catalyst Five Points, LLC building currently employ 55 individuals.

New Employment: The two tenants in the Catalyst Five Points, LLC building expect to retain all positions.

Assessor’s Estimate Annual Tax Increase: Tax-exempt facility

Affirmative Action Compliance: Catalyst has an affirmative action plan.

CITY IRB POLICIES:

Job Component	Minimum standard of one (1) job per 1,000 square feet of building area.
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Five Points: In compliance.

Property Improvements	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.
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Five Points: N.A. Refinancing Existing Debt only

Development Standards	Compliance with the Land Use Plan of the City’s Comprehensive Plan.
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Five Points: 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.

Five Points: N.A. Refinancing Existing Debt only

Restaurant/Bank

IRB financing is allowed for a restaurant or a bank if it is built or rehabilitated in a 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.

Five Points: N.A. Refinancing Existing Debt only

Tax-exempt Institution

Refinancing is permitted when new jobs are created or when a significant number of jobs is preserved.

Five Points: 55 jobs will be preserved.

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.

BOND COUNSEL:

Kennedy and Graven, Chartered.

UNDERWRITER:

Sunrise Banks

RESOLUTION

of the

CITY OF MINNEAPOLIS

Giving preliminary and final approval to and authorizing the refinancing of a project on behalf of Catalyst Five Points, LLC, and authorizing the issuance of a revenue refunding bond of the Minneapolis Community Development Agency.

Whereas, pursuant to Laws of Minnesota 1980, Chapter 595, as amended, the City Council of the City of Minneapolis (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, Catalyst Five Points, LLC, a Delaware limited liability company (the “Borrower”), whose sole member is Catalyst Community Partners, a Minnesota nonprofit corporation, has requested the participation of the Agency in refinancing one or more loans (the “Prior Loans”); and

Whereas, the Borrower applied the proceeds of the Prior Loans to the acquisition and renovation of an existing building located at 2119 West Broadway Avenue in the City, which houses approximately 15,718 square feet of office space (the “Project”) and currently has two tenants, the Northside Achievement Zone, a Minnesota nonprofit corporation, and the Center for Communication and Development, a Minnesota nonprofit corporation doing business as KMOJ Radio; and

Whereas, the Borrower has proposed to refinance the Project by refinancing the Prior Loans and has requested the assistance of the Agency in undertaking such refinancing; and

Whereas, on the date hereof, the Board of Commissioners of the Agency intends to adopt a resolution (the “Bond Resolution”) giving approval to the refinancing of the Project and the issuance of its Revenue Refunding Bond (Catalyst Five Points, LLC Project), Series 2013 (the “Bond”), in the aggregate principal amount not to exceed \$1,850,000, the proceeds of which will be loaned to the Borrower for the purposes of refinancing the Project;

Now, therefore, be it resolved by the City Council of the City of Minneapolis:

That the terms of the Bond Resolution are incorporated herein by reference.

That the City Council hereby gives preliminary and final approval to the issuance of the Bond by the Agency in the aggregate principal amount not to exceed \$1,850,000.

That the Bond is hereby designated a “Program Bond” and is determined to be within the “Program,” as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 1997R-402 of the City adopted December 12, 1997.

That this resolution shall take effect and be in force from and after its approval and publication. Pursuant to Chapter 4, Section 9, of the Charter of the City, only the title of this resolution and a summary

of this resolution conforming to Minnesota Statutes, Section 331A.01, subdivision 10, shall be published in the official paper of the City.

Certified as an official action of the City Council:

RECORD OF COUNCIL VOTE (X INDICATES VOTE)													
COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN	COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN
President Johnson							Goodman						
Reich							Glidden						
Gordon							Schiff						
Hofstede							Tuthill						
Samuels							Quincy						
Lilligren							Colvin Roy						
							Hodges						

PASSED _____
 VETOED _____
 DATE

APPROVED NOT APPROVED

ATTEST _____
 CITY CLERK

 MAYOR DATE

RESOLUTION
 of the
MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY

By _____

AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY A REVENUE REFUNDING BOND (CATALYST FIVE POINTS, LLC PROJECT), SERIES 2013; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE BOND AND RELATED DOCUMENTS; PROVIDING FOR THE SECURITY, RIGHTS, AND REMEDIES WITH RESPECT TO THE BOND; AND GRANTING APPROVAL FOR CERTAIN OTHER ACTIONS WITH RESPECT THERETO

Be It Resolved by the Board of Commissioners (the "Board") of the Minneapolis Community Development Agency (the "Issuer") as follows:

1. **AUTHORIZATION.** The Issuer is authorized by Chapter 422 of the Minneapolis City Code of Ordinances and Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the "Act"), to issue revenue obligations to finance or refinance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension of a "project," defined in the Act, in part, as any properties, real or personal, used or useful in connection with a revenue producing enterprise.

2. **THE BORROWER AND THE PROJECT.** Catalyst Five Points, LLC, a Delaware limited liability company (the "Borrower"), whose sole member is Catalyst Community Partners, a Minnesota nonprofit corporation, has requested the participation of the Issuer in refinancing one or more loans (the "Prior Loans"). The Borrower applied the proceeds of the Prior Loans to the acquisition and renovation of an existing building located at 2119 West Broadway Avenue in Minneapolis, Minnesota, which houses approximately 15,718 square feet of office space (the "Project") and currently has two tenants, the Northside Achievement Zone, a Minnesota nonprofit corporation, and the Center for Communication and Development, a Minnesota nonprofit corporation doing business as KMOJ Radio.

3. **THE BOND.** The Borrower has requested that the Issuer issue its Revenue Refunding Bond (Catalyst Five Points, LLC Project), Series 2013 (the "Bond"), in the aggregate principal amount not to exceed \$1,850,000, and loan the proceeds derived from the sale thereof (the "Loan") to the Borrower (pursuant to the terms of a Loan Agreement to be dated on or after December 1, 2013 (the "Loan Agreement"), between the Issuer and the Borrower. The proceeds of the Loan will be applied to the refinancing of the Project, the payment of costs of issuance, and the funding of a debt service reserve fund, if necessary. The Bond is proposed to be purchased by Sunrise Banks, National Association (the "Lender").

4. **PUBLIC HEARING.** Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations promulgated thereunder, requires that prior to the issuance of the Bond, the Board shall approve the Bond after conducting a public hearing thereon. Section 469.154, subdivision 4 of the Act requires that prior to submitting an application to the Minnesota Department of Employment and Economic Development ("DEED") for approval of the Project, the Board shall conduct a public hearing on the proposal to undertake a project authorized to be financed or refinanced under the terms of the Act. A notice of public hearing was published in the official newspaper and a newspaper of general circulation in the City of Minneapolis (the "City") at least fourteen (14) days prior to a regularly scheduled meeting of the Community Development Committee of the Minneapolis City Council with respect to (i) the required public hearing under Section 147(f) of the Code; (ii) the required hearing under Section 469.154, subdivision 4 of the Act; and (iii) approval of the issuance of the Bond to refinance the Project. The Community Development Committee of the Minneapolis City Council, on behalf of the Issuer, held a

public hearing on November 19, 2013, with respect to the Project and the proposed issuance of the Bond for the purposes set forth herein.

5. APPROVAL OF PROJECT. It is hereby found and determined that the Project furthers the purposes set forth in the Act, and the Project constitutes a "project" within the meaning of Section 469.153, subdivision 2(b) of the Act.

6. SUBMISSION OF PROJECT TO DEED. In accordance with Section 469.154 of the Act, the Executive Director or Deputy Executive Director of Community Planning and Economic Development of the City and the Finance Officer of the City (together, the "Authorized Officers") are authorized and directed to submit the proposal for the Project to DEED. The Authorized Officers and other officers, employees, and agents of the Issuer and the City are hereby authorized to provide DEED with any information needed for this purpose, and the Authorized Officials are authorized to initiate and assist in the preparation of such documents as may be appropriate to the Project, if it is approved.

7. OBLIGATIONS OF THE ISSUER AND THE CITY. The Board acknowledges, finds, determines, and declares that the issuance of the Bond is authorized by the Act and is consistent with the purposes of the Act and that the issuance of the Bond, and the other actions of the Issuer under the Loan Agreement and this resolution constitute a public purpose and are in the interests of the City. In authorizing the issuance of the Bond to finance the Project, fund required reserves, and pay the costs of issuance, the Issuer's and the City's purpose is, and the effect thereof will be, to further the purposes and policies of the Act. The Bond will be issued pursuant to this resolution and the Bond and the interest on the Bond: (i) shall be payable solely from the revenues pledged therefor under the Loan Agreement; (ii) shall not constitute a debt of the Issuer or the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute nor give rise to a pecuniary liability of the Issuer or the City or a charge against its general credit or taxing powers; (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Issuer or the City other than the Issuer's interest in the Loan Agreement; and (v) shall not constitute a general or moral obligation of the Issuer or the City.

8. ISSUANCE OF THE BOND. For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the Bond in one or more series in the maximum aggregate principal amount of \$1,850,000, subject to the approval of DEED pursuant to the Act. The Bond shall bear interest at the rate, shall be designated, shall be numbered, shall be dated, shall mature, shall be in the aggregate principal amount, shall be subject to redemption prior to maturity, shall be in such form, shall be secured and payable from such sources and on such terms, and shall have such other terms, details, and provisions as are prescribed in the Bond, in the form now on file with the City, with the amendments referenced herein. The Board hereby authorizes the Bond to be issued as a "tax-exempt bond," the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. The Bond shall be a special, limited obligation of the Issuer payable solely from the revenues, assets, and other security provided by the Borrower and related parties pursuant to the terms of the Loan Agreement and other documents delivered by the Borrower and related parties to secure the timely payment of the principal of and interest on the Bond. The Board hereby authorizes and directs the Authorized Officers to execute the Bond and hereby provides that the Bond shall provide the terms and conditions, covenants, rights, obligations, duties, and agreements of the owners of the Bond and the Issuer as set forth therein.

All of the provisions of the Bond, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery

thereof. The form of the Bond now on file with the City is hereby approved, with such necessary and appropriate variations, omissions, and insertions as the Authorized Officers, in their discretion, shall determine (including changes to the aggregate principal amount of the Bond (subject to an aggregate principal amount not to exceed \$1,850,000), the stated maturity of the Bond, the interest rate on the Bond, the terms of the security and the sources of payment for the Bond, and the terms of redemption of the Bond). The execution of the Bond with the manual signatures of the Authorized Officers and the delivery of the Bond by the Issuer shall be conclusive evidence of such determination.

9. THE LOAN AGREEMENT. The Authorized Officers are hereby authorized and directed to execute and deliver the Loan Agreement. The loan repayments to be made by the Borrower under the Loan Agreement are to be fixed so as to produce revenues sufficient to pay the principal of, premium, if any, and interest on the Bond when due. All of the provisions of the Loan Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Loan Agreement shall be substantially in the form on file with the City which is hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the Authorized Officers, in their discretion, shall determine, and the execution thereof by the Authorized Officers shall be conclusive evidence of such determination.

10. THE ASSIGNMENT. Except for certain reserved rights, the interests of the Issuer in the Loan Agreement will be assigned to the Lender, as the owner of the Bond, pursuant to the terms of a Pledge Agreement to be dated on or after December 1, 2013 (the "Assignment"), between the Issuer and the Lender. The Assignment shall be substantially in the form on file with the City which is hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the Authorized Officers, in their discretion, shall determine, and the execution thereof by the Authorized Officers shall be conclusive evidence of such determination. All of the provisions of the Assignment, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof.

11. SECURITY. The Board hereby approves the execution by the Borrower and delivery to the Lender of one or more mortgage documents granting a mortgage lien on the Project and other properties, and other security documents that are intended to secure timely payment of the Loan and the Bond. The Board hereby approves the execution and delivery by one or more guarantors to the Lender of one or more guaranty agreements pursuant to which the obligations of the Borrower under the Loan Agreement are guaranteed by such guarantor or guarantors. All such security documents shall be substantially in the forms agreed to by the Borrower, the Lender, and the guarantor or guarantors.

12. OTHER DOCUMENTS. The Authorized Officers are hereby authorized to execute and deliver, on behalf of the Issuer, such other documents and certificates as are necessary or appropriate in connection with the issuance, sale, and delivery of the Bond, including various certificates of the Issuer, an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, a certificate as to arbitrage and rebate, and similar documents, and all other documents and certificates as the Authorized Officers shall deem to be necessary or appropriate in connection with the issuance, sale, and delivery of the Bond. The Board hereby authorizes Kennedy & Graven, Chartered, as Bond Counsel to the Issuer, to prepare, execute, and deliver its approving legal opinion with respect to the Bond.

13. DISCLOSURE DOCUMENTS. Neither the Issuer nor the City has participated in the preparation of an official statement or other disclosure document relating to the offer and sale of the

Bond, or will make any independent investigation with respect to the information contained in any such document, and neither the Issuer nor the City assumes any responsibility for the sufficiency, accuracy, or completeness of such information. As a condition to the execution and delivery of the Bond, the Authorized Officers may require the receipt from the Lender of an investment letter containing such terms, covenants, representations, and warranties as the Authorized Officers, with the advice of the City Attorney and Bond Counsel, shall deem necessary or appropriate from the Lender.

14. **SUBSEQUENT AMENDMENTS.** On any date subsequent to the date of issuance of the Bond, the Authorized Officers are hereby authorized to execute and deliver any amendments or supplements to any of the documents referred to in this resolution on behalf of the Issuer if, after review by the City Attorney and Bond Counsel, the Authorized Officers determine that the execution and delivery of such amendment or supplement is in the interests of the City. The Authorized Officers may impose any terms or conditions on their execution and delivery of any such amendment or supplement as the Authorized Officers deem appropriate.

15. **LIMITATIONS OF LIABILITY.** No covenant, stipulation, obligation, or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council, or any officer, agent, or employee of the City or the Issuer in that person's individual capacity, and neither the City Council nor any officer or employee executing the Bond shall be personally liable on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No provision, covenant, or agreement contained in the aforementioned documents, the Bond, or in any other document relating to the Bond, and no obligation therein or herein imposed upon the Issuer or the City or the breach thereof, shall constitute or give rise to a general or moral obligation of the Issuer or the City or any pecuniary liability of the Issuer or the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants, and representations set forth in such documents, the Issuer has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Loan Agreement, which are to be applied to the payment of the Bond, as provided therein.

Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the Issuer, and any holder of the Bond issued under the provisions of this resolution, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provisions hereof, this resolution, the aforementioned documents, and all of their provisions being intended to be and being for the sole and exclusive benefit of the Issuer, the Borrower, and the holders from time to time of the Bond issued under the provisions of this resolution.

16. **SEVERABILITY.** In case any one or more of the provisions of this resolution, other than the provisions limiting the liability of the City or the Issuer, or of the aforementioned documents, or of the Bond issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bond, but this resolution, the aforementioned documents, and the Bond shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

17. **VALIDITY OF THE BOND.** The Bond, when executed and delivered, shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Bond and the regularity of the issuance thereof, and that all acts, conditions, and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Bond, and to the execution of the aforementioned documents to happen, exist, and be performed precedent to the execution

of the aforementioned documents have happened, exist, and have been performed as so required by law.

18. **ADDITIONAL ACTIONS.** The officers of the Issuer and the City, the City Attorney, Bond Counsel, other attorneys, engineers, and other agents or employees of the Issuer and the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Bond, for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Bond, the aforementioned documents, and this resolution.

19. **BANK-QUALIFICATION DESIGNATION.** The Board hereby designates the Bond as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3)(B) of the Code. With respect to such designation, the Issuer has represented that it does not anticipate issuing more than \$10,000,000 of tax-exempt obligations (other than obligations described in Section 265(b)(3)(C)(ii) of the Code) in calendar year 2013.

20. **DESIGNATION AS PROGRAM BOND.** The Bond is hereby designated a "Program Bond" and is determined to be within the "Program," as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 1997R-402 of the City adopted December 12, 1997.

21. **FEES AND INDEMNIFICATION.** The Borrower has agreed to pay the administrative fees of the Issuer in accordance with the policy and procedures of the Issuer. It is hereby determined that any and all costs incurred by the Issuer in connection with the refinancing of the Project will be paid by the Borrower. It is understood and agreed by the Borrower that the Borrower shall indemnify the Issuer against all liabilities, losses, damages, costs, and expenses (including attorneys' fees and expenses incurred by the Issuer) arising with respect to the Project or the Bond, as provided for and agreed to by and between the Borrower and the Issuer in the Loan Agreement.

22. **EFFECTIVE DATE.** This resolution shall take effect and be in force from and after its approval and publication. Pursuant to Chapter 4, Section 9, of the Charter of the City, only the title of this resolution and a summary of this resolution conforming to Minnesota Statutes, Section 331A.01, subdivision 10, shall be published in the official paper of the City.

RECORD OF COMMISSIONER VOTE													
Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust	Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust
Quincy							Lilligren						
Colvin Roy							Reich						
Glidden							Tuthill						
Gordon							Samuels						
Hodges							Schiff						
Hofstede							Goodman,						
Johnson							chair						
Vote: NV - Not Voting				Abs - Absent			Ovrd - Vote to Override			Sust - Vote to Sustain			

ADOPTED _____ . _____ .
APPROVED _____ . _____ .
NOT APPROVED _____ . _____ .
VETOED _____ . _____ .

Chairperson
Mayor