

MINNEAPOLIS CITY COUNCIL OFFICIAL PROCEEDINGS

REGULAR MEETING OF JUNE 18, 2004

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Council Chamber
350 South 5th Street
Minneapolis, Minnesota
June 18, 2004 - 9:30 a.m.

Council President Ostrow in the Chair.

Present - Council Members Lane, Johnson, Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek, Benson, Goodman, President Ostrow.

Absent - Samuels, Colvin Roy.

Lilligren moved acceptance of the minutes of the regular meeting held May 28, 2004. Seconded.

Adopted upon a voice vote.

Lilligren moved referral of petitions and communications and reports of the City officers to the proper Council committees and departments. Seconded.

Adopted upon a voice vote.

PETITIONS AND COMMUNICATIONS

CLAIMS:

DAVIS, FLOSSIE (269677)

Claim of Dominique Bogguess: Car repair estimates (See report of 5/28/04).

SHATAE KIMMONS, ET AL (269678)

Claim of Runeka Edwards: Comments.

COMMUNITY DEVELOPMENT:

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (269679)

Minneapolis Community Development Agency (MCDA) Real Property Disposition Policy: Outline of procedures.

COMMUNITY DEVELOPMENT (See Rep):

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (269680)

Low Income Housing Tax Credit Program: Approve program manual and qualified allocation plan; authorize issuance of request for proposals.

Housing Replacement Tax Increment Financing District II: Add six parcels to district.

Hollywood Theatre: Analysis authorization and fee approval, extension of exclusive development rights, preparation of redevelopment plan, continued analysis of funding concepts, direct pursuit of tax abatement with Hennepin County for proposal submitted by Awsumb and Associates.

Community Planning and Economic Development Policies: Adopt policy on prevailing wages and apprenticeship programs; Receive compliance policies.

Unified City of Minneapolis Housing Policy: Restated and consolidated policy to replace housing policy documents.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (269681)

Midtown Exchange Project: Preliminary approval to issue revenue bonds for housing portion of project.

Capital Acquisition Loan Program: Approve program guideline changes, authorize CPED Executive Director to execute loans and authorize agreement with Community Reinvestment Fund as partner in project.

Amendments to Common Bond Fund Basic Resolutions: Approve action for further transitioning of bond fund to the City.

Infinite Graphics Incorporated (4611 E Lake St): Final approval to issue revenue bonds for building improvements.

Heritage Park Phase III Project: Approve loan of CDBG funds as short term financing to project.

COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET (See Rep):

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (269682)

Midtown Exchange Project (Lake Street Center): Redevelopment contracts with Ryan Companies, modifications to Lake Street Center Redevelopment Plan and Tax Increment Financing Plan, project financing plan, termination of lease with Ionex Corporation and authorize parking ramp lease and sublease.

GRANTS AND SPECIAL PROJECTS (269683)

2004 Metropolitan Council Livable Communities Demonstration Account Grant Applications: Endorse nine applications and direct staff to prepare prioritization.

NEIGHBORHOOD REVITALIZATION PROGRAM (NRP) (269684)

2004 NRP Administrative Budget Revision: Rollover of 2003 funds to fulfill outstanding obligations.

Bryant Neighborhood: Approve use of Hennepin County "Second 7.5%" funds for Bryant Village Initiative expansion project.

Victory Neighborhood: Approve modification to action plan to include environmental strategies.

Youth Coordinating Board: Approve transfer of remainder of 2003 funding obligation.

Community Oriented Public Safety Initiative Reserve Fund: Approve allocation of funds to recommended neighborhood proposals.

HEALTH AND HUMAN SERVICES:

CIVIL RIGHTS (269685)

Twin Cities Marathon: Update with regard to letter sent to Twin Cities Marathon regarding language relating to discrimination on the basis of national origin (limiting open prize purse to US citizens).

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (269686)

Youth Vendor Award: Presentation of Program Year 2003 award to American Indian OIC.

HEALTH AND HUMAN SERVICES (See Rep):

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (269687)

Minneapolis Private Industry/Workforce Council: Waive residency requirement to allow Mayor to appoint J. Kyle Makarios and Mary Lynn Elizondo to Workforce Council.

Welfare-to-Work Joint Powers Agreement: Execute Amendment #1 to Hennepin County/City of Minneapolis Joint Powers Agreement to extend operation period through December 31, 2004 for Minnesota Family Investment Program; and increase amount to \$560,925.

HEALTH AND HUMAN SERVICES and PUBLIC SAFETY AND REGULATORY SERVICES (See Rep):

CIVILIAN POLICE REVIEW AUTHORITY (269688)

CRA Ordinance Amendments: Recommendation by Board to not object to removing amendment to Section 172.180 relating to hearing procedure to address a data practices issue; with attachments.

HEALTH AND FAMILY SUPPORT SERVICES (269689)

Indoor Air Quality: Research/Policy Brief regarding Secondhand smoke in Minneapolis worksites; with attachments.

PUBLIC SAFETY AND REGULATORY SERVICES:

ATTORNEY (269690)

International Driver's Licenses: Subject matter of issuing instructional permits to holders of international driver's licenses.

U.S. DEPARTMENT OF HOMELAND SECURITY (269691)

Police Department Work on Extra Details: Letter from Federal Government thanking Department for efforts during visits by President George Bush, Senator John Kerry and President Paul Kagame of Rwanda.

PUBLIC SAFETY AND REGULATORY SERVICES (See Rep):

LICENSES AND CONSUMER SERVICES (269692)

Cliché (2403 Lyndale Av S): Grant Secondhand Goods Class B License, subject to conditions.

Zeno Coffee and Dessert Bar (2919 Hennepin Av): Grant Sidewalk Cafe License, subject to conditions.

Rotisserie (1409 W Lake St): Grant Sidewalk Cafe License.

Licenses: Applications.

PUBLIC SAFETY AND REGULATORY SERVICES and WAYS & MEANS/BUDGET (See Rep):

POLICE DEPARTMENT (269693)

Exercise Equipment for Third Precinct: Accept donated equipment for new exercise/workout room from Lifetime Fitness, Iron Grip Barbell Company, Infinity Systems, Cybex, and Nautilus.

Automated Pawn System and Police Department Timekeeping System: Increase Police non-sworn personnel by 1.0 FTE for civilian position working toward development, marketing and directing of the Department's intellectual properties initiatives; and Approve appropriation.

TRANSPORTATION AND PUBLIC WORKS:

DOWNTOWN MINNEAPOLIS TRANSPORTATION MANAGEMENT ORG (269694)

I35W/Crosstown Reconstruction: Comments.

PUBLIC WORKS AND ENGINEERING (269695)

Minneapolis Phase I Local Surface Water Management Plan: Receive & File Plan.

Sale of Excess Public Land at 2707 Logan Ave N: Set Public Hearing.

Peer Review — Traffic Signal Management & Operations Program: Receive & File.

XCEL ENERGY/NSP (269696)

Utility Pole: Install one (1) utility pole.

Utility Poles: Install nine (9) new poles and remove eleven (11) existing poles, and remove one (1) existing overhead secondary for Central Ave Road Project.

Utility Poles: Install two (2) new poles along 10th Ave N.

TRANSPORTATION AND PUBLIC WORKS (See Rep):

PUBLIC WORKS AND ENGINEERING (269697)

Animal Care & Control Facility: Execute change order to increase contract with Rochon Corp by \$49,161.

Minnehaha Creek Watershed District: Appoint Council Member Scott Benson; Patrick Wrase, Mpls Technical Staff; David Oltmans, 5831 Clinton Ave S; and Jim Thill, 2 3rd Ave SE.

TRANSPORTATION AND PUBLIC WORKS and WAYS & MEANS/BUDGET (See Rep):

PUBLIC WORKS AND ENGINEERING (269698)

Water Revenue Funds: Reallocate \$228,372.44 of remaining funds in Roof Repair Project to Fridley Reservoir Rehabilitation Project.

Cedar Lake Parkway Bridge: Execute agreement with Quest Corp. for installation of telephone conduits hanging under bridge and affirm funding in excess of State Bridge Bond funds.

15th Ave SE Street Reconstruction: Amend 2003 Capital Improvement Appropriation Resolution to increase Municipal State Aid appropriation for the project.

Richfield Road Reconstruction Project, S.P. 141-201-02 (Sheridan Ave S to W 36th St): a) approve closeout of 2002 Street Renovation Program; b) Request Board of Estimate & Taxation to designate bond allocations from 2002 Street Renovation Program to Richfield Road Project.

Bids: OP 6256, Hugstad-Vaa Contracting, Robert Innes, Jr., Scott Innes, Ron L. Gunderson Concrete for rental of skid steer loaders, with operator.

2004 Alley Resurfacing Program: Receive cost estimate, designate alley improvements, and set Public Hearing.

Parking Fund Financial Workout Plan.

WAYS AND MEANS BUDGET:

COORDINATOR (269699)

New Central Library Project: Change Management Actions.

ESTIMATE AND TAXATION (269700)

Internal Auditor's Reports: "Review of Third Party Revenue - Local Taxes" and "Minneapolis Police Department - Review of Confidential Funds".

MUNICIPAL BUILDING COMMISSION (269701)

Municipal Building Commission 2004-2008 Business Plan.

WAYS AND MEANS BUDGET (See Rep):

ATTORNEY (269702)

Victim/Witness Liaison Services: Issue request for proposals.

Legal Settlements: Authorize settle claims of Robbery Hayhurst, Richard Weltzin, State Farm Insurance, Siegel et.al. & Johnson, Loni Ansel & Chicago-Lake Liquor Store and Keith Anderson.

Selection of Bond Counsel: Execute contracts with Kennedy & Graven, Briggs & Morgan and Gray Plant Moody.

BUSINESS INFORMATION SERVICES (269703)

Amendment to Contract with Unisys for Solid Waste Network: Additional services for computer connectivity at Solid Waste facility (2710 Pacific St).

Enrollment in State of Minnesota Software Program: Enroll City in State Microsoft contract for software and assurance.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (269704)

Acceptance of Funds for Empowerment Zone (EZ) Lobbying: Minneapolis Foundation donation to support nationwide lobbying effort on behalf of EZ funding.

HUMAN RESOURCES (269705)

MetroPass Program: Adoption of program for City employees and execute contract with MetroTransit.

ZONING AND PLANNING (See Rep):

INSPECTIONS/BOARD OF ADJUSTMENT (269706)

Appeals:

Barbara Knox (1507-3rd St NE);

Ross Fefercorn (1221 W Lake St).

PLANNING COMMISSION/DEPARTMENT (269707)

Interim Ordinance:

North Mpls: Ordinance amending Title 21, adding a new Chapter 578, providing for a moratorium on construction of new single-family, two-family, & Multiple-family dwellings of three or four units in area of N Mpls.

Appeals:

Carol & Thomas Stuart (4436 Thomas Ave S).

Rezoning:

Velmier Companies (3655 Central Ave, 3654 Tyler St NE & 938-37th Ave NE);

City-County Federal Credit Union (3643 & 3651 Central Ave NE);

Ryan Companies US, Inc (826 & 1010 E Lake St, 2901-10th Ave S & 2843 Elliot Ave);

Pat Mulroy, for Mulroy's Body Shop (3900-3920 Nicollet Ave S).

Vacations:

Velmeir Companies (938-37th Ave NE, 3654 Tyler St NE, 3651, 3655 & 3665 Central Ave NE);

Ryan Companies (826 & 1010 E Lake St, 2901-10th Ave S & 2843 Elliot Ave) (See rezonings).

NEW BUSINESS:

ATTORNEY (269708)

Small and Underutilized Business Enterprise Program: Ordinance amendment extending program to 12/31/05.

FILED:

CITY CLERK/SPECIAL PERMITS (269709)

2nd Av S, 1301 (ACVIM) horse;

33rd Av N & Queen Av N (Cleveland Neighborhood Assn) pony;

41st Av S, 5212 (Trinity Lutheran of Minnehaha Falls) pony rides;

44th St W, 3813 (Lawrence Sign) sign;

Lake St E, 1901 (Discover Signs) sign;

Nicollet Av S, 5401 (Leroy Signs) sign;

Park Av, 2501 (Bradley C Johnson) pony rides;

Plymouth Av N, 2100 (Mpls Urban League) ponies.

CITY CLERK (269710)

Café Bicko (4501 France Av S): Verbatim Transcript of a portion of the Public Safety & Regulatory Services Committee Meeting held February 18, 2004 relating to application for upgrade of license from Wine to Liquor; and City Council Meeting held February 27, 2004; with attachments.

HOUSING LINK (269711)

Housing Counts: Measuring Affordable Hsg Production & Preservation in the Twin Cities.

The following reports were signed by Mayor Rybak on June 23, 2004, unless noted otherwise. Minnesota Statutes, Section 331A.01, Subd 10, allows for summary publication of ordinances and resolutions in the official newspaper of the city.

REPORTS OF STANDING COMMITTEES

The **COMMUNITY DEVELOPMENT** and **WAYS & MEANS/BUDGET** Committees submitted the following report:

Comm Dev & W&M/Budget - Your Committee, having under consideration the recommendation of the Neighborhood Revitalization Program (NRP) Policy Board for allocation of NRP Phase II Community Oriented Public Safety Initiative Reserve Funds to the neighborhoods recommended and in the amounts indicated in Petn No 269684 in the total amount of \$999,942, now recommends:

- a) Approval of said allocations;
 - b) Passage of the accompanying resolution increasing the 2004 appropriation for the NRP by \$999,942 for allocation to neighborhoods for said initiatives;
 - c) That the proper City officers be authorized to execute any contracts or agreements needed to implement said action; and
 - d) That the effective date of the allocation approval is retroactive to April 19, 2004.
- Adopted 6/18/04. Yeas, 10; Nays, 1 as follows:
Yeas – Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek, Goodman, Lane, Johnson, Ostrow.
Nays – Benson.
Absent – Samuels, Colvin Roy.

RESOLUTION 2004R-252
By Goodman and Johnson

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:
That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the Community Planning and Economic Development Department Agency (CNR) in the NRP Program Fund (CNR0-890-3550) by \$999,942.
Adopted 6/18/04. Yeas, 10; Nays, 1 as follows:
Yeas – Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek, Goodman, Lane, Johnson, Ostrow.
Nays – Benson.
Absent – Samuels, Colvin Roy.

The **COMMUNITY DEVELOPMENT** Committee submitted the following reports:

Comm Dev - Your Committee, having under consideration the Midtown Exchange Project and a recommendation to issue revenue bonds for the housing portion of the project and, having held a public hearing thereon, now recommends passage of the accompanying resolution granting preliminary approval to issue to up to \$21,000,000 in tax-exempt multifamily housing revenue entitlement bonds for the Midtown Exchange Rental Housing Project.
Adopted 6/18/04.
Declining to vote – Zerby.
Absent – Samuels, Colvin Roy.

Resolution 2004R-253, giving preliminary approval to the issuance of tax-exempt multifamily housing revenue bonds in one or more series under Minnesota Statutes, Chapter 462C for the purpose of financing a housing program consisting of the acquisition and construction of a multifamily rental housing development for the benefit of Midtown Exchange Limited Partnership, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-253
By Goodman

Giving preliminary approval to the issuance of tax-exempt multifamily housing revenue bonds in one or more series under Minnesota Statutes, Chapter 462C for the purpose of financing a housing program consisting of the acquisition and construction of a multifamily rental housing development for the benefit of Midtown Exchange Limited Partnership.

Whereas, the City of Minneapolis, Minnesota (the "City") is authorized, pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Act") to develop and administer programs to finance one or more multifamily housing developments within its boundaries; and

Whereas, Section 462C.07 of the Act authorizes the City to issue and sell revenue bonds or obligations to finance programs for the multifamily housing developments; and

Whereas, representatives of Midtown Exchange Limited Partnership, a Minnesota limited partnership, or its affiliates or assigns (the "Developer") has requested that the City adopt a multifamily housing development program (the "Program") to provide for the issuance of up to \$21,000,000 of its tax-exempt multifamily housing revenue bonds, in one or more series (the "Bonds") for the purpose of loaning the proceeds thereof to the Developer to finance the acquisition and construction by the Developer of a 223-unit multifamily rental housing development to be located at 2929 Chicago Avenue South in the City (the "Project"); and

Whereas, the Developer has paid and expects to pay certain expenditures (the "Reimbursement Expenditures") in connection with the Project prior to the issuance of indebtedness for the purpose of financing costs associated with the Project on a long-term basis and certain of the proceeds of the Bonds will be used to reimburse the Reimbursement Expenditures;

Whereas, the Community Development Committee of the Minneapolis City Council, on behalf of the City held a public hearing on the Program and proposed issuance of the Bonds after at least 15 days published notice hereof and after submission of the Program to the Metropolitan Council for review and comment; and

Whereas, the Council has been advised by Piper Jaffray & Co., representing the Developer, that on the basis of information available to them, the Project is economically feasible and the Bonds could be successfully issued and sold; and

Whereas, the City has been advised by the Developer that conventional commercial financing is available to pay the capital costs of the Project only on a limited basis and at such high costs of borrowing that the scope of the Project and the economic feasibility of its operations would be significantly affected; and

Whereas, the City shall not be liable on the Bonds, and the Bonds shall not be a debt of the City within the meaning of any state constitutional provision or statutory limitation, and will not constitute or give rise to a charge against the general credit or taxing power of the City or a pecuniary liability of the city, nor shall the Bonds be payable out of any funds or properties other than those provided as security therefor;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the Program is hereby approved and adopted by the City.

Be It Further Resolved that the issuance of the Bonds pursuant to the Program in a principal amount not to exceed \$21,000,000 is preliminarily approved.

Be It Further Resolved that the City hereby reserves \$21,000,000 of its 2003 and/or its 2004 housing revenue bond entitlement authority for the financing of the Project.

Be It Further Resolved that the City hereby makes this declaration for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations.

Be It Further Resolved that the City hereby declares its official intent to use proceeds of indebtedness to reimburse the Developer for Reimbursement Expenditures, including those expenditures made sixty days prior to adoption of this Resolution.

Be It Further Resolved that the foregoing preliminary approval of the issuance of Bonds shall be subject to final determination by the City of terms and conditions and shall not constitute an irrevocable commitment on the part of the City to issue the Bonds.

Be It Further Resolved that the staff of the Minneapolis Community Planning and Economic Development Department is hereby authorized, in cooperation with bond counsel to take all steps necessary and desirable to proceed to develop the Program and financing therefore.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee, having under consideration the Capital Acquisition Loan Program (CAL) that assists small business owners in the purchase and rehabilitation of small commercial and industrial properties, now recommends:

a) Approval of the CAL Program guidelines, as amended to reflect the transition of the program to the City and the establishment of an Advance Account that will allow the City's partner in the program, the Community Reinvestment Fund (CRF), to continue to purchase loans from the City;

b) Passage of the accompanying resolution delegating to the Community Planning and Economic Development (CPED) Director or his designee the authority to make and execute Loan Purchase Agreements and supporting documents consistent with the CAL Program guidelines; and

c) That the proper City officers be authorized to enter into an Advance Commitment Agreement with CRF in the amount of \$1,000,000.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Resolution 2004R-254, delegating authority to make and execute Loan Purchase Agreements and supporting documents consistent with Capital Acquisition Loan Program Guidelines, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-254

By Goodman

Delegating authority to make and execute Loan Purchase Agreements and supporting documents consistent with Capital Acquisition Loan Program Guidelines.

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City Council hereby delegates to the Director of the Department of Community Planning and Economic Development (CPED) or his designee, the Manager of Business Finance for CPED, authority to make and execute Loan Purchase Agreements and supporting documents not to exceed \$300,000 and for a maximum term of ninety (90) days.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee, having under consideration the transitioning of the Minneapolis Common Bond Fund (CBF) to the City of Minneapolis, now recommends passage of the accompanying resolutions amending the Basic Resolutions of the CBF and pledging the IDB Account to the bond holders to finalize said transition process and to allow the City to issue revenue bonds for projects utilizing the CBF.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Resolution 2004R-255, amending the IDB Account Resolution, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-255

By Goodman

Amending the IDB Account Resolution.

Whereas, the Minneapolis Community Development Agency (the "Agency") has previously adopted Resolution No. 92-814M, as amended (the "Agency IDB Account Resolution"), in order to provide further

security for certain obligations issued pursuant to the "Original Basic Resolution" and "New Basic Resolution" as defined therein, and herein, the "Agency Basic Resolutions." Pursuant to the Agency Basic Resolutions, the Agency has issued several series of obligations secured by the Agency Basic Resolutions and the Agency IDB Account Resolution. Pursuant to the authority of 2003 Minnesota Laws, Chapter 127, Article 12, Sections 31-34, and as contemplated by Chapter 415 of the Minneapolis Code of Ordinances, the Agency and the City of Minneapolis (herein, the "Issuer") have executed an Assignment and Assumption Agreement, dated as of January 1, 2004, in order to transfer the assets, rights and obligations of the Agency related to the Agency IDB Account Resolution and the Agency Basic Resolutions to the Issuer. The Issuer has on the date hereof adopted its Resolution No. 2004R-257 (the "A Basic Resolution") and its Resolution No. 2004R-256 (the "B Basic Resolution") in order to amend and restate the Agency Basic Resolutions to clarify the Issuer's rights and obligations with respect to bonds issued and to be issued thereunder (herein, the "Bonds"). This Amended and Restated IDB Account Resolution (hereinafter, the "IDB Account Resolution") is intended to make similar clarifying amendments to the Agency IDB Account Resolution.

Now, Therefore, Be It Resolved by The City Council of The City Minneapolis:

That the Agency IDB Account Resolution is hereby amended and restated in its entirety as follows:

Section 1. IDB Account. The Issuer hereby determines and, so long as any of the Bonds are Outstanding under the provisions of the A Basic Resolution or B Basic Resolution ("Outstanding"), covenants and agrees with the holders of any Bonds and the trustees under the A Basic Resolution and B Basic Resolution as follows:

(a) *Establishment.* There is hereby established a separate and special account to be known as the "IDB Account," containing three subaccounts known as the "Issuer Subaccount," the "A Subaccount" and the "B Subaccount." The IDB Account shall be held as provided below.

(b) *Deposits.* There shall be deposited in the respective subaccounts of the IDB Account the following revenues of the Issuer, (i) amounts transferred in accordance with the A Basic Resolution and B Basic Resolution, (ii) reimbursements of advances pursuant to paragraph (d) of this Section, (iii) earnings on amounts in the respective subaccounts of the IDB Account (subject to paragraph (e) of this Section), (iv) revenues derived from amounts appropriated by the Issuer and (v) any other sources as directed by the Issuer.

(c) *Investments.* Moneys in the IDB Account may be legally invested and reinvested in such deposits or securities as the Issuer may lawfully make or purchase and hold for the deposit and investment of debt service funds of the Issuer in the manner and subject to the conditions as may from time to time be provided by law with respect thereto. The investment of funds shall be limited as to amount and yield of investment in such manner that no Bonds shall be deemed "arbitrage bonds" under the Internal Revenue Code of 1986, as amended (the "Code"), and regulations thereunder.

(d) *Advances.* Advances and reimbursement of the IDB Account and any funds on deposit therein shall be applied in accordance with the provisions of the A Basic Resolution and B Basic Resolution.

(e) *Withdrawal of Excess Reserves.* In the event the amounts of cash and investments held in the IDB Account (for this purpose, as separately defined in the A Basic Resolution or B Basic Resolution) exceed \$10,000,000 (valued at market in the reasonable discretion of the Finance Officer of the Issuer), the Finance Officer of the Issuer in his sole judgment and discretion and subject in any case to all of the provisions and requirements of the A Basic Resolution, the B Basic Resolution, this IDB Account Resolution, and all other requirements applicable from time to time to the Bonds Outstanding, may from time to time withdraw and appropriate amounts in excess thereof for any lawful purpose of the Issuer; provided, however, that amounts so held in the IDB Account, together with amounts drawable under a Qualified Letter of Credit for deposit in the Common Bond Fund (as defined in the A Basic Resolution and B Basic Resolution) or IDB Account, equal not less than \$15,000,000, and further subject to all other applicable requirements in respect of Bonds Outstanding. A "Qualifying Letter of Credit" shall be an irrevocable letter of credit issued by a bank or other entity qualified to act as Trustee under the A Basic Resolution or B Basic Resolution for an initial term of not less than five (5) years and may include the "Letter of Credit" defined in the A Basic Resolution and B Basic Resolution.

(f) *Further Limitation on Withdrawal of Excess Reserves.* Notwithstanding the provisions of Section 1(e) of this IDB Account Resolution, the Issuer covenants and agrees that it shall not, on a discretionary basis, withdraw any money or investments thereon from the IDB Account (and any subaccounts therein)

until the amount credited to the IDB Account (and any subaccounts therein) exceeds twenty percent (20%) of the then current aggregate principal amount of all Outstanding Bonds secured by the A Basic Resolution and B Basic Resolution (the "Discretionary Withdrawal Threshold"). Once funds in the IDB Account (and any subaccounts therein) equal or exceed the Discretionary Withdrawal Threshold, the Issuer shall not, on a discretionary basis, withdraw any amounts from the IDB Account which would reduce amounts credited to the IDB Account, and any subaccounts therein (after giving effect to such withdrawal) to an amount less than the Discretionary Withdrawal Threshold. Nothing herein shall limit or otherwise prohibit withdrawals or transfers from the IDB Account (and any subaccounts therein) which would bring amounts therein to a level less than the Discretionary Withdrawal Threshold for the purpose of (i) replenishing other funds or accounts pledged to the payment of the Bonds, or paying debt service on Bonds as provided in the applicable A Basic Resolution or B Basic Resolution; (ii) paying any arbitrage rebate obligation of the Issuer pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and preceding or successor provisions thereof; or (iii) reimbursing the Bank for any draw on the Letter of Credit as required by Section 405(b) of the A Basic Resolution and B Basic Resolution. For purposes of this subsection, investments in the IDB Account (and any subaccounts therein) shall be valued by the Issuer at their market value at the time of the proposed withdrawal. For the purpose of this Section, the term "Outstanding Bonds" means all Bonds secured by the A Basic Resolution and the B Basic Resolution exclusive of (i) defeased Bonds; and (ii) any other Bonds, the underlying credit of which would be rated not less than "A" by Standard & Poor's, without giving effect to the credit enhancement provided by the Common Bond Fund.

Section 2. Amendments and Consents

(a) The Issuer reserves the right to amend this IDB Account Resolution: (i) at any time, in any respect, if no Bonds are Outstanding or if the holders of all the Bonds consent thereto, (ii) at any time if the holders of at least fifty-one percent (51%) of the principal amount of the Bonds of each series Outstanding consent thereto in any respect except to reduce the \$10,000,000 minimum requirement of Section 1(e), to create a lien or pledge of the IDB Account or any funds or investments therein ranking prior to any Outstanding Bonds or to give a preference or priority to any Bond or Bonds Outstanding with respect to the IDB Account or funds or investments therein, and (iii) at any time without the consent of any holders of Bonds, to cure any ambiguity or formal defect in this IDB Account Resolution or amendment hereof, to provide for a different allocation of the powers granted herein to the Issuer and any successor to the functions thereof, to prevent Bonds from becoming arbitrage bonds within the meaning of the Code and regulations thereunder, to grant any additional rights, remedies, powers, authority or security to the holders of the Bonds or any trustee or trustees for the benefit of the holders of the Bonds, or to make any other change which is not to the prejudice of any holders of Outstanding Bonds.

(b) Consents of holders of Outstanding Bonds may be evidenced by a consent or consents in writing of the holder or holders or adopted at a meeting of bondholders in the same manner as may be provided in the A Basic Resolution, B Basic Resolution or Supplemental Bond Resolution for the Bonds of such series for execution of instruments by bondholders or the holding of bondholders' meetings or, if not so provided, then in such manner as shall be deemed appropriate by the Issuer, whose determination of the validity and sufficiency of any such consents shall be binding. Holders of Bonds issued during the period in which approval of an amendment to this IDB Account Resolution is being sought shall be deemed to have consented thereto.

(c) In addition to the right of the Issuer to amend this IDB Account Resolution set forth in subsection (a) of this Section 2, the Issuer expressly reserves the right to amend Section 1(f) of this IDB Account Resolution, at any time, without the consent of a holders of Bonds; provided, however, that consent of holders of all Bonds shall be required to reduce the \$10,000,000 minimum requirement of Section 1(e) hereof.

Section 3. Limited Recourse. Notwithstanding any other provision of this IDB Account Resolution, the obligations of the Issuer in connection with this IDB Account Resolution are limited to amounts received by the Issuer for deposit in the IDB Account, and the Issuer shall not have any obligation to levy taxes for or make any advance or payment or incur any expense or liability from its general funds in performing any of the conditions, covenants or requirements of the Bonds, this IDB Account Resolution or from any funds other than moneys required to be held in the IDB Account, except as may be specifically provided in Chapter 424, Minneapolis Code of Ordinances.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

Resolution 2004R-256, amending and restating the Basic Resolution of the City of Minneapolis (B), was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-256
By Goodman

Amending and restating the Basic Resolution of the City of Minneapolis (B).

Whereas, the Minneapolis Community Development Agency (the "Agency") has adopted Resolution No. 92-815M, as amended (the "Agency Basic Resolution") in order to provide for the issuance of "Common Fund Bonds" as defined therein; and

Whereas, pursuant to the Agency Basic Resolution, the Agency has issued several series of Common Fund Bonds pursuant to various resolutions entitled "Supplemental Bond Resolution and Indenture," relating to the specific series of Common Fund Bonds (the "Supplemental Bond Resolutions"); and

Whereas, pursuant to the authority of 2003 Minnesota Laws, Chapter 127, Article 12, Sections 31-34, and as contemplated by Chapter 415 of the Minneapolis Code of Ordinances, the Agency and the City of Minneapolis (the "Issuer") have executed an Assignment and Assumption Agreement dated as of January 1, 2004, in order to transfer the assets, rights and obligations of the Agency related to the Agency Basic Resolution and Supplemental Bond Resolutions to the Issuer; and

Whereas, the Issuer deems it advisable to amend and restate the Agency Basic Resolution to clarify its rights and obligations with respect to the Common Fund Bonds issued and to be issued;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the Agency Basic Resolution is hereby amended and restated as follows:

ARTICLE I

DEFINITIONS AND LEGAL AUTHORIZATION

Section 101. Definitions. The following terms used herein, unless the context hereof shall require otherwise, shall have the following meanings:

"Accumulated Revenues" at any time means all Available Revenues, including earnings thereon, then retained by the Issuer in the Common Bond Fund and any amounts, including earnings thereon, then credited to and retained in the Issuer Subaccount and B Subaccount of the IDB Account;

"Act" means Minnesota Statutes, Chapter 469, Minnesota Statutes, Chapter 475, and all other power or authorizing authority of the Issuer, as the same may be from time to time amended, supplemented or redesignated, or all of them;

"Additional Common Fund Bonds" means Common Fund Bonds issued pursuant to Section 202 hereof in accordance with Section 311(d) hereof and a Supplemental Bond Resolution authorizing the issuance of Additional Common Fund Bonds to pay the cost of completion of a Facility;

"Administrative Fee" means the fees to be paid by a Contracting Party to the Issuer at the times and in the amounts specified in the applicable Revenue Agreement and designated therein as Administrative Fees;

"Administrative Fee Account" means the account by that name in the Common Bond Fund created and established by Section 402 hereof;

"Approved Letter of Credit" means in respect of a series of Common Fund Bonds a letter of credit delivered pursuant to Section 402(d) hereof to the Trustee at or prior to the applicable Bond Closing for compliance with the Minimum Deposit requirement of Section 202 hereof, which letter of credit may be drawn upon by the Trustee to obtain funds (a) promptly in accordance with the applicable Supplemental Bond Resolution or Revenue Agreement upon the occurrence of any failure to pay any Net Revenues when due under the applicable Revenue Agreement, (b) during a period of at least one (1) year following

the Bond Closing at any time that the Reserve Deposit in respect of such series may be withdrawn from the Common Reserve Account pursuant to Section 403(c)(ii) hereof and the applicable Supplemental Bond Resolution; and (c) within forty-five (45) days prior to the expiration of such letter of credit ("Expiring Letter") at any time, provided that Common Fund Bonds of such series are then Outstanding (and not scheduled to finally mature on or prior to such expiration), and provided there has not been delivered to the Trustee prior to such time cash sums for deposit in the applicable Reserve Deposit subaccount in the Common Reserve Account, Subsequent Approved Letters of Credit or any combination of such sums and such Subsequent Approved Letters of credit, whereby any such sums, together with any amounts drawable under such Subsequent Approved Letters of Credit for at least one (1) continuous year immediately following such expiration, equal the maximum amount drawable under such Expiring Letter; an Approved Letter of Credit shall be in form and substance and issued by a financial institution satisfactory to the Issuer in its sole discretion;

"*Articles and Sections*," mentioned by number only, means the respective Articles and Sections of this Basic Resolution so numbered;

"*Authorized Newspaper*" means a newspaper or newspapers furnishing financial news as part of its or their service and printed in the English language, which newspaper or newspapers separately or collectively (a) are published daily or weekly in Minneapolis or its metropolitan areas and circulated throughout the State, and (b) are generally circulated in the City of New York, New York;

"*Available Revenues*" means at the time of determination:

(a) all Net Revenues theretofore retained by the Issuer in the Common Bond Fund;

(b) all other amounts (including earnings and Reserve Deposits) then held by the Issuer pursuant to the terms hereof in the Common Bond Fund, but excluding (i) earnings on Reserve Deposits funded other than by Common Fund Bond proceeds if such earnings are exempted by the Issuer pursuant to Section 402(d) hereof from the lien created hereby and (ii) Restricted Funds; and

(c) such other amounts as the Issuer may from time to time designate;

"*Available Surplus*" means in respect of any calendar year the amount by which Available Revenues retained as of December 31 of such year are greater than (i) the Projected Debt Service Deficiency, if any, for the next following calendar year and (ii) the Common Reserve Requirement as of such December 31;

"*B Subaccount*" means the subaccount of the IDB Account so named;

"*Bank*" means U.S. Bank National Association, in Minneapolis, Minnesota, or any successor bank issuing a subsequent Letter of Credit;

"*Basic Resolution*" means this Amended and Restated Basic Resolution and Indenture and any amendments or supplements hereto permitted hereby;

"*Bond Closing*" means the respective dates on which there is delivery and payment for each series of Common Fund Bonds;

"*Bond Counsel*" means any firm of nationally recognized bond counsel selected by the Issuer;

"*Borrower*" means a Person, other than the Issuer or a Tenant, who enters into a Loan Agreement with the Issuer to finance or refinance a Facility;

"*Business Day*" means any day other than a Saturday, Sunday or recognized national holiday on which national banks are generally closed;

"*Code*" means the Internal Revenue Code of 1986, as amended;

"*Collateral Proceeds*" means any proceeds (other than Prepaid Net Revenues or Retained Funds or Restricted Funds) from the sale of all or a part of a Facility or from a lump sum settlement in connection with such Facility received by the Issuer, whether before or after foreclosure, after deducting all the Issuer's expenses and giving credit for any Issuer equity in connection therewith;

"*Common Bond Fund*" means the fund established and designated in Section 402 hereof from which the principal or Redemption Price of and interest on the Common Fund Bonds are payable;

"*Common Fund Bonds*" means any bonds or obligations from time to time issued by the Issuer pursuant hereto and the applicable Supplemental Bond Resolution;

"*Common Reserve Account*" means the reserve account so Created and established by Section 402 hereof and forming a part of the Common Bond Fund, which Common Reserve Account is to be used for the payment of principal or Redemption Price of and interest on the Common Fund Bonds under the circumstances described herein;

“*Common Reserve Requirement*” means at any time in respect of Bonds not theretofore discharged (a) all Reserve Deposits not theretofore credited against Net Revenues in accordance with the applicable Revenue Agreement or Supplemental Bond Resolution, plus (b) all Prepaid Net Revenues, Collateral Proceeds or Retained Funds in respect of any series of Common Fund Bonds Outstanding which have not been applied pursuant to Section 403(d) hereof to the purchase, payment, prepayment, redemption or discharge of such series of bonds (or interest or premium thereon) or as credit against payments due from a Contracting Party or the Issuer related to such series;

“*Construction Contract*” means any contract entered into by the Issuer or any Contracting Party and a contractor or contractors under which the contractor agrees to construct, install and supply on the Facility Premises all or a part of such building, improvements or equipment as are provided in the Plans and Specifications for such Facility;

“*Construction Fund*” means any account established for each Facility by the Issuer in its official books and records pursuant to Section 311 hereof;

“*Contracting Party*” means any Person who contracts with the Issuer under a Lease, Loan Agreement or other Revenue Agreement;

“*Debt Service Account*” means the account by that name in the Common Bond Fund created and established by Section 402 hereof;

“*Deficiency Account*” means the account by that name in the Common Bond Fund increased and established by Section 402 hereof;

“*Disbursing Agreement*” means any Disbursing Agreement for a series of Common Fund Bonds pursuant to which funds are disbursed from the applicable Construction Fund;

“*Facility*” means any revenue-producing properties from time to time owned, leased or otherwise financed in whole or in part by the Issuer pursuant to this Basic Resolution and operated, used or leased for one or more of the purposes authorized by the Act;

“*Facility Costs*” means those costs of a Facility permitted under the Act to be financed from the proceeds of Common Fund Bonds;

“*Facility Premises*” means the premises upon which a Facility is located;

“*Guarantee*” means an agreement whereby any Person guarantees the performance in whole or in part of any Contracting Party under a Revenue Agreement;

“*Guarantor*” means a Person liable pursuant to a Guarantee for the performance of a Contracting Party under a Revenue Agreement;

“*Hereby*,” “*herein*,” “*hereof*,” “*hereto*,” “*hereunder*” and similar terms refer to this Basic Resolution as a whole; the term “*heretofore*” means before the date of execution of this Basic Resolution, and the term “*hereafter*” means after the date of execution of this Basic Resolution;

“*Holder*” when used with reference to any Common Fund Bond or Common Fund Bonds, means any Person who shall be the bearer of any Outstanding Common Fund Bond not registered or registered as to principal to bearer or the registered owner of any Outstanding Common Fund Bond which shall at the time be fully registered or registered as to principal other than to bearer, and, when used with reference to any coupon or coupons, means the bearer thereof;

“*IDB Account*” means, collectively, the “*Issuer Subaccount*” and the “*B Subaccount*” of the “*IDB Account*” created and established pursuant to the IDB Account Resolution and subject to all terms and conditions applicable to such subaccounts as established thereunder or pursuant thereto;

“*IDB Account Resolution*” means Resolution No. 2004R-255 of the Issuer, adopted on June 18, 2004, as amended;

“*Independent Counsel*” means any attorney (or firm of attorneys) designated by the Issuer and duly admitted to practice law before the highest court of any state who is not a full-time employee or officer of the Issuer or the Contracting Party for the Facility to which the engagement of such attorney (or firm of attorneys) relates and who or which shall be reasonably satisfactory to the Issuer;

“*Independent Engineer*” means an engineer or engineering firm designated by the Issuer, registered and qualified to practice the profession of engineering under the laws of the State who or which is not a full-time employee of either the Issuer or the Contracting Party for the Facility to which the engagement of such engineer (or engineering firm) relates and who or which shall be reasonably satisfactory to the Issuer;

“*Issuer*” means the City of Minneapolis, Minnesota and any successor or successors to its powers, duties and obligations hereunder;

“*Issuer Subaccount*” means the subaccount of the IDB Account so named;

“*Lease*” means any written agreement whereby the Issuer leases one or more than one Facility to a Person;

“*Letter of Credit*” means an irrevocable letter of credit issued by a Bank in favor of the Trustee or the Issuer pursuant to a Reimbursement Agreement, meeting the requirements of Section 405 hereof;

“*Loan Agreement*” means any written agreement, other than a Lease or Operating Agreement, between the Issuer and a Borrower in connection with the financing of a Facility with proceeds of a series of Common Fund Bonds whereby the Borrower agrees to pay to the Issuer or its order such amounts at such times as the Issuer determines to be appropriate under such written agreement;

“*Minimum Deposit*” means in respect of any series of Common Fund Bonds the sum designated as such in Section 202 hereof;

“*Net Revenues*” means revenues received or paid by the Issuer in respect of any series of Common Fund Bonds and all Facilities and designated as such in Sections 302 or 303 hereof;

“*Operating Agreement*” means a written agreement, other than a Revenue Agreement, between the Issuer and any other Person under which such Person operates or occupies any Facility pursuant to Section 303 hereof;

“*Operating Fund*” means the fund or funds established in accordance with Section 303 hereof for the purpose of paying operation and maintenance expenses incurred in connection with the operation of any Facility by the Issuer itself or by any Person under the Operating Agreement pursuant to Section 303 hereof;

“*Operator*” means any Person, other than the Issuer, who operates or occupies any Facility under an Operating Agreement;

“*Opinion of Bond Counsel*” means a written opinion of Bond Counsel delivered to the Trustee;

“*Opinion of Counsel*” means a written opinion of legal counsel (who or which may be counsel, except as otherwise expressly provided herein, for the Issuer or a Contracting Party of the Facility to which the opinion relates) and who or which is satisfactory to the Trustee, delivered to the Trustee;

“*Opinion of Independent Counsel*” means a written opinion of legal counsel who or which is not a full-time employee of either the Issuer or the Contracting Party of the Facility to which the opinion relates and who or which is satisfactory to the Trustee;

“*Outstanding*” when used herein with reference to Common Fund Bonds and as of any particular date, means all Common Fund Bonds of all series theretofore and thereupon being authenticated and delivered except:

(a) any Common Fund Bond canceled by the Trustee or surrendered to the Trustee for cancellation at or before said date;

(b) any Common Fund Bond discharged pursuant to Article VI hereof or concerning which moneys sufficient, together with any investment earnings thereon, to pay on the date of maturity or Redemption Date the principal or Redemption Price thereof, as the case may be, with interest to the date of maturity or Redemption Date, shall have theretofore or thereupon been deposited with the Trustee or one or more Paying Agents or escrow agents in trust (whether upon or prior to maturity or the Redemption Date of such Common Fund Bond) and, except in the case of a Common Fund Bond to be paid at maturity, of which notice of redemption shall have been duly given; and

(c) any Common Fund Bond for which another Common Fund Bond shall have been authenticated and delivered pursuant to the applicable Supplemental Bond Resolution in lieu thereof or in substitution therefor;

provided, however, that in determining whether the Holders of the requisite principal amount of any particular Common Fund Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver thereunder, Common Fund Bonds owned by the Issuer or the Contracting Party with respect to the Facilities financed thereby or any affiliate of such Contracting Party shall be disregarded and deemed not to be Outstanding except that, in determining whether the Trustee or the Issuer, as the case may be, shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Common Fund Bonds which the Trustee knows to be so owned shall be so disregarded (an “*affiliate*” of any specified Person means any other Person directly or

indirectly controlling or controlled by or under direct or indirect common control with such specified Person; for the purposes of this definition, “*control*,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “*controlling*” and “*controlled*” have meanings correlative to the foregoing); provided, further, that Common Fund Bonds so owned which have been pledged in good faith may be regarded as “Outstanding” if the pledgee establishes to the satisfaction of the Trustee or the Issuer, as the case may be, the pledgee’s right to act as a Holder with respect to such Common Fund Bonds and that the pledgee is not the Issuer or the Contracting Party or any affiliate of the Contracting Party; provided, further, that a Common Fund Bond which would be considered “Outstanding” but for the fact that money, or money together with investment earnings thereon, sufficient for the payment or redemption thereof has theretofore been deposited in full with the Trustee or any Paying Agent or escrow agent in trust for the Holder thereof (or that the Basic Resolution has theretofore been discharged with respect to the series of which such Common Fund Bond is a part pursuant to Article VI hereof) shall, for the purposes of Article III (to the extent that a default referred to herein or under the applicable Revenue Agreement might adversely affect the exemption from federal income taxation of interest on such Common Fund Bond) and Article VIII (to the extent that any supplement, amendment, modification or waiver referred to therein might adversely affect the exemption from federal income taxation of interest on such Common Fund Bond), be deemed to be “Outstanding” unless such Common Fund Bond shall be due and payable in accordance with its terms or through redemption proceedings or otherwise as provided in the Basic Resolution and the Supplemental Bond Resolution authorizing said series; provided, further, that the Trustee or the Issuer shall be fully protected in requiring and relying on an Opinion of Counsel with respect to whether any such default, supplement, amendment, modification or waiver might adversely affect the exemption from federal income taxation of interest on any such Common Fund Bond;

“*Paying Agent*” means any paying agent for Common Fund Bonds or coupons appointed by or pursuant to Section 702 hereof, and its successor or successors and any other corporation or association which may at any time be substituted in its place pursuant to this Resolution and the applicable Supplemental Bond Resolution;

“*Permitted Encumbrances*” means any lease and any mortgage or security agreement securing obligations under a Revenue Agreement and, as of any particular time and for any particular Facility:

(a) liens for taxes and special assessments not then delinquent or duly contested as permitted under the applicable Revenue Agreement;

(b) utility, access and other easements and rights-of-way, building, zoning and subdivision ordinances and regulations and any other restrictions and exceptions that Independent Counsel or an Independent Engineer certifies will not interfere with or impair the operation of or marketability of title to the Facility (or, if it is not being operated, the operations for which it was designed and last modified);

(c) any mechanics, laborer’s, materialman’s, supplier’s or vendor’s lien or right in respect thereof if payment is not yet due under the contract in question or is duly contested in the manner permitted under the applicable Revenue Agreement;

(d) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to a Facility and do not, in the Opinion of Bond Counsel or Opinion of Independent Counsel, materially impair the property affected thereby for the purpose for which it was acquired or is held by the Contracting Party or materially impair the marketability of title to such property;

(e) any lien which, in the Opinion of Bond Counsel, will not materially impair the security of the Holders; and

(f) other restrictions, easements and encumbrances, if any, which are defined as Permitted Encumbrances under the applicable Revenue Agreement;

“*Person*” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof;

“*Plans and Specifications*” means the plans and specifications, including any modifications thereof, for the construction and improvement of a Facility;

"Prepaid Net Revenues" means any sum deposited in the Common Reserve Account required under a Revenue Agreement or Supplemental Bond Resolution to be so deposited (a) upon termination thereof, or (b) upon the sale of the Facility financed in whole or in part by such Revenue Agreement or Supplemental Bond Resolution or (c) pursuant to any prepayment provision in such Revenue Agreement or Supplemental Bond Resolution, but only to the extent the amount of such sum is determined by the amount of funds necessary at the time of such termination, sale or prepayment to purchase, redeem or otherwise discharge all Common Fund Bonds Outstanding which financed such Facility in whole or in part;

"Projected Debt Service Deficiency" means in respect of a calendar year (a) the amount, if any, by which amounts projected to be withdrawn from the Common Bond Fund (other than transfers pursuant to 404(c) hereof) during such year (or remaining due from a prior year) exceed during such year all amounts projected to be deposited in the Common Bond Fund (other than transfers and deposits pursuant to Section 404(a) or 405(a) hereof) and the earnings thereon (other than Retained Earnings), less (b) all reductions estimated to occur in such year in the Common Reserve Requirement (not considering any additions to the Common Reserve Requirement during such Year);

"Redemption Price" when used with respect to a Common Fund Bond or portion thereof, means the principal amount of such Common Fund Bond or portion thereof plus the applicable premium, if any, payable upon redemption thereof in the manner contemplated in accordance with its terms pursuant hereto or to the applicable Supplemental Bond Resolution;

"Reimbursement Agreement" means any agreement between the Issuer and a Bank pursuant to which a Letter of Credit is issued and which provides for the Issuer's reimbursement obligation with respect to any draw under the Letter of Credit and related matters, as the same may be amended, supplemented or replaced by any substitute agreement in connection with delivery of a substitute Letter of Credit;

"Reserve Deposit" means in respect of any series of Common Fund Bonds funds meeting the requirements of Section 202 hereof deposited in the Common Reserve Account as the applicable Minimum Deposit and any amounts paid to the Issuer or Trustee and deposited in the Common Reserve Account under or in substitution for any amounts payable under an Approved Letter of Credit or Subsequent Approved Letter of Credit;

"Restricted Funds" means any amounts, including earnings, transferred from the construction fund established in respect of a series of Common Fund Bonds after completion of the Facility financed in whole or part thereby, which amounts are required under the applicable Revenue Agreement or Supplemental Bond Resolution to be applied or held for application solely to the purchase, redemption or discharge of Common Fund Bonds of such series;

"Retained Earnings" means any earnings on sums held in the Common Reserve Account of the Common Bond Fund or any subaccounts therein required under a Revenue Agreement or Supplemental Bond Resolution to be applied to or credited against any payments due thereunder or to be credited to the applicable Contracting Party;

"Retained Funds" means Retained Earnings or Retained Revenues held in one or more subaccounts of the Common Reserve Account in accordance herewith;

"Retained Revenues" means any amounts (other than Reserve Deposits, Prepaid Net Revenues or Retained Earnings) required pursuant to a Revenue Agreement or Supplemental Bond Resolution to be credited to or deposited in the Common Reserve Account and applied to or credited against any payments due under a Revenue Agreement or Supplemental Bond Resolution or to be credited to the applicable Contracting Party;

"Revenue Agreement" means any revenue or other agreement other than an Operating Agreement, including, without limitation, a Lease or Loan Agreement, authorized by the Act and entered into with the Issuer by a Contracting Party to finance a Facility;

"State" means the State of Minnesota;

"Subsequent Approved Letter of Credit" means in respect of a series of Common Fund Bonds a letter of credit delivered to the Trustee on or prior to the later of the expiration date of an Approved Letter of Credit delivered to the Trustee pursuant to Section 402(d) hereof in respect of such series or any other related Subsequent Approved Letter of Credit then drawable upon which has been delivered to the Trustee; provided such letter of credit may be drawn upon by the Trustee to obtain funds (a) promptly

(as determined by the Issuer) in accordance with the applicable Supplemental Bond Resolution or Revenue Agreement upon the occurrence of any failure to pay any Net Revenues when due, (b) during a period of at least one (1) year following such later of expiration dates at any time that a Reserve Deposit in respect of such series may be withdrawn from the Common Reserve Account pursuant to Section 403(c)(i) hereof, and the applicable Supplemental Bond Resolution, and (c) within forty-five (45) days prior to the expiration of such letter of credit ("Expiring Letter") at any time, provided that Common Fund Bonds of such series are then Outstanding (and not scheduled to finally mature on or prior to such expiration) and provided there has not been delivered to the Trustee prior to such time cash sums for deposit in the applicable Reserve Deposit Account of the Common Reserve Account, another Subsequent Approved Letter of Credit or any combination of such sums and other Subsequent Approved Letters of Credit, whereby any such sums, together with any amounts drawable under such other Subsequent Approved Letters of Credit, during the one (1) continuous year immediately following such expiration, equal the maximum amount drawable under such Expiring Letter; a Subsequent Approved Letter of Credit shall be in form and substance and issued by a financial institution satisfactory to the Issuer in its sole discretion;

"*Supplemental Bond Resolution*" means a resolution authorizing the issuance of a series of Common Fund Bonds pursuant to Section 202 hereof;

"*Surety*" means any Person who has paid Surety Proceeds;

"*Surety Proceeds*" means payments or proceeds under any letter of credit, insurance policy, guaranty or other surety or security instrument payable to Holders of any series of Common Fund Bonds upon the failure or inability of the Issuer to pay when due any principal or Redemption Price of or interest on such bonds, unless such proceeds or payments are required by the applicable Supplemental Bond Resolution or Revenue Agreement, or such letter of credit, policy guaranty or instrument to be deposited in the Common Bond Fund or IDB Account;

"*Surety Rights*" means the rights of any Holders to receive payment of principal or Redemption Price of or interest on Common Fund Bonds, or any rights or claims of a Surety for money permitted to be satisfied from the Common Bond Fund, to which rights or claims a Surety becomes subrogated or entitled under the applicable Supplemental Bond Resolution upon payment by such Surety of Surety Proceeds;

"*Tenant*" means any Person who leases a Facility from the Issuer under a Lease Agreement;

"*Trustee*" means Wells Fargo Bank, National Association, in Minneapolis, Minnesota, or any successor Trustee as permitted pursuant to Section 709 hereof; and

"*Underwriter*" means Piper Jaffray & Co., Minneapolis, Minnesota and RBC Dain Rauscher, Inc., Minneapolis, Minnesota or any other firm or firms of underwriters appointed by the Issuer.

Section 102. Legal Authorization. The Issuer is a municipal corporation, duly organized and existing under the laws of the State of Minnesota and its home rule charter, and is authorized under the Act to finance revenue-producing projects, issue and sell Common Fund Bonds for that purpose and refund and discharge such Common Fund Bonds in the manner and upon the terms set forth in the Act, this Basic Resolution and any Supplemental Bond Resolution.

ARTICLE II

COMMON FUND BONDS

Section 201. General Authorization to Issue Common Fund Bonds. The Issuer may issue Common Fund Bonds payable from the Common Bond Fund as provided herein and in any Supplemental Bond Resolution.

Section 202. Issuance of Common Fund Bonds. The Issuer may from time to time, upon the conditions stated in this Section 202, agree upon and approve the issuance and delivery of series of Common Fund Bonds for any purpose authorized under the Act, including the refunding of obligations previously issued, equally and ratably payable from the Net Revenues and other funds pledged and appropriated hereunder for Common Fund Bonds of any series theretofore or thereafter authorized, but bearing such date or dates and interest rate or rates and with such maturities and redemption privileges, redemption dates and premiums and other terms as may be determined under a Supplemental Bond Resolution. Every series of such Common Fund Bonds shall be authorized by a Supplemental Bond Resolution, establishing the terms thereof and providing for Net Revenues, which if collected in full and when due will be sufficient to pay the interest when due and to pay and redeem such Common Fund

Bonds at maturity or when required by the provisions of such Supplemental Bond Resolution; provided, however, that credit may be given in the applicable Revenue Agreement or Supplemental Bond Resolution against Net Revenues due thereunder to the extent of the Reserve Deposit and any prepaid Net Revenues, Collateral Proceeds or Retained Funds deposited under the Revenue Agreement or Supplemental Bond Resolution even though at the time such credit is given such Reserve Deposit, Prepaid Net Revenues, Collateral Proceeds or Retained Funds may have been withdrawn to pay the principal or Redemption Price of or interest on Common Fund Bonds because of defaults in the payment of any Net Revenues. Each series of such Common Fund Bonds shall be secured, executed, authenticated and delivered as provided herein and in the applicable Supplemental Bond Resolution, and prior to the delivery of such series of Common Fund Bonds there shall be filed with the Trustee the Opinion of Bond Counsel approving the legality of such series of Common Fund Bonds and such other documents and opinions as may be reasonably required by Bond Counsel. No such Common Fund Bonds, however, shall be issued, executed, authenticated or delivered if an effect thereof would be to subject the interest payable on any other issue of Common Fund Bonds to federal income taxes. No series of Common Fund Bonds shall be issued, executed, authenticated or delivered unless either consent to the issuance of such Common Fund Bonds and the approval of the Supplemental Bond Resolution authorizing issuance of the Common Fund Bonds has been secured from the Underwriter (which consent shall not be unreasonably withheld) or such consent and approval has been secured from the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the then outstanding and undischarged Common Fund Bonds in the manner provided herein. Additional Common Fund Bonds in an amount sufficient to complete a Facility may be issued in accordance with Section 311(d) hereof without such Underwriters' or Holders' consent. No Common Fund Bonds of any series shall be issued under this Section 202 or secured by the Common Bond Fund or the IDB Account unless at or prior to the time of such issuance: (i) subject to Section 402(d) hereof, there shall have been deposited in the Common Reserve Account of the Common Bond Fund, from funds to which no lien has theretofore attached which remains undischarged under this Basic Resolution, a "Minimum Deposit" for such series which shall be a sum equal to the maximum aggregate principal and interest on the Common Fund Bonds of such series scheduled to become due in any calendar year (determined with respect to such series as of the date of the Bond Closing thereof and taking into account redemptions only if made pursuant to a mandatory redemption schedule), or such greater amount as the Issuer shall determine; (ii) there shall have been deposited in the Common Bond Fund all other payments required hereunder or under the applicable Supplemental Bond Resolution with respect to such issue to be deposited therein; and (iii) there shall be on deposit in the IDB Account at least \$10,000,000 or the Bank shall have consented in writing to such issuance.

Section 203. Obligations Not Secured by the Basic Resolution. The Issuer reserves the right and power, in its discretion, to issue outside of this Basic Resolution any other obligations issued and secured under the provisions of any authorizing resolution for any purpose authorized by the Act or any other law, including the refunding of any Common Fund Bonds. Such obligations shall not be secured by the covenants and provisions hereof and may be issued without regard to the limitations contained herein. No obligations so issued or premium or interest thereon shall be payable from or be entitled to any lien or charge on the Common Bond Fund or the IDB Account, except as provided in the Issuer's Resolution No. 2004R-257, adopted on June 18, 2004, as amended.

**ARTICLE III
GENERAL COVENANTS**

Section 301. Payment of Principal or Redemption Price and Interest. The Issuer covenants that it will promptly and duly pay or cause to be paid the principal or Redemption Price of and interest on all Common Fund Bonds issued hereunder and under the applicable Supplemental Bond Resolutions at the place, on the dates and in the manner provided in such Supplemental Bond Resolutions and in said Common Fund Bonds and any coupons appurtenant thereto.

Section 302. Net Revenues. Prior to the issuance of each series of Common Fund Bonds, the Issuer shall provide for the payment of Net Revenues, by the Issuer or a Contracting Party, which are sufficient to pay when due the principal or Redemption Price of and interest on the Common Fund Bonds of such series; provided, however, that credit may be given in the Revenue Agreement or Supplemental Bond Resolution against Net Revenues due thereunder to the extent of the Reserve Deposit (and

investment earnings thereon) and any Prepaid Net Revenues, Collateral Proceeds or Retained Funds deposited thereunder even though at the time such credit is given such Reserve Deposit (or interest earnings thereon), Prepaid Net Revenues, Collateral Proceeds or Retained Funds may have been withdrawn to pay the principal or Redemption Price of or interest on Common Fund Bonds because of defaults in the payment of any Net Revenues. Each Contracting Party shall also be required under the applicable Revenue Agreement to pay all taxes and special assessments levied on or with respect to the Facility financed by such series of Common Fund Bonds, all costs of operation, maintenance, repairs, insurance and utilities and all other costs (except such costs, if any, as may be specifically agreed to be paid by the Issuer from available funds). The Net Revenues of a Facility, in addition to the meaning assigned such term in Section 303 hereof, means (a) all amounts required to be paid by the Issuer or by or on behalf of the applicable Contracting Party for the purpose of providing funds which if paid when due will equal and fund when due all payments of principal and interest on Common Fund Bonds of the applicable series scheduled as of such Bond Closing to become due thereafter and (b) any other amounts required pursuant to a Revenue Agreement or Supplemental Bond Resolution to be deposited in the Common Bond Fund subsequent to Bond Closing (but such term shall not include Reserve Deposits, Prepaid Net Revenues, Collateral Proceeds, Administrative Fees, Retained Funds, Restricted Funds, Surety Proceeds, amounts required under a Revenue Agreement or Supplemental Bond Resolution to be deposited in the Common Reserve Account or any charges payable to the Issuer for specific costs to be paid by a Contracting Party or any Guarantor under the applicable Revenue Agreement or any related Guarantee, except as and to the extent any such amount shall be applied or credited against amounts otherwise payable as Net Revenues).

Section 303. Net Revenues From Operations. For each Facility operated by the Issuer itself or an Operator under an Operating Agreement, the Issuer will maintain in its official books and records a bookkeeping account to be designated as the Operating Fund of that Facility, reflecting all revenues derived from that Facility and all operating costs incurred by the Issuer in respect of the Facility. The revenues from time to time deposited in the Operating Fund shall be applied first to the payment, promptly as incurred, of all necessary, reasonable and current costs of the operation of such Facility, determined in accordance with accepted accounting practices, including, but without limitation, reasonable administrative expenses incurred solely with respect to the operation of the individual Facility; current maintenance and repairs necessary to maintain such Facility in adequate operating condition; labor and the cost of materials and supplies necessarily used for such current operation, maintenance and repairs; insurance of the premises against risks and in amounts for which insurance is usually carried by prudent owners of like properties; insurance of the Issuer and its officers and employees against liability for damage to persons and property incurred in connection with such operation in amounts such as are usually carried by prudent operators of similar enterprises or in lesser amounts to which the Issuer's liability may be limited by law; and charges for accumulation of appropriate reserves for the payment of operating costs which recur periodically but in varying amounts. The operating costs of any Facility shall not include any allowance or payment for depreciation, renewal, replacement or improvement of or additions to capital assets; any portion of the salary or wages paid to any officer or employee of the Issuer or any liability incurred by the Issuer or any officer or employee for damage to persons or property in excess of the amount of such liability compensated by insurance. The Net Revenues of any such Facility constitute all these revenues from time to time received by the related Operating Fund and in a given calendar month, determined, in the discretion of the Issuer, to exceed total operating costs incurred or payable in such month.

Section 304. Pledge of Available Revenues. All Available Revenues are hereby pledged and appropriated and shall be credited as received by or credited to the Common Bond Fund (and the accounts therein) to the extent and in the manner set forth in Sections 401, 402, 403 and 404 hereof. The pledge herein made shall constitute a first and prior lien on all Available Revenues derived in respect of all Facilities; provided, however, that as set forth in Section 404(c) hereof, twenty-five percent (25%) of the Available Surplus for a calendar year is hereby pledged and irrevocably appropriated and shall be transferred to the B Subaccount in the IDB Account (subject to Section 404(a) hereof) and the remaining seventy-five percent (75%) of such amount shall be available for any proper lawful purpose of the Issuer; and provided further that in accordance with Section 403(e) hereof twenty-five percent (25%) of the

Administrative Fees shall be transferred to the B Subaccount in the IDB Account and seventy-five percent (75%) thereof shall be available for any proper lawful purpose of the Issuer.

Section 305. Books and Records. The Issuer covenants that so long as any Common Fund Bonds of any series are Outstanding and unpaid the Issuer will keep or cause to be kept proper books and records and accounts in which full, true and correct entries will be made of all of its financial dealings or transactions with and in relation to all Facilities, Reserve Deposits, Restricted Funds, the IDB Account, Net Revenues and all other sums derived under a Revenue Agreement, Guarantee or Supplemental Bond Resolution. The Issuer's books shall be open to inspection and copying during all reasonable business hours by any Holder or the agent or attorney of such Holder, and the costs of any copying shall be borne by the applicable Holder or the agent or attorney of such Holder. Any Operating Funds, Restricted Funds and each account in the Common Bond Fund and the IDB Account will be audited and certified annually by an independent certified public accountant selected by the Issuer, no later than one hundred twenty (120) days following the close of each calendar year, and the report of each such audit will be made available for examination at all reasonable business hours by any Holder of such Common Fund Bonds, without charge. A copy of the report of each such audit shall be filed with the Underwriter, the rating bureaus, the Finance Officer of the Issuer and with each Holder who formally requests in writing each year that the name and address of the Holder be kept on file with the Issuer for such audit distribution purposes.

Section 306. List of Holders. To the extent that such information is made available to the Trustee, the Trustee will keep on file at its office a list of the names and addresses of the last-known Holders of all Common Fund Bonds and the serial numbers of the Common Fund Bonds believed to be held by each of such last-known Holders. Any Holder may request that his name and address be placed on said list by filing a written request therefor with the Trustee, which request shall include a statement of the principal amount of Common Fund Bonds held by such Holder and the serial numbers of such Common Fund Bonds. The Trustee shall be under no responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by Holders and/or owners (or a designated representative thereof) of ten percent (10%) or more in principal amount of Common Fund Bonds Outstanding hereunder, such authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

Section 307. Nature of Security. The Common Fund Bonds shall not be payable from or be a charge upon any funds of the Issuer other than the revenues and funds pledged to the payment thereof; nor may any Holder or Holders of the Common Fund Bonds have the right to compel any exercise of the taxing power of the Issuer to pay the principal or Redemption Price of any Common Fund Bonds or the interest thereon or to enforce payment thereof against any property of the Issuer other than the revenues and other amounts so pledged. The Common Fund Bonds shall not otherwise constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Issuer, and no Common Fund Bond of any series shall constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation; but nothing herein shall impair the rights of the Holders of Common Fund Bonds to enforce the covenants made for the security thereof as provided herein, and by authority of the Act, the Issuer has made the covenants and agreements herein for the equal and proportionate benefit of all Holders of the Common Fund Bonds of every series and any Sureties to the extent and in the manner herein provided. Notwithstanding the foregoing, nothing herein shall impair the rights of the Holders of any Common Fund Bonds designated under Chapter 424 of the Code of Ordinances of the Issuer as secured thereby, to enforce the pledge and covenants made on behalf of the Holders of such designated Common Fund Bonds as provided in Chapter 424 of the Code of Ordinances.

Section 308. Enforcement of Covenants. The Issuer covenants that it will promptly give all notices and do all other acts and things required under the terms of all applicable Leases, Loan Agreements, Operating Agreements, Guarantees and other agreements it may from time to time have entered into with Contracting Parties, Guarantors, Operators or Sureties with respect to any of the Facilities for the performance of obligations of the Issuer and for the enforcement of all obligations of such Contracting Parties, Guarantors, Operators or Sureties and for the collection of all rentals, payments on notes or other similar payments or rates and charges to become due, to the extent and in the manner that the Issuer reasonably determines is prudent and necessary to protect the interests of the Holders; provided that nothing herein shall prevent the Issuer, with or without the consent of or notice to the Holders

and at its sole discretion, from renegotiating any such Lease, Loan Agreement, Guarantee, Operating Agreement or other agreement or from waiving any default thereunder so long as such renegotiation or waiver is consistent with covenants made herein and in the applicable Supplemental Bond Resolution; and provided further that the Issuer may act upon the Opinion of Bond Counsel, Opinion of Independent Counsel or advice of an Independent Engineer or certified public accountant selected by the Issuer in the exercise of reasonable care; and the Issuer shall not be responsible for any loss or damage resulting from nonaction or from any action taken in good faith in reliance upon such opinion or advice.

Section 309. Production of Adequate Revenues and Staff Support. The Issuer covenants that, consistent with and in accordance with the terms hereof and of any applicable Revenue Agreement at the time in effect, the Issuer shall use its best efforts to lease, operate or otherwise cause each Facility to be used or held for sale and shall require such rentals, prices, payments on notes or other similar payments or rates and charges in connection with each such Facility as are sufficient to assure prompt payment of principal or Redemption Price of and interest on all Common Fund Bonds which financed, in whole or in part, such Facility. The Issuer shall employ and maintain a staff to administer the operations of the Issuer in numbers, skill and training so as to permit the Issuer to use such best efforts to continuously: (a) monitor performance by all Contracting Parties of their covenants in the Revenue Agreements, (b) expend such time as is practicable and appropriate on leasing and releasing Facilities operated by itself or under an Operating Agreement, (c) enforce all covenants in the Revenue Agreements as may from time to time be required to assure a continuous flow to the Issuer of Net Revenues from Facilities and (d) perform such other duties as may from time to time be required to provide sufficient Net Revenues and other sums required to be deposited hereunder to meet the requirements hereof; provided that nothing herein shall be construed as imposing a duty on the Issuer to review any financial statements of any Contracting Party filed with the Issuer in accordance with the provisions of a Revenue Agreement.

Section 310. Continuing Status of Issuer. While any Common Fund Bonds of any series are Outstanding and not discharged, the Issuer will not, except as may be required by applicable law or judicial determination, terminate its existence as an independent governmental entity, terminate, surrender or otherwise delegate any of its authority or surrender or otherwise transfer any of its assets, except that this prohibition shall not apply to the sale or other disposition of the Issuer's assets by the Issuer in the course of its operation or as otherwise required or permitted hereby.

Section 311. Facilities Financed by Common Fund Bonds.

(a) Before issuing any series of Common Fund Bonds in accordance with Section 202 hereof to finance the acquisition, installation, construction or improvement of any one or more Facilities, the Issuer shall establish in its official books and records a bookkeeping account to be designated as the Construction Fund for each such Facility. In addition to such other amounts which the Issuer may authorize for deposit therein, the Issuer shall credit or allocate to such Construction Fund all proceeds of the Common Fund Bonds except any portion thereof deposited in the Common Bond Fund: (i) in accordance with Section 402(d) hereof, (ii) to pay interest accrued on such Common Fund Bonds prior to the related Bond Closing or thereafter, or (iii) for any purpose in accordance with the applicable Supplemental Bond Resolution. Subject to the terms hereof, the amounts and earnings thereon in each Construction Fund shall be held and disbursed therefrom in accordance with the applicable Supplemental Bond Resolution, Revenue Agreement and Disbursing Agreement. On or after the date of termination of the Letter of Credit, each such Construction Fund may be held and moneys disbursed therefrom by the Issuer or by any entity so designated by the Issuer. Prior thereto, the Bank is authorized to act in such capacity.

(b) Prior to completion of any Facility, as determined in accordance with the applicable Revenue Agreement or Supplemental Bond Resolution, moneys in the related Construction Fund constituting proceeds of any Common Fund Bonds may be used only to pay or reimburse payment of any related Facility Costs which may be financed by bonds under the Act or, to the extent permitted in the applicable Supplemental Bond Resolution, to pay obligations of the Contracting Party due under the applicable Revenue Agreement or to redeem the applicable Common Fund Bonds. Earnings on sums in the Construction Fund shall be held and applied as established in the applicable Revenue Agreement or Supplemental Bond Resolution. No draw by a Contracting Party for Facility Costs (other than for costs related to the issuance of the applicable Common Fund Bonds) shall be allowed for payment or

reimbursement from the applicable Construction Fund unless in the determination of the Trustee or the Issuer sums held the Construction Fund, together with amounts pledged or drawable under letters of credit, loan agreements or other instruments or agreements (all in form satisfactory to the Issuer) for payment of Facility Costs on deposit in the Construction Fund, are sufficient to pay all such Facility Costs then estimated to be necessary for completion of the applicable Facility in accordance with the applicable Plans and Specifications and Revenue Agreement. Such a draw by a Contracting Party shall also not be permitted unless either: (i) a Construction Contract or Contracts shall have been entered into and executed and filed with the Issuer providing for the completion of the Facility in accordance with the Plans and Specifications, and a payment and performance bond shall have been secured from each contractor, unless waived by the Issuer, executed by a responsible surety company authorized to do business in the State, in a penal sum equal to the entire amount to become payable under the contract and conditioned as required by law, for the completion of the work in accordance with the Plans and Specifications and for the payment of all amounts due to subcontractors and suppliers or (ii) a Construction Contract shall have been entered into for at least the work and materials for which a draw is requested (or if the work and materials were not furnished pursuant to a Construction Contract, other evidence satisfactory to the Issuer that the work and materials shall have been furnished in accordance with the Plans and Specifications) and the Issuer shall have received written estimates of the total cost of completing the Facility, and the Issuer shall have secured such bond or such other assurances as it deems necessary to assure completion of the Facility and payment of the costs thereof. No draw shall be allowed for payment or reimbursement under any Construction Contract until approved by the Issuer or its agent and except in accordance with the applicable Disbursing Agreement.

(c) The Issuer shall use its best efforts to cause the Contracting Party under each Revenue Agreement to cause each Facility to be completed as provided by the applicable Plans and Specifications and Construction Contract or Contracts (if any); and the Issuer shall thereafter, consistent with its rights under the applicable Revenue Agreement, use its best efforts to: (i) cause the same to be operated or held for sale for one or more of the purposes set forth in the Act and (ii) with respect to any Facility in which the Issuer holds title or has a mortgage or other security interest, hold such Facility free from all liens thereon except Permitted Encumbrances. The Issuer shall hold all Net Revenues and other sums derived by the Issuer from each Facility free from all liens other than the liens herein granted or provided for.

(d) In the Supplemental Bond Resolution authorizing a series of Common Fund Bonds respecting any Facility the Issuer may reserve the power to issue Additional Common Fund Bonds under Section 202 hereof in any amount which may be found necessary by the Issuer to pay all claims payable from the applicable Construction Fund until the Facility is completed. No liability will be incurred by the Issuer for the payment of capital costs in excess of the amounts of the Common Fund Bonds agreed to be issued for a Facility, until and unless the amount of such excess is deposited in the applicable Construction Fund; provided that nothing herein shall be construed as preventing the Issuer from using its own funds or funds from other sources to meet such excess requirements allocated and, if applicable, receiving reimbursement for any such advance in accordance with the applicable Revenue Agreement.

(e) Upon completion of a Facility in accordance with the applicable Revenue Agreement or Supplemental Bond Resolution and upon adequate provision having been made for payment of all costs thereof, any balance remaining in the Construction Fund related thereto, including any remainder of deposited funds and earnings thereon, shall be allocated and disbursed in accordance with the provisions of the applicable Supplemental Bond Resolution, Revenue Agreement and Disbursing Agreement.

Section 312. Enforcement of Common Fund Bond Covenants. No Holder of any Common Fund Bond of any series shall have the right to institute any suit, action or proceeding, in equity or at law, for the enforcement of any covenant contained herein, in any Supplemental Bond Resolution or Revenue Agreement, unless:

(a) there shall have been obtained, prior to instituting such suit, action or proceedings the written concurrence thereto by the Holders of not less than ten percent (10%) in aggregate principal amount of all Common Fund Bonds then Outstanding or twenty percent (20%) in aggregate principal amount of any series of Common Fund Bonds then Outstanding, and pursuant to such concurrence, a written

request, containing the reasons therefor, shall have been made of the Trustee to institute such suit, action or proceeding; and

(b) the Trustee shall have refused or neglected to comply with such request within forty-five (45) days after the Trustee's receipt of such request or the Trustee shall have given written consent thereto; and

(c) such suit, action or proceeding is initiated and continued for the ratable benefit of all Holders of each series of Common Fund Bonds Outstanding and any coupons appurtenant thereto which may be directly affected, adversely or positively, from the disposition of such suit, action or proceeding, subject to the provisions hereof

The Holders of fifty-one percent (51) in principal amount of the Outstanding Common Fund Bonds shall have the right to direct the Trustee on other behalf to direct the time, method and place of conducting any proceeding for any remedy available to the Holders of such Common Fund Bonds and for the exercise of any power conferred on them and the right to waive default in the performance of any covenant and its consequences as it relates to such Common Fund Bonds, except a default in the payment of the principal or Redemption Price of or interest on any such Common Fund Bond when due or required to be redeemed. However, nothing herein shall impair the absolute and unconditional right of the Holder of each Common Fund Bond to receive payment of the principal or Redemption Price thereof and interest thereon at the times provided in the applicable Supplemental Bond Resolution and to institute suit for the enforcement of any such payment in accordance with the terms of the Common Fund Bond to the extent not inconsistent herewith. Before the Holders may take or require the Issuer or the Trustee to take any action hereunder, the Issuer and the Trustee may require that each be furnished an indemnity bond satisfactory to it for the reimbursement of all expenses which it may incur in such regard and to protect it against all liability, except liability which is adjudicated to have resulted from the negligence or willful default of the Issuer or the Trustee, by reason of any action so taken by the Holders, the Issuer or the Trustee.

Notwithstanding anything in this Section to the contrary, no Holder of any Common Fund Bond or any coupon appurtenant thereto shall have any right in any manner whatever by such Holders action to affect, disturb or prejudice the lien and security interest of the Issuer pursuant hereto or to the Supplemental Bond Resolution or to the applicable Revenue Agreement on any Facility or any part thereof or, except in the manner herein provided, to enforce any right hereunder.

All rights of action hereunder, under the applicable Supplemental Bond Resolution or upon any of the Common Fund Bonds of any series or any coupons appurtenant thereto which are enforceable by the Holders may be enforced by the Trustee on behalf of the Holders without the possession of any of the Common Fund Bonds or any coupons appurtenant thereto or the production thereof at the trial or other proceedings relative thereto, and any suit, action or proceeding so instituted by the Trustee shall be brought in its name as the trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the Holders of said Common Fund Bonds and any coupons appurtenant thereto in respect of which such judgment shall have been recovered, subject to the provisions hereof.

Section 313. Operation of Facilities. Subject to the provisions of Section 308 hereof, the Issuer agrees in the event of a default under a Revenue Agreement with respect to any Facility to which the Issuer has title or in which it has a mortgage or other security interest, that it will use its best efforts while any Common Fund Bonds remain Outstanding and undischarged to lease or otherwise cause the Facility to be operated to provide revenues to help pay the principal or Redemption Price of and interest on the Common Fund Bonds and maintain the Common Bond Fund and, in the event of sale, to secure the best price obtainable, subject, however, to any limitations necessary to maintain the tax-exempt status of any Common Fund Bonds. This covenant, to the extent that it may obligate the Issuer to lease, release or sell any Facility for the benefit of the Holders, may be enforced against the Issuer only to the extent that at such time the Issuer is permitted by law to sell the property or to the extent that any consent required for leasing or releasing the property has been given.

Section 314. Insurance. Consistent with the applicable Revenue Agreement or Supplemental Bond Resolution, the Issuer shall use its best efforts to cause all Facilities to be insured with responsible insurance companies against all risks and in the amounts for which insurance is usually carried by prudent owners of like properties and will cause the Issuer and its officers and employees to be insured against liability for damage to persons and property incurred in connection with its ownership or operation

of any such Facility, in such amounts as it deems appropriate, and will cause a provision for the maintenance of such insurance to be included in each applicable Revenue Agreement or Supplemental Bond Resolution.

Section 315. Performance by Issuer of Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions to be performed by it contained herein, in each and every Common Fund Bond executed, authenticated and delivered hereunder and in all proceedings of its governing body pertaining thereto; that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the Act, to issue Common Fund Bonds (and to make the pledge set forth in Section 401 hereof in connection therewith) in the manner and to the extent herein set forth; that all action on its part for the issuance of Common Fund Bonds and for the execution and delivery of each series thereof has been or shall be duly and effectively taken; and that such Common Fund Bonds in the hands of the Holders and owners thereof are or shall be valid and enforceable obligations of the Issuer according to the terms thereof.

Section 316. Additional Restrictions on the Issuance of Common Fund Bonds. Notwithstanding any other provisions herein to the contrary, no Common Fund Bonds shall be issued, unless on the day of the delivery of such Common Fund Bonds, the sum of the Cash Reserve Ratio and the Letter of Credit Reserve Ratio total twenty-five percent (25%) or more. For purposes of this Section 316, and Section 317, the following terms have the following meanings:

(a) "*Cash Reserve Ratio*" means the sum of the following: (i) a fraction, the numerator of which is the sum of all money credited to the Common Reserve Account and the B Subaccount and the denominator of which is the Outstanding Principal, plus (ii) a fraction, the numerator of which is the sum of all money credited to the Issuer Subaccount and the denominator of which is the Outstanding CBF Principal;

(b) "*Letter of Credit Reserve Ratio*" means the sum of the following: (i) a fraction, the numerator of which is the sum of all unexpired Approved Letters of Credit and Subsequent Approved Letters of Credit, and the denominator of which is the Outstanding Principal, plus (ii) a fraction, the numerator of which is the amount of the Letter of Credit (if still in effect) and the denominator of which is the Outstanding CBF Principal;

(c) "*Outstanding Principal*" means, at any time, the aggregate principal amount of all Common Fund Bonds then outstanding under the Basic Resolution, exclusive of any defeased Common Fund Bonds and any other Common Fund Bonds, the underlying credit of which would be rated not less than "A" by Standard & Poor's, without giving effect to the credit enhancement provided by the Common Bond Fund;

(d) "*Outstanding CBF Principal*" means, at any time, the Outstanding Principal plus the aggregate principal amount of all Common Fund Bonds Outstanding under the Issuer's Resolution No. 2004R-257, as amended, exclusive of any defeased Common Fund Bonds issued under such resolution, or other Common Fund Bonds issued under such resolution, the underlying credit of which would be rated not less than "A" by Standard & Poor's, without giving effect to the credit enhancement provided by the Common Bond Fund created by such resolution.

Section 317. Maintenance of Cash Reserve Ratio and Letter of Credit Reserve Ratio. The Issuer shall maintain the sum of the Cash Reserve Ratio and the Letter of Credit Reserve Ratio at an amount equal to at least twenty-five percent (25%). If the sum of the Cash Reserve Ratio and Letter of Credit Reserve Ratio should at any time fall below 25% (the "Ratio Requirement") the Issuer shall:

(a) not issue additional Common Fund Bonds as set forth in Section 316;

(b) increase the amount of remaining Available Surplus, if any, transferred to the B Subaccount of the IDB Account in accordance with Section 404(c)(ii) from twenty-five percent (25%) to one hundred percent (100%) of any remaining Available Surplus until the Ratio Requirement is maintained; and

(c) increase the amount transferred from the Administrative Fee Account to the B Subaccount of the IDB Account in accordance with Section 403(e) from twenty-five percent (25%) to one hundred percent (100%) of such sums in the Administrative Fee Account until the Ratio Requirement is maintained.

(d) The obligation to maintain the Ratio Requirement is limited solely to the sources herein specified and the Issuer shall not have any obligation to levy taxes for or make any advance or payment or incur any expense or liability from its general funds in performing the provisions of this Section 317.

**ARTICLE IV
FUNDS AND ACCOUNTS**

Section 401. Funds Pledged and Assigned. All Accumulated Revenues, Available Revenues, Net Revenues, Prepaid Net Revenues, Retained Funds, Collateral Proceeds, Administrative Fees and Reserve Deposits from time to time to be received or retained by the Issuer (not including Restricted Funds which shall be pledged to a particular series of Common Fund Bonds to the extent provided in the applicable Supplemental Bond Resolution) are hereby pledged and appropriated to secure the payment in accordance herewith when due of all principal and Redemption Price of and interest on all Common Fund Bonds from time to time Outstanding or any Surety Rights. All Net Revenues, Prepaid Net Revenues, Retained Funds, Collateral Proceeds, Administrative Fees, Reserve Deposits and other sums required to be deposited or credited in the Common Bond Fund (but not including Restricted Funds) pursuant hereto or an applicable Supplemental Bond Resolution shall be credited to the funds and accounts described herein to the extent, in the manner and for the purposes set forth herein and in all applicable Supplemental Bond Resolutions; and to the extent deposited and retained in the Common Bond Fund or B Subaccount of the IDB Account, but subject to this Article IV, such amounts shall not be subject to any lien or attachment by any creditor of the Issuer other than the lien of Holders or Sureties, and, to the extent expressly provided in the Reimbursement Agreement on the date hereof, the lien and security interest of the Bank.

Section 402. Common Bond Fund.

(a) *Common Bond Fund.* There is hereby created and established a Common Bond Fund which shall constitute a special and separate fund to be held by the Trustee. The Common Bond Fund shall consist of the Debt Service Account, Deficiency Account, Common Reserve Account and Administrative Fee Account as special and separate accounts in the Common Bond Fund, which special and separate accounts are hereby created and established. The Issuer from time to time as required shall establish and create within the Common Reserve Account segregated subaccounts with respect to each series of Common Fund Bonds to hold separately each of the following: (i) Reserve Deposits, (ii) Prepaid Net Revenues, (iii) Collateral Proceeds and (iv) Retained Funds. The Issuer may establish such additional subaccounts within any of the foregoing accounts as it deems appropriate, provided that claims permitted hereunder to any amounts held in any such account shall not in any manner be impaired thereby. Reference to the Common Bond Fund herein shall include reference to all accounts and subaccounts therein, unless otherwise stated. Unless otherwise provided herein or in the applicable Supplemental Bond Resolution, withdrawals permitted or required from any account established hereunder may be made from any subaccounts in such account in any order of withdrawal, as the Issuer in its sole discretion shall determine.

(b) *Debt Service Account.* In addition to transfers or payments into the Debt Service Account pursuant to Sections 402(h), 404(a), 403(d)(ii) and 405(a) hereof and subject to withdrawals in accordance herewith, the Issuer shall deposit in or credit to such account all Net Revenues paid or received by the Issuer and, to the extent required by any applicable Supplemental Bond Resolution or Revenue Agreement and to the extent not inconsistent herewith, proceeds from Common Fund Bonds for the payment of interest accrued on the applicable series of Common Fund Bonds prior to the Bond Closing therefor or thereafter (to the extent such proceeds may be lawfully so applied) or otherwise. Earnings on all funds held in or credited to the Debt Service Account shall be credited to such account.

(c) *Common Reserve Account.* In addition to transfers or payments into the Common Reserve Account pursuant to Sections 402(h) and 404(a) hereof and subject to withdrawals in accordance herewith, the Issuer shall deposit the following funds in respect of any series of Common Fund Bonds each into separate subaccounts established for such series in the Common Reserve Account: all Reserve Deposits, Prepaid Net Revenues, Collateral Proceeds and Retained Funds. Subject to Sections 402(d) and 402(e) hereof, earnings (other than Retained Earnings) on any funds held in the Common Reserve Account or in any subaccount thereof shall be credited to such account or subaccount as the case may be.

(d) *Reserve Deposit Funding Requirements: Approved Letter of Credit.* The Minimum Deposit required by Section 202 hereof in respect of each series of Common Fund Bonds may be met by deposits of any unencumbered funds qualifying under such Section, including proceeds of the Common Fund Bonds in respect of which any such requirement arises subject to any limitations required to maintain

the tax-exempt status of such Common Fund Bonds) and funds provided by or on behalf of the applicable Contracting Party or the Issuer. Additionally, the Minimum Deposit shall be deemed met in respect of any series of Common Fund Bonds to the extent of amounts drawable under an Approved Letter of Credit. If at any time all Reserve Deposits retained in the Common Reserve Account are inadequate to meet any withdrawals otherwise required to be made hereunder from Reserve Deposits, the Trustee shall, in such order of priority as the Trustee deems appropriate (but not inconsistent with any applicable Supplemental Bond Resolution or Revenue Agreement), promptly draw upon funds available under Approved Letters of Credit and subsequent Approved Letters of Credit, if any, in an aggregate amount adequate for such withdrawals, and the Trustee shall promptly deposit such amounts in the applicable Reserve Deposit subaccounts in the Common Reserve Account. Between forty-five (45) and thirty (30) days prior to the expiration of any Approved Letter of Credit or Subsequent Approved Letter of Credit (the "Expiring Letter"), the Trustee shall cause such Expiring Letter to be fully drawn upon, if any Common Fund Bonds of the series to which such Expiring Letter relates are then Outstanding (and not scheduled to finally mature on or prior to such expiration), and if there has not been delivered to the Trustee prior to such time cash sums for deposit in the applicable Reserve Deposit subaccount in the Common Reserve Account, another Subsequent Approved Letter of Credit or any combination of such sums and other Subsequent Approved Letters of Credit, whereby any such sums, together with any amounts drawable under such other Subsequent Approved Letters of Credit during the one (1) continuous year immediately following such expiration, equal the maximum amount drawable under the Expiring Letter. Notwithstanding any other provision herein, before withdrawal of Reserve Deposits pursuant to Section 403(c)(ii) hereof, the Trustee shall fully draw upon any Approved Letter of Credit or Subsequent Approved Letter of Credit in respect of which any default in any payment of Net Revenues has occurred (unless such default has been theretofore cured). Notwithstanding anything to the contrary herein, the Issuer shall have the power to permit earnings on any Reserve Deposit to be free of any lien created hereby or to be credited to such Contracting Party or its designee under terms and conditions established by the Issuer; provided that in no event may the principal amount of such deposit be free of the lien thereon created hereby.

(e) *Retained Earnings.* All Retained Earnings shall be credited to the subaccount maintained for Retained Funds for the applicable series of Common Fund Bonds to which such Retained Earnings relate.

(f) *Administrative Fee Account.* Subject to withdrawals in accordance herewith, the Issuer shall deposit all Administrative Fees when received into the Administrative Fee Account; provided, however, that if the aggregate sums in a given month paid or credited as paid by a Contracting Party for Administrative Fees and Net Revenues are less than the total Administrative Fees and Net Revenues due to the Issuer from such party in such month, the aggregate sums so paid shall be allocated to the extent thereof first to satisfy such Net Revenues due (after satisfaction of any past due unpaid amounts of Net Revenues) and then to satisfy such Administrative Fees (after satisfaction of any past due unpaid amounts of Administrative Fees). Earnings on funds in the Administrative Fee Account shall when credited be deemed a deposit of Administrative Fees to such account.

(g) *Restricted Funds.* Restricted Funds received by the Issuer in respect of any series of Common Fund Bonds shall be deposited in such fund, account or subaccounts not maintained in the Common Bond Fund as the Issuer shall in its sole discretion determine, but subject to the terms of any applicable Revenue Agreement or Supplemental Resolution, and any amounts, including earnings, in any such fund, account or subaccount shall be applied, withdrawn or credited to the benefit of a Contracting Party as provided in the applicable Supplemental Bond Resolution or Revenue Agreement.

(h) *Deficiency Account.* Amounts transferred pursuant to Section 404(c)(i) hereof shall be deposited in the Deficiency Account, subject to withdrawals in accordance herewith. Earnings on amounts in the Deficiency Account shall be credited thereto, subject to withdrawals in accordance herewith.

(i) *Miscellaneous Funding.* Amounts received by the Issuer in respect of any Facility or Revenue Agreement not otherwise required hereunder to be deposited in a specific fund, account or subaccount established hereby may be deposited in any fund, account or subaccount, subject to any provisions not inconsistent herewith in any Supplemental Bond Resolution or Revenue Agreement, relating to the deposit, withdrawal, transfer or use of funds therein, or the treatment of earnings. hereon.

Section 403. Withdrawals.

(a) *Bond Payments.* Except as otherwise provided herein: (i) all payments required hereunder to be made by the Issuer of principal or Redemption Price of or interest on Common Fund Bonds of any series or in respect of any Surety Rights when due shall be made, to the extent of funds therein, first from the Debt Service Account, then from the Deficiency Account, then from the Administrative Fee Account, then from retained Reserve Deposits in such order of priority as the Issuer may determine which is not inconsistent with the applicable Revenue Agreements or Supplemental Bond Resolutions (but subject to Section 402(d) hereof), and then from remaining subaccounts in the Common Reserve Account in such order of priority as the Issuer may determine; (ii) to the extent such foregoing funds shall not be sufficient to make all such payments, such payments shall be made, to the extent of funds therein, from the B Subaccount of the IDB Account, then from the Issuer Subaccount of the IDB Account, and then (to the extent, if any, determined in the sole discretion of the Issuer) from other available funds of the Issuer in accordance with Section 404(a) hereof; and (iii) if all such foregoing funds required (or permitted in the discretion of the Issuer) to be used for such payments shall not be sufficient to make all such payments, the Letter of Credit (if outstanding) shall be drawn upon in accordance with Section 405(a) hereof.

(b) *Debt Service Account.* In addition to withdrawals pursuant to Sections 404(a), 404(c) and 405(b) hereof and any amounts advanced by the Issuer on behalf of a Contracting Party pursuant to the applicable Supplemental Bond Resolution, funds required hereunder to be deposited in or credited to the Debt Service Account may be withdrawn and used while any Common Fund Bonds are Outstanding only for the payment of (i) interest on Common Fund Bonds as or after it becomes due and payable, including accrued interest on any Common Fund Bonds redeemed before maturity pursuant to the applicable Supplemental Bond Resolution, increases in interest resulting from a series of Common Fund Bonds becoming taxable for federal tax purposes, interest accruing on any Common Fund Bond after its stated maturity, if such bond is not then paid or redeemed, and to the extent that payment of such interest is lawful, interest upon overdue installments of interest due on Common Fund Bonds at the rate borne by such Common Fund Bonds, (ii) the principal amount or Redemption Price of any Common Fund Bonds at their stated maturities or when called for redemption and prepayment in accordance with any applicable Supplemental Bond Resolution, (iii) the discharge of Common Fund Bonds of any series in accordance with Article VI hereof, or the purchase of any such bonds in accordance herewith or with any applicable Supplemental Bond Resolution, (iv) any amounts due under the Reimbursement Agreement or under Section 405(b) hereof, (v) any amounts for which the Issuer has a right of reimbursement from a Contracting Party or Guarantor paid in the reasonable discretion of the Issuer to prevent impairment of the first lien created hereby or any equity or security interest of the Issuer in any Facility, and (vi) any Surety Rights. Notwithstanding any other provision herein, amounts constituting Net Revenues received or paid by the Issuer after they were due and payable may be transferred to any subaccount in the Common Reserve Account to the extent amounts in such account were withdrawn because of the delay in receipt of such Net Revenues.

(c) *Reserve Deposits.* In addition to withdrawals pursuant to Section 404(c) hereof, and subject to Section 411 hereof, while any Common Fund Bonds are Outstanding Reserve Deposits shall be used and withdrawn only for (i) the last payments of the principal or Redemption Price of or interest on the applicable series of Common Fund Bonds; and (ii) any purpose for which funds in the Debt Service Account may be withdrawn, but only after exhaustion of the Administrative Fee Account, the Debt Service Account (as determined before any transfers thereto pursuant to Section 404(a) for the specific purpose for which such withdrawal is required) and the Deficiency Account. Except as otherwise provided in an applicable Supplemental Bond Resolution or Revenue Agreement and Section 402(d) hereof, funds may be withdrawn from Reserve Deposits in accordance herewith in any order of priority as among such Reserve Deposits as may be selected by the Issuer in its sole discretion; provided that for purposes of clause (ii) above, amounts shall first be drawn from the Reserve Deposits for any series of Common Fund Bonds in respect of which any default in payment of applicable Net Revenues has occurred and is then continuing.

(d) *Prepaid Net Revenues, Collateral Proceeds and Retained Funds.*

(i) Subject to Section 404 hereof, any funds required hereunder to be deposited in or credited to any subaccount established for a series of Common Fund Bonds concerning Prepaid Net

Revenues or Collateral Proceeds shall be withdrawn and used only for the purpose of purchasing, paying, prepaying, redeeming or discharging Common Fund Bonds or interest or premium thereon (A) of such series in the case of Prepaid Net Revenues and (B) of any series of Common Fund Bonds in the case of Collateral Proceeds; provided, however, that Prepaid Net Revenues and Collateral Proceeds shall be withdrawn to the extent required for the purposes for which other funds in the Common Reserve Account may be otherwise withdrawn, but only after exhaustion of the Deficiency Account, Debt Service Account and Administrative Fee Account and other funds in the Common Reserve Account other than in subaccounts for Prepaid Net Revenues, Collateral Proceeds or Retained Funds (as the foregoing funds and accounts are determined before any transfers pursuant to Section 404(a) hereof for the specific purpose for which withdrawal is required).

(ii) Any funds required hereunder to be deposited in or credited to any subaccount for Retained Funds established for a series of Common Fund Bonds shall be withdrawn and used when and in the manner as such funds are required to be applied and credited against payments due under the Revenue Agreement or Supplemental Bond Resolution related to such series of bonds in accordance with the terms of such agreement; provided, however, that such funds may be used for the purpose of purchasing, redeeming or discharging Common Fund Bonds of the series to which such funds relate to the extent the Issuer expressly determines that such use will not materially adversely affect the future cash requirements of the Issuer; and provided further, that such funds shall be withdrawn to the extent required for the purposes for which other funds in the Common Reserve Account may be otherwise withdrawn, but only after exhaustion of the Deficiency Account; the Debt Service Account and Administrative Fee Account and other funds in the Common Reserve Account other than in subaccounts for Prepaid Net Revenues, Collateral Proceeds or Retained Funds (as the foregoing funds and accounts are determined before any transfers pursuant to Section 404(a) hereof for the specific purpose for which withdrawal is required). Retained Funds credited against Net Revenues otherwise due under a Revenue Agreement or Supplemental Bond Resolution shall, to the extent available therefore, be transferred to the Debt Service Account as and when so credited.

(iii) Notwithstanding any other provision herein, upon discharge of any series of Common Fund Bonds, funds in any subaccount for such bonds concerning Prepaid Net Revenues, Collateral Proceeds or Retained Funds shall thereupon be released to the Common Reserve Account generally or other appropriate subaccounts as determined in the sole discretion of the Issuer, except as such funds may be transferred in order to effect such a discharge and except as any such funds may be owing to the applicable Contacting Party under the terms of the applicable Revenue Agreement. Except as aforesaid or otherwise provided in the applicable Supplemental Bond Resolution or Revenue Agreement, amounts in subaccounts for Prepaid Net Revenues, Collateral Proceeds or Retained Funds may be withdrawn in any order of priority selected by the Issuer among such accounts. Any application of or withdrawal of Prepaid Net Revenues, Collateral Proceeds or Retained Funds shall be credited, if at all, against Net Revenues or other sums otherwise due in the manner and to the extent provided in any applicable Supplemental Bond Resolution or Revenue Agreement.

(e) *Administrative Fee Account.* In addition to any withdrawals pursuant to Section 404(c) hereof, funds held in the Administrative Fee Account shall be withdrawn only for the purposes for which funds in the Debt Service Account may be withdrawn, but only after exhaustion of the Debt Service Account (as determined before any transfers thereto pursuant to Section 404(a) hereof for the specific purpose for which such withdrawal is required); provided that to the extent any amounts deposited in the Administrative Fee Account are not withdrawn for the foregoing purposes during the calendar month of such deposit, twenty-five percent (25%) of such amounts shall be transferred on the last day of such month to the B Subaccount of the IDB Account and seventy-five percent (75%) thereof shall be available for any lawful purpose of the Issuer.

(f) *Deficiency Account.* In addition to withdrawals pursuant to Section 404(c)(ii) hereof, amounts in the Deficiency Account after exhaustion of the Debt Service Account may be withdrawn only for the purposes for which funds in the Debt Service Account may be withdrawn.

Section 404. Transfers of Funds and Accounting Procedures.

(a) *Payment and Restoration of Deficiency.* If at any time funds in the Common Bond Fund are not sufficient to pay the principal or Redemption Price of and interest on any Common Fund Bonds of any

series when due or to maintain funds in the Common Reserve Account sufficient to meet the Common Reserve Requirement, amounts sufficient to make such payment and maintain or restore the Common Reserve Account at or to the level of the Common Reserve Requirement shall be forthwith transferred, first to the Debt Service Account to the extent necessary for any such payments, and then to the Common Reserve Account into appropriate subaccounts therein (i) out of funds to the extent thereof held in the B Subaccount and then the Issuer Subaccount of the IDB Account, and (ii) in the event that funds in such IDB Account are not sufficient to fully make any such payment and restoration, but only if and to the extent the Issuer so elects in its sole discretion, then from other available funds of the Issuer. Notwithstanding the foregoing, amounts in the Issuer Subaccount of the IDB Account may be used to maintain or restore the Common Reserve Account at or to the Common Reserve Requirement only to the extent that the amounts in the Issuer Subaccount, following any such maintenance or restoration, are not less than \$5,000,000. If transfers pursuant to this paragraph are not sufficient to pay all principal and interest on any Common Fund Bonds when due, the Trustee shall then draw upon the Letter of Credit pursuant to Section 405 hereof for the purpose of making such payment of principal or interest, but not (except as provided in Section 405) for the purpose of restoring the amount of funds in the Common Reserve Account to the level of the Common Reserve Requirement. If transfers pursuant to this paragraph to the Common Reserve Account are not sufficient to fully restore all subaccounts in the Common Reserve Account to the level at which the Common Reserve Requirement is determined, amounts so transferred shall be allocated among all subaccounts in the Common Reserve Account as determined by the Issuer (in a manner not inconsistent with any applicable Supplemental Bond Resolution or Revenue Agreement). Thereafter, subject to Section 405(b) hereof, the subaccounts in the Common Reserve Account shall be fully restored from amounts, if any, available therefor from time to time in the Debt Service Account, IDB Account or earnings (other than Retained Earnings) on amounts in other accounts or subaccounts in the Common Bond Fund.

(b) Available Surplus Determination. Promptly following the end of each calendar year the Issuer shall determine the "Available Surplus," if any, from such year. Notwithstanding any other provision herein, the Issuer in its sole discretion may elect a different method to determine "Available Surplus" and amounts appropriate or not appropriate to transfer pursuant to Section 404(c) hereof based on procedures deemed by the Issuer to be more appropriately related than the foregoing procedure to the Issuer's receipt or payment of Net Revenues in comparison with payments required to be made from the Common Bond Fund provided that such method shall not reduce the amounts retained in the Common Bond Fund below the amounts which would have been retained under the method expressly provided herein.

(c) Available Surplus and Other Transfers.

(i) On December 31 of each year there shall be transferred to the Deficiency Account (A) all amounts in the Debt Service Account, except for a reasonable carry over amount not to exceed one-twelfth of annual debt service on all Common Fund Bonds then Outstanding, and (B) all earnings (other than earnings exempted pursuant to Section 402(d) hereof, Retained Earnings and amounts in the Deficiency Account) held in any subaccount in the Common Reserve Account which, together with other sums held in such subaccount, exceed the amount related to such subaccount on which the Common Reserve Requirement is determined.

(ii) Promptly following a determination of the Available Surplus from a year pursuant to section 404(b) hereof and to the extent on the date of the following transfer the Common Reserve Account is not reduced below the Common Reserve Requirement determined as of such date (or the amounts in any subaccounts therein reduced below the levels upon which the Common Reserve Requirement is determined as of such date), such Available Surplus shall be transferred to the B Subaccount of the IDB Account to the extent of an amount equal to all available transfers previously made therefrom pursuant to Section 404(a) hereof (and which have not been previously repaid), and thereafter, twenty-five percent (25%) of any remaining Available Surplus shall be transferred to such B Subaccount of the IDB Account and seventy-five percent (75%) of such remaining Available Surplus shall be available for any proper lawful purpose as the Issuer shall from time to time determine.

Section 405. Letter of Credit.

(a) Draws. (i) The Trustee shall draw under the Letter of Credit (if it is still outstanding) to the extent necessary to pay the principal of or interest on Common Fund Bonds of any series then due (a "Payment

Draw”) and which the Issuer is then obligated and which the Issuer is unable to pay from the Common Bond Fund after all sums required to be transferred pursuant to Section 404(a) hereof have been transferred. All moneys received from a Payment Draw under the Letter of Credit shall be deposited in the Debt Service Account. At the time and date specified in the Letter of Credit, but in no event later than the expiration of the Letter of Credit, the Trustee shall draw the entire remaining balance of the Letter of Credit (an “Expiry Draw”) if the Letter of Credit has not been renewed or extended, or if a substitute Letter of Credit meeting the requirements of Section 405(c) has not been delivered to the Trustee by or on behalf of the Issuer prior to the date of the Expiry Draw. All moneys received from an Expiry Draw under the Letter of Credit shall be deposited in the Issuer Subaccount of the IDB Account.

(b) Repayment of Draws on Letter of Credit. (i) A Payment Draw on the Letter of Credit and any interest accrued on the moneys therefrom shall be repaid by the Issuer from any fund of the Issuer legally available therefor and in addition, at the option of the Issuer, may be repaid by the Issuer from any amounts deposited in the Debt Service Account after any Payment Draw and not needed to pay principal or Redemption Price of and interest on Common Fund Bonds due within ninety (90) days following such deposit, and (ii) An Expiry Draw on the Letter of Credit and any interest accrued on the moneys therefrom shall be repaid (x) first, from amounts in the Issuer Subaccount of the IDB Account, provided that immediately after such repayment the amount of funds in the Common Reserve Account shall equal not less than the Common Reserve Requirement and amounts in the IDB Account shall equal not less than such levels as shall be required by Sections 202 and 406 hereof and the terms of the IDB Account Resolution and Supplemental Bond Resolutions, whichever shall be greatest, and (y) second, from any other funds of the Issuer legally available therefor.

(c) Substitution of Letter of Credit. The Issuer may substitute for the Initial Letter of Credit a subsequent Letter of Credit issued by another bank or other financial institution at any time subsequent hereto, provided that such substitution does not cause the bond rating assigned to Common Fund Bonds by any national bond rating agency to be lowered below the rating obtainable immediately before such substitution; provided further that if at the time of any such substitution there is no such rating on Common Fund Bonds, then the other bank or financial institution shall have deposits or shareholders’ equity or net worth (or the equivalent thereof) at least equal to that of the Bank at the date of such substitution.

(d) Reduction of Amount Drawable. The Issuer may, in its sole discretion, but however consistent with the terms of this Basic Resolution, the IDB Account Resolution and Supplemental Bond Resolutions, reduce the amount drawable under the Letter of Credit or terminate a Letter of Credit, as provided in the Letter of Credit or Reimbursement Agreement.

Section 406. IDB Account. In accordance with Section 404(c) the Issuer shall from time to time credit to the B Subaccount of the IDB Account Available Surplus and any other sums required hereunder or pursuant to a Supplemental Resolution to be transferred thereto. No Common Fund Bond of any series may be issued unless at the time of such issuance amounts or investments valued at market in the IDB Account are equal to at least \$10,000,000, unless a Letter of Credit of not less than a five (5) year initial term has been issued and is outstanding in favor of the Issuer that if fully drawn upon would provide an amount available for deposit in the Debt Service Account which, together with other sums on hand in the IDB Account, would be equal to at least \$10,000,000.

Section 407. Construction Fund. Forthwith upon the Bond Closing for any series of Common Fund Bonds the proceeds of such series of Common Fund Bonds (less any accrued interest and any other amounts paid into the Common Bond Fund as provided in Section 311 hereof), together with any other funds permitted to be deposited therein pursuant to the applicable Supplemental Bond Resolution, shall be deposited in a separate Construction Fund for such series of Common Fund Bonds established in accordance with Section 311 hereof. Except as otherwise provided in the applicable Supplemental Bond Resolution, earnings on amounts in such Construction Fund shall be credited thereto.

Section 408. Deposit of Funds with Trustee and Paying Agent and Paying Agent Fees.

(a) On or prior to any date of payment for principal or Redemption Price of or premium on any Common Fund Bonds Outstanding, the Issuer shall cause the transfer to the Trustee from the Common Bond Fund amounts required for such payment in accordance herewith when due, and the Trustee in turn shall disburse such amounts or transfer such amounts to the appropriate Paying Agent(s) for such payment, when due. The Trustee and any Paying Agent shall hold in trust for the Holders of such

Common Fund Bonds and of any interest coupons appurtenant thereto all sums so transferred to the Trustee and any Paying Agent, respectively, until paid to such Holders or otherwise disposed of as herein provided.

(b) The Issuer shall pay any Paying Agent fees from any available funds of the Issuer as the Issuer so directs unless otherwise provided in the applicable Supplemental Bond Resolution.

Section 409. Priority of Payment. All Common Fund Bonds shall be equally and ratably secured by and payable from the Common Bond Fund, without priority of one such Common Fund Bond over any other; provided that nothing herein shall preclude the Issuer from using in accordance herewith Prepaid Net Revenues, Collateral Proceeds or Retained Funds to purchase, prepay or discharge any Common Fund Bonds that the Issuer in its sole discretion shall determine appropriate. In the event that the balance in the Common Bond Fund is at any time insufficient to pay all principal or Redemption Price of and interest then due on Common Fund Bonds, the Issuer shall apply the balance first to pay pro rata the interest then due on all such Common Fund Bonds and all Surety Rights arising from subrogation rights of Sureties to receive interest on such bonds, and the Issuer shall apply any remaining balance first to the pro rata payment of principal of the then matured (but unaccelerated) Common Fund Bonds and all Surety rights arising from subrogation rights of Sureties to receive such principal, and then to the payment of all other Surety Rights, principal due on Common Fund Bonds and other items payable from the Common Bond Fund.

ARTICLE V INVESTMENTS

Section 501. Investments by Issuer. All sums held in the funds or accounts established hereunder, to the extent practicable and permitted by the Act, will be deposited as received with a bank or banks duly designated and qualified as a depository of funds of the Issuer and shall be guaranteed by the pledge of securities of the types authorized by law, in value at all times equal to one hundred ten percent (110%) of such deposits not guaranteed by Federal Deposit Insurance. Notwithstanding the preceding sentence, amounts in the Common Bond Fund and each Construction Fund may be invested as permitted by applicable law in amounts or securities maturing before the times and in the amounts estimated to be required to pay expenses from the applicable Construction Fund and principal or Redemption Price and interest when due, including, but not limited to, repurchase agreements and mutual funds investing in commercial paper issued by United States corporations or their Canadian subsidiaries that is of the highest quality and matures in 270 days or less (including those with the Trustee) to the extent allowed by applicable law. The Trustee may make any and all such investments for the account of the Issuer through its own commercial or bond department. Nothing herein shall prevent the combining of funds in bank deposit accounts, in investment accounts, or in common trust funds maintained by the Trustee exclusively for the collective investment and reinvestment of moneys contributed thereto by the Trustee in the capacity as Trustee to the extent determined by the Issuer or Trustee to be necessary or desirable; provided, however, that accurate records shall be kept at all times showing the proportion of the income from investments properly attributable to each fund and account, and such income shall be credited on the books of the Issuer or Trustee to the fund or account from which the investment was made. Except as may be otherwise provided herein (or in any Supplemental Bond Resolution concerning funds related to the specific Facility financed thereunder or the construction of such Facility), all earnings on amounts credited to any fund, account or subaccount established pursuant hereto or pursuant to the applicable Supplemental Bond Resolution shall be credited when received to such fund, account or subaccount, as the case may be.

Section 502. Return on Investments. Except in respect of any Common Fund Bonds not issued for the purpose of bearing interest exempt from federal income taxation (a) the Issuer will not use or permit the use of the proceeds of the Common Fund Bonds to be issued which shall cause such obligations to be arbitrage bonds within the meaning of Section 148 of the Code and any applicable and valid regulations from time to time promulgated thereunder; and (b) the Issuer will comply with the requirements of Section 148 of the Code and such applicable regulations pertaining thereto while any Common Fund Bonds remain Outstanding.

ARTICLE VI DISCHARGE OF OBLIGATIONS TO HOLDERS

Section 601. Payment of Common Fund Bonds. When Common Fund Bonds of any series or portion of a series have been discharged as provided in this Article, all pledges, covenants and other rights granted hereby and by the applicable Supplemental Bond Resolution shall cease as to the Holders of such series or portion of a series of Common Fund Bonds, such Common Fund Bonds shall no longer be considered outstanding under this Basic Resolution, and (if all Common Fund Bonds of such series be discharged) the lien herein created upon any Net Revenues and other sums derived from any Facility financed by such series of Common Fund Bonds and any and all covenants made herein with respect to the related Facility may be terminated with respect to the Holders of all Outstanding Common Fund Bonds; provided that nothing herein shall be construed as relieving the related Contracting Party with respect to the Facility financed by such series of Common Fund Bonds from its obligation under the Revenue Agreement relating to the Facility to continue to make the full amount of payments due under the applicable Revenue Agreement, nor as entitling the Contracting Party to a reduction in the amount by which such payments may be prepaid or the Facility may be purchased or for termination of the Revenue Agreement; and provided further that for the purposes of a particular Revenue Agreement all such Common Fund Bonds of that series whose maturity (or mandatory redemption) dates have not expired shall continue to be deemed Outstanding except if and to the extent the Contracting Party, with the consent of the Issuer, has provided for the discharge of the Common Fund Bonds. Subject to Section 602 hereof, the Issuer may discharge Common Fund Bonds under this Section 601 and interest due on any date by depositing with the Trustee or any escrow agent selected by the Trustee a sum sufficient for the payment thereof in full; and if any Common Fund Bond or interest thereon should not be paid when due, the same may nevertheless be discharged by depositing with the Trustee or any escrow agent selected by the Trustee a sum sufficient for the payment thereof in full with interest accrued from the due date to the day of such deposit.

Section 602. Prepayment of Common Fund Bonds. The Issuer may discharge any prepayable Common Fund Bonds of any series which are called for redemption on any date when they are prepayable according to their terms by depositing with the Trustee (or an escrow agent selected by the Trustee), who shall disburse or shall transfer to the appropriate Paying Agent for disbursement on or before that date a sum sufficient for the payment of the principal or Redemption Price thereof in full, including payment of interest thereon; provided that notice of the redemption thereof has been duly made in accordance with the terms of the Supplemental Bond Resolution authorizing such series of Common Fund Bonds.

Section 603. Deposit for Discharge. The Issuer may discharge all Common Fund Bonds of any series Outstanding at any time, when authorized by law, by irrevocably depositing in escrow with a suitable banking institution, as defined in Minnesota Statutes, Section 475.67, a sum of cash and securities in such aggregate face amount bearing interest at such rates and maturing or callable at the option of the holders thereof on such dates as shall be required to pay all principal or Redemption Price of and interest due on such series of Common Fund Bonds to their stated maturity (or mandatory redemption) dates or any earlier date upon which they may be redeemed prior to maturity (or mandatory redemption) in accordance with their terms; provided that notice of any such redemption shall have been duly given in accordance with the terms of the Common Fund Bonds of that series and the Supplemental Bond Resolution pursuant to which such series was authorized. The securities to be so deposited shall be limited to securities permitted under Minnesota Statutes, Section 475.67, Subdivision 8, and any laws amendatory thereof or supplemental thereto but shall not otherwise be limited by the provisions hereof.

Section 604. Use of Deposited Funds. Any moneys or securities which at any time shall be deposited by or on behalf of the Issuer with the Trustee or any Paying Agent, escrow agent or any other banking institution for the purpose of paying and discharging any Common Fund Bonds of any series and any coupons appurtenant thereto shall be held in trust for the respective Holders of such Common Fund Bonds and coupons and are hereby irrevocably appropriated for such payment and discharge.

Section 605. Unclaimed Moneys. Notwithstanding any other provision hereof, any moneys held by the Trustee (or escrow agent selected by the Trustee) or any Paying Agent for the payment and discharge of any Common Fund Bond or any coupon appurtenant thereto which remains unclaimed after the date when that Common Fund Bond or coupon has become due and payable or which remains

unclaimed after the date of deposit of moneys for the payment and discharge of a Common Fund Bond or coupon not paid when due, for a period of five (5) years after such due date or deposit date, shall be free from such trust and shall promptly thereafter be transferred to the Issuer by such Trustee, escrow agent or Paying Agent, if applicable, and the Trustee, such escrow agent or such Paying Agent shall be released and discharged with respect thereto, and the Holders of Common Fund Bonds and coupons payable from any such moneys shall look only to the Issuer for the payment thereof.

Section 606. Cancellation of Surrendered Common Fund Bonds and Coupons. The Issuer may at any time surrender to the Trustee for cancellation by the Trustee any Common Fund Bonds previously authenticated and delivered hereunder, together with any unpaid coupons thereto belonging, which the Issuer acquired in any manner whatsoever, and such Common Fund Bonds and any coupons appurtenant thereto, upon such surrender and cancellation, shall be deemed to be paid and retired.

ARTICLE VII

THE TRUSTEE AND THE PAYING AGENT

Section 701. Trustee. Wells Fargo Bank, National Association, is hereby appointed as Trustee, and the rights, powers and duties of the Trustee hereunder and under the applicable Supplemental Bond Resolution are hereby vested in said Trustee or such successor in trust for the Holders. The Issuer may appoint a successor Trustee pursuant to Section 709 hereof. In the event the Issuer appoints a successor Trustee, such successor shall execute and deliver to the Issuer a written acceptance of the office of Trustee, whereupon such successor shall signify its acceptance of the duties and obligations imposed upon it as Trustee hereby and by the applicable Supplemental Bond Resolution with respect to all Common Fund Bonds theretofore or thereafter to be issued pursuant hereto, but only, however, upon the terms and conditions set forth herein and in the applicable Supplemental Bond Resolution.

When required by the law of any jurisdiction or in the reasonable judgment of the Trustee, to enable the Trustee to perform the Trustee's duties and functions and exercise its powers and rights hereunder or under any Supplemental Bond Resolution on the Trustee's behalf as Trustee or on behalf of the Holders, the Trustee may appoint an additional individual or institution or additional individuals or institutions, as a co-trustee, or both, and if and when the Trustee makes any such appointment or appointments, each and every remedy, power, right, claim, demand, cause of action and immunity expressed or intended hereby or by any Supplemental Bond Resolution (other than appointment of an additional or successor trustee or co-trustee hereunder) to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate trustee or co-trustee to exercise such powers, rights and remedies under applicable law, and every covenant and obligation necessary to the exercise thereof by such separate trustee or co-trustee shall run to and be enforceable by either of them. Every such separate trustee or co-trustee shall execute and deliver to the Issuer written acceptance thereof; and should any deed, conveyance or instrument in writing from the Issuer or the Trustee be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such separate trustee or co-trustee such rights, powers, trusts, remedies, duties and obligations, any and all such conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

Section 702. Paying Agents. The Issuer may appoint by resolution one or more Paying Agents for the Common Fund Bonds of each series, which appointment shall be specified in the applicable Supplemental Bond Resolution adopted prior to the execution, authentication by said Paying Agent and delivery of said series of Common Fund Bonds; and the Issuer may, thereafter, at any time or from time to time by resolution, appoint one or more additional Paying Agents or one or more successor Paying Agents for any series of Common Fund Bonds. Each Paying Agent shall be a bank, trust company or national banking association having trust powers and having a capital and surplus aggregating at least ten million dollars (\$10,000,000), if there be such a bank or trust company or national banking association willing and able to accept the office of Paying Agent on reasonable and customary terms and authorized by law to perform all the duties imposed upon said Paying Agent hereby and by the applicable Supplemental Bond Resolution. Each Paying Agent shall signify its acceptance of the duties and obligations imposed on each Paying Agent hereby and by the applicable Supplemental Bond Resolution by executing and delivering to the Issuer and the Trustee written acceptance thereof. The Trustee may act as Paying Agent.

Section 703. Responsibilities of Trustee and Paying Agent.

(a) *General.* The recitals contained herein and in the Common Fund Bonds shall be taken as the statements of the Issuer, and neither the Trustee nor the Paying Agent assumes any responsibility for or shall have any liability in respect of the correctness of the same. Neither the Trustee nor the Paying Agent shall be under any responsibility or liability or duty with respect to the issuance of any Common Fund Bonds for value, the use thereof or the application of the proceeds thereof (except the Trustee to the extent such proceeds are paid to the Trustee in its capacity as Trustee) or the application of any moneys paid to the Issuer or to those other than the Trustee or the Paying Agent in accordance herewith and with the applicable Supplemental Bond Resolution. Neither the Trustee nor any Paying Agent shall be under any responsibility or liability or duty with respect to the application of any moneys to any other successor or to any separate or co-trustee or additional Paying Agent. Notwithstanding the foregoing, the Paying Agent shall be responsible for its representation contained in the certificate of authentication on the Common Fund Bonds.

(b) *Other Immunities, Duties and Powers of the Trustee.* The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder, either directly or by or through agents, attorneys or other persons not regularly in the Trustee's employ. The Trustee may in all cases pay reasonable compensation to all such agents, attorneys and other persons and shall be reimbursed or such compensation shall be paid in accordance with the provisions of the applicable Revenue Agreement or Supplemental Bond Resolution.

The Trustee shall be responsible for the recording or rerecording, registration or re-registration or filing or re-filing of any financing, continuation or similar statements or other instruments of further assurance, with respect hereto, to any Supplemental Bond Resolution and to any security documents in connection therewith.

The permissive right of the Trustee to do things enumerated herein shall not be construed as a duty, and the Trustee shall not be liable for any action taken, suffered or omitted by the Trustee in good faith without negligence and reasonably believed by the Trustee to be within the discretion or power conferred upon the Trustee hereby.

The Trustee shall be under no liability for interest upon any uninvested moneys that the Trustee may at any time hold in trust or receive under any of the provisions hereof or of any Supplemental Bond Resolution, except such as the Trustee may agree in writing with the Issuer or a Contracting Party, as the case may be, to pay thereon.

Section 704. Funds Held in Trust. All moneys held by the Trustee and any Paying Agent at any time pursuant to the terms hereof and of the applicable Supplemental Bond Resolution shall be and hereby are assigned, transferred and set over unto the Trustee or the Paying Agent, as the case may be, in trust for the purposes and under the terms and conditions hereof and of the applicable Supplemental Bond Resolution.

Section 705. Evidence on Which Trustee and Paying Agent May Act. The Trustee and any Paying Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion, Common Fund Bond, coupon, requisition, voucher, invoice or other paper or document believed by it to be genuine and to have been signed or presented by the proper person or persons.

The Trustee may consult with Bond Counsel, and the written advice of Bond Counsel or an Opinion of Bond Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by the Trustee hereunder in good faith and in accordance therewith. Whenever the Trustee shall deem it necessary or desirable that a fact or matter be proved or established prior to taking, suffering or omitting to take any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by any certificate required or permitted to be filed with the Trustee under the provisions hereof and of the applicable Supplemental Bond Resolution or the applicable Revenue Agreement stating the same, and such certificate shall be full warrant for any action taken, suffered or omitted to be taken in good faith under the provisions hereof and of the applicable Supplemental Bond Resolution upon the faith thereof, but in its discretion, the Trustee may, in lieu thereof (but shall have no obligation to), accept other evidence of such fact or matter or may require such further or additional evidence as the Trustee may deem reasonable. Except as otherwise expressly provided herein, any request, order, notice or

other direction required or permitted to be furnished pursuant to any provision hereof, any Supplemental Bond Resolution or any Revenue Agreement by or on behalf of the Issuer or any Contracting Party to the Trustee shall be sufficiently evidenced if executed by an authorized representative of the Issuer or an officer or other authorized representative of a Contracting Party and any resolution of the Issuer or of the board of directors or duly authorized action of the Contracting Party shall be sufficiently evidenced to the Trustee by a copy thereof certified by the Finance Officer of the Issuer or any duly authorized officer or party of the Contracting Party.

Each Paying Agent shall be protected in acting upon and shall act upon the written request, order, notice or other direction of the Issuer pursuant hereto and pursuant to and in accordance with the provisions of the applicable Supplemental Bond Resolution.

Section 706. Certain Permitted Acts. The Trustee and the Paying Agent may become the owner of or may deal in Common Fund Bonds and any coupons appurtenant thereto as fully and with the same rights the Trustee or the Paying Agent would have if it were not the Trustee or Paying Agent, respectively. To the extent permitted by law, the Trustee and the Paying Agent may act as depository for and permit any of the respective officers or directors to act as a member of or in any other capacity with respect to any committee formed to protect the rights of the Holders of Common Fund Bonds or to effect or aid in any reorganization growing out of the enforcement of the Common Fund Bonds or any coupons appurtenant thereto, this Basic Resolution and any Supplemental Bond Resolution, whether or not any such committee shall represent the Holders of at least a majority in aggregate principal amount of the Common Fund Bonds Outstanding.

Section 707. Resignation of Trustee or Paying Agent. The Trustee, the Paying Agent or any successors thereto may at any time resign and be discharged of its duties and obligations created hereby and by any Supplemental Bond Resolution by giving not less than forty-five (45) days' written notice to the Issuer (to the Issuer and the Trustee, if the Paying Agent shall resign and the Paying Agent be other than the Trustee) and by publishing notice thereof, specifying the date when such resignation shall take effect, in an Authorized Newspaper within twenty (20) days after the giving of such written notice, if any coupon Common Fund Bonds not registered as to principal or registered as to principal to bearer are Outstanding, and by mailing a notice to the foregoing effect to Holders of Common Fund Bonds. Such resignation shall take effect upon the date specified in such written notice to the Issuer or the Issuer and the Trustee, as the case may be, unless a successor shall have been appointed prior to said date, in which event such resignation shall take effect immediately on the appointment of such successor and such successor shall have assumed in writing all of the duties and obligations of its predecessor.

Section 708. Removal. The Trustee, or any successor Trustee subsequent thereto may be removed at any time by resolution of the Issuer or by the Holders of at least a majority in aggregate principal amount of all Common Fund Bonds then Outstanding, by an instrument or concurrent instruments in writing signed and duly acknowledged by such Holders or by their attorneys duly authorized in writing and delivered to the Issuer. Copies of each such resolution or instrument shall be delivered by the Issuer to the Trustee, and any successor Trustee subsequent thereto.

The Paying Agent or any successor Paying Agent may be removed at any time by resolution of the Issuer. Copies of such written action shall be delivered to the Trustee and to such Paying Agent and any successor Paying Agent.

Section 709. Appointment of Successor Trustee. In the event that at any time the Trustee or any successor Trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged a bankrupt or insolvent or if a receiver, liquidator or conservator of the Trustee or such successor Trustee of its property shall be appointed or if any public officer shall take charge or control of the Trustee or such successor Trustee or of its property or affairs, the Issuer shall by resolution forthwith appoint a successor Trustee. The successor to the Trustee and each and every successor thereafter, shall be a bank, trust company or national banking association having trust powers and having a capital and surplus aggregation at least fifty million dollars (\$50,000,000), if there be such a bank or trust company or national banking association willing and able to accept the office of Trustee hereunder, on reasonable and customary terms and authorized by law to perform all the duties imposed upon such successor Trustee hereunder and under the applicable Supplemental Bond Resolution. The Issuer shall publish

notice of any such appointment of a successor Trustee to the Trustee or mail notice thereof in accordance with the provisions of Section 707 hereof.

The Holders of at least a majority in aggregate principal amount of all Common Fund Bonds then Outstanding may, by an instrument or concurrent instruments in writing signed by such Holders or their attorneys duly authorized in writing and delivered to such successor Trustee appointed by the Issuer, with notification thereof to the Issuer and the predecessor Trustee, appoint a successor Trustee to supersede said successor Trustee so appointed by the Issuer. In such event, any successor Trustee appointed by the Issuer shall, immediately and without further act, be superseded by a successor Trustee appointed by the requisite percentage of Holders in the aforementioned manner, but only if such successor has the requisite capital and surplus as determined herein.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 709 within forty-five (45) days after the Trustee shall have given written notice to the Issuer as provided in Section 707 hereof or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any other separate trustee or co-trustee or any Holder may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as said court may deem proper and prescribe, appoint such successor Trustee.

Section 710. Transfer of Rights to Successor. Any successor to the Trustee which is appointed hereunder and any successor Trustee thereafter appointed shall execute, acknowledge and deliver to its predecessor Trustee and also to the Issuer an instrument accepting such appointment, and thereupon such successor Trustee, without any further act or conveyance, shall become fully vested with all moneys, estates, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if named herein as such Trustee, but the Trustee ceasing to act shall, nevertheless, on the written request of the Issuer or of the successor Trustee, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all rights, powers, duties and obligations of the predecessor Trustee hereunder and in and to the Common Bond Fund and the IDB Account. Should any conveyance or instrument in writing from the Issuer be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such rights, powers, duties and obligations, any and all such conveyances and instruments in writing shall, on request and so far as may be authorized by law, be executed, acknowledged and delivered by the Issuer. Any such successor Trustee shall promptly notify any other separate trustee or co-trustee and any Paying Agent of its appointment as such successor Trustee.

Any successor Paying Agent appointed by the Issuer as provided for in this Basic Resolution shall execute, acknowledge and deliver to its predecessor Paying Agent and also to the Trustee and any separate trustee or co-trustee and the Issuer an instrument accepting such appointment, and thereupon, such successor Paying Agent, without any further act, deed or conveyance, shall become fully vested with all rights, powers, duties and obligations of such predecessor Paying Agent, with like effect as if named in the applicable Supplemental Bond Resolution as such Paying Agent. The Paying Agent ceasing to act as Paying Agent shall, on the written request of the Issuer, the Trustee and the successor Paying Agent, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required by the Issuer for more fully and certainly vesting in and confirming to such successor Paying Agent all rights, powers, duties and obligations of the predecessor Paying Agent.

Section 711. Merger or Consolidation. Any company into which the Trustee or any Paying Agent may be merged or converted or with which the Trustee or any Paying Agent may be consolidated or any company resulting from any merger, conversion or consolidation to which the Trustee or any Paying Agent shall be a party or any company to which the Trustee or any Paying Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company or national banking association which is qualified to be a successor Trustee under Section 709 hereof or a successor Paying Agent under Section 702 hereof, as the case may be, shall be authorized by law to perform all the duties imposed upon it hereby and by the applicable Supplemental Bond Resolution, and shall be the successor to the Trustee or Paying Agent, as the case may be, without the execution or filing of any paper or the performance of any further act.

**ARTICLE VIII
BASIC RESOLUTION**

Section 801. Amendments Not Requiring Consent. The Issuer reserves the right to amend this Basic Resolution at any time for the purpose of curing any ambiguity or formal defect or omission herein or in any amending or Supplemental Bond Resolution, to modify the accounting procedures herein and order of source of payment in respect of Bonds from accounts and subaccounts in the Common Bond Fund, to grant for the benefit of the Holders of Common Fund Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted or to make any other change which is not to the prejudice of any Holders of Common Fund Bonds. The Issuer covenants and agrees with the Holders of Common Fund Bonds issued hereunder and secured hereby that it will not amend this Basic Resolution in any other manner except upon consent of the Holders as hereinafter provided. Nothing herein shall limit the power of the Issuer to authorize the issuance of Common Fund Bonds by Supplemental Bond Resolution without Holder consent in accordance with the terms and conditions of Section 202.

In addition to the foregoing, the Issuer reserves the right to amend Sections 316 and 317 of this Basic Resolution, at any time, without the consent of any holders of Common Fund Bonds; provided however that consent of owners of 51% of owners of Common Fund Bonds affected by such amendment shall be required for any amendment which would decrease the Ratio Requirement to a level below 15%, or which would otherwise contravene the provisions of any Supplemental Bond Resolution.

Section 802. Amendments with Holders' Consent. The Holders of not less than fifty-one percent (51%) in aggregate principal amount of Common Fund Bonds which are at any time Outstanding and not discharged shall have the right to consent to and approve the amendment of this Basic Resolution (excluding any Supplemental Bond Resolution authorizing the issuance of Common Fund Bonds) by the Issuer, for the purpose of authorizing any modification, alteration, amendment or rescission of or any addition to this Basic Resolution, except that nothing herein shall permit a reduction in the aggregate principal amount of the Common Fund Bonds required for consent to any such amendment nor an extension of the maturity (or mandatory redemption) date of the principal of or the interest on any Common Fund Bond not held by a consenting Holder, nor grant a privilege or priority to any Common Fund Bond over any other Common Fund Bond not provided for herein. Any written consent to such an amendment may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing, and such consent shall become effective when such instrument or instruments are delivered to the Trustee.

Section 803. Proof of Consent. Proof of the execution of any consent or of a writing appointing any agent or of the holding by any person of Common Fund Bonds which are transferable by delivery shall be sufficient for any purpose (including those for which Holders have a voice under Sections 312, 708, 709 and 802 hereof) and shall be conclusive in favor of the Issuer or the Trustee, as the case may be, if made in the following manner: The fact and date of the execution by any person of any such consent may be proved by the affidavit of any witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the person signing such consent acknowledged to him the execution thereof. The amount of Common Fund Bonds transferable by delivery held by any person executing any such consent as a Holder and the distinguishing numbers of such Common Fund Bonds and the date of his holding the same may be proved by a certificate executed by any trust company, bank or other depository, wherever situated, if such certificate shall be deemed satisfactory by the Issuer, showing that at the date therein mentioned such person had on deposit with such depository or exhibited to it the Common Fund Bonds therein described; or such facts may be proved by the certificate or affidavit of the person executing such consent as a Holder, if such certificate or affidavit shall be deemed satisfactory by the Issuer. The Issuer may conclusively assume that such ownership continues until written notice to the contrary is served upon it. The fact and date of execution of any such consent and the amount and distinguishing numbers of Common Fund Bonds held by the person executing the same may also be proved in any other manner which the Issuer may deem sufficient but the Issuer may nevertheless, in its sole discretion, require further proof in cases where it deems further proof desirable. Any consent by the Holder of any Common

Fund Bond shall bind any future Holder of the same Common Fund Bond with respect to any amendment adopted by the Issuer pursuant to such consent.

Section 804. Notice of Amendment. Before adopting any amendment hereto which requires the consent of the Holders of Outstanding Common Fund Bonds, the Issuer will file a copy of the proposed amendment in its office and at the office of the Trustee or the Paying Issuer at which such Common Fund Bonds are payable and will mail a notice to all owners of such Common Fund Bonds then Outstanding who shall have filed their names and addresses with the Issuer and will cause such notice to be published in a financial journal of general circulation in the State. Such notice shall briefly state the nature of the proposed amendment and that a copy is on file at the office of the Issuer for inspection by all Holders. No such amendment shall be adopted unless consent is received from the required percentage of Holders within six (6) months after such publication.

Section 805. Amendment of Supplemental Bond Resolution. In addition to the purposes set forth in Section 801, the Issuer may amend any Supplemental Bond Resolution authorizing the issuance of Common Fund Bonds for any purpose, in any manner and subject to any conditions set forth in the Supplemental Bond Resolution; provided that no such amendment may be inconsistent with the terms and conditions of this Basic Resolution.

ARTICLE IX MISCELLANEOUS

Section 901. Severability. If any provision of this Basic Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule of public policy or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or paragraphs contained in the Basic Resolution shall not affect the remaining portions of the Basic Resolution or part thereof.

Section 902. Limitation of Liability. To the extent permitted by law and consistent with covenants made with the Holders of any series of Common Fund Bonds, no provision, covenant or agreement contained in the Basic Resolution shall give rise to or impose any pecuniary liability upon the City or the Issuer or any of its officers, employees or agents.

Section 903. Table of Contents and Headlines. The Table of Contents and headings herein are for convenience only and shall not affect the construction hereof.

Section 904. Minnesota Law to Govern. The Basic Resolution is delivered in and shall be governed by and construed in accordance with the laws of the State of Minnesota.

Section 905. Basic Resolution to Govern. Unless the express language or the clear context of a provision in any Supplemental Bond Resolution or Revenue Agreement clearly requires to the contrary, all provisions of such Supplemental Bond Resolution or Revenue Agreement shall be interpreted to apply in a manner not inconsistent herewith, and in case any such provision is inconsistent herewith, the provisions herein shall govern and control.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Resolution 2004R-257, amending and restating the Basic Resolution of the City of Minneapolis (A), was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-257 By Goodman

Amending and restating the Basic Resolution of the City of Minneapolis (A).

Whereas, the Minneapolis Community Development Agency (the "Agency") has adopted Resolution No. 82-512, as amended (the "Agency Basic Resolution") in order to provide for the issuance of "Common Fund Bonds" as defined therein;

Whereas, pursuant to the Agency Basic Resolution, the Agency has issued several series of Common Fund Bonds pursuant to various resolutions entitled "Supplemental Bond Resolution and Indenture," relating to the specific series of Common Fund Bonds (the "Supplemental Bond Resolutions");

Whereas, pursuant to the authority of 2003 Minnesota Laws, Chapter 127, Article 12, Sections 31-34, and as contemplated by Chapter 415 of the Minneapolis Code of Ordinances, the Agency and the City of Minneapolis (the "Issuer") have executed an Assignment and Assumption Agreement dated as of January 1, 2004, in order to transfer the assets, rights and obligations of the Agency related to the Agency Basic Resolution and Supplemental Bond Resolutions to the Issuer; and

Whereas, the Issuer deems it advisable to amend and restate the Agency Basic Resolution to clarify its rights and obligations with respect to the Common Fund Bonds issued and to be issued;

Now Therefore, Be It Resolved by The City Council of The City of Minneapolis, that the Agency Basic Resolution is hereby amended and restated as follows:

ARTICLE I

DEFINITIONS AND LEGAL AUTHORIZATION

Section 101. Definitions. The following terms used herein, unless the context hereof shall require otherwise, shall have the following meanings:

"*A Subaccount*" means the subaccount of the IDB Account so named;

"*Accumulated Revenues*" at any time means all Available Revenues, including earnings thereon, then retained by the Issuer in the Common Bond Fund and any amounts, including earnings thereon, then credited to and retained in the Issuer Subaccount and A Subaccount of the IDB Account;

"*Act*" means Minnesota Statutes, Chapter 469, Minnesota Statutes, Chapter 475, and all other power or authorizing authority of the Issuer, as the same may be from time to time amended, supplemented or redesignated, or all of them;

"*Additional Common Fund Bonds*" means Common Fund Bonds issued pursuant to Section 202 hereof in accordance with Section 311(d) hereof and a Supplemental Bond Resolution authorizing the issuance of Additional Common Fund Bonds to pay the cost of completion of a Facility;

"*Administrative Fee*" means the fees to be paid by a Contracting Party to the Issuer at the times and in the amounts specified in the applicable Revenue Agreement and designated therein as Administrative Fees;

"*Administrative Fee Account*" means the account by that name in the Common Bond Fund created and established by Section 402 hereof;

"*Approved Letter of Credit*" means in respect of a series of Common Fund Bonds a letter of credit delivered pursuant to Section 402(d) hereof to the Trustee at or prior to the applicable Bond Closing for compliance with the Minimum Deposit requirement of Section 202 hereof, which letter of credit may be drawn upon by the Trustee to obtain funds (a) promptly in accordance with the applicable Supplemental Bond Resolution or Revenue Agreement upon the occurrence of any failure to pay any Net Revenues when due under the applicable Revenue Agreement, (b) during a period of at least one (1) year following the Bond Closing at any time that the Reserve Deposit in respect of such series may be withdrawn from the Common Reserve Account pursuant to Section 403(c)(ii) hereof and the applicable Supplemental Bond Resolution; and (c) within forty-five (45) days prior to the expiration of such letter of credit ("Expiring Letter") at any time, provided that Common Fund Bonds of such series are then Outstanding (and not scheduled to finally mature on or prior to such expiration), and provided there has not been delivered to the Trustee prior to such time cash sums for deposit in the applicable Reserve Deposit subaccount in the Common Reserve Account, Subsequent Approved Letters of Credit or any combination of such sums and such Subsequent Approved Letters of Credit, whereby any such sums, together with any amounts drawable under such Subsequent Approved Letters of Credit for at least one (1) continuous year immediately following such expiration, equal the maximum amount drawable under such Expiring Letter; an Approved Letter of Credit shall be in form and substance and issued by a financial institution satisfactory to the Issuer in its sole discretion;

"*Articles and Sections*," mentioned by number only, means the respective Articles and Sections of this Basic Resolution so numbered;

"Authorized Newspaper" means a newspaper or newspapers furnishing financial news as part of its or their service and printed in the English language, which newspaper or newspapers separately or collectively (a) are published daily or weekly in Minneapolis or its metropolitan areas and circulated throughout the State, and (b) are generally circulated in the City of New York, New York;

"Available Revenues" means at the time of determination:

- (a) all Net Revenues theretofore received and retained by the Issuer in the Common Bond Fund;
- (b) all other amounts (including earnings and Reserve Deposits) then held by the Issuer pursuant to the terms hereof in the Common Bond Fund, but excluding (i) earnings on Reserve Deposits funded other than by Common Fund Bond proceeds if such earnings are exempted by the Issuer pursuant to Section 402(d) hereof from the lien created hereby and (ii) Restricted Funds; and
- (c) such other amounts as the Issuer may from time to time designate;

"Available Surplus" means in respect of any calendar year the amount by which Available Revenues retained as of December 31 of such year are greater than (i) the Projected Debt Service Deficiency, if any, for the next following calendar year and (ii) the Common Reserve Requirement as of such December 31;

"Bank" means U.S. Bank National Association, in Minneapolis, Minnesota, or any successor bank issuing a subsequent Letter of Credit;

"Basic Resolution" means this Amended and Restated Basic Resolution and Indenture and any amendments or supplements hereto permitted hereby;

"Bond Closing" means the respective dates on which there is delivery and payment for each series of Common Fund Bonds;

"Bond Counsel" means any firm of nationally recognized bond counsel selected by the Issuer;

"Borrower" means a Person, other than the Issuer or a Tenant, who enters into a Loan Agreement with the Issuer to finance or refinance a Facility;

"Business Day" means any day other than a Saturday, Sunday or recognized national holiday on which national banks are generally closed;

"Code" means the Internal Revenue Code of 1986, as amended;

"Collateral Proceeds" means any proceeds (other than Prepaid Net Revenues or Retained Funds or Restricted Funds) from the sale of all or a part of a Facility or from a lump sum settlement in connection with such Facility received by the Issuer, whether before or after foreclosure, after deducting all the Issuer's expenses and giving credit for any Issuer equity in connection therewith;

"Common Bond Fund" means the fund established and designated in Section 402 hereof from which the principal or Redemption Price of and interest on the Common Fund Bonds are payable;

"Common Fund Bonds" means any bonds or obligations from time to time issued by the Issuer pursuant to this Basic Resolution and the applicable Supplemental Bond Resolution;

"Common Reserve Account" means the reserve account so created and established by Section 402 hereof and forming a part of the Common Bond Fund, which Common Reserve Account is to be used for the payment of principal or Redemption Price of and interest on the Common Fund Bonds under the circumstances described herein;

"Common Reserve Requirement" means at any time in respect of Bonds not theretofore discharged (a) all Reserve Deposits not theretofore credited against Net Revenues or otherwise to the benefit of a Contracting Party in accordance with the applicable Revenue Agreement, plus (b) all Prepaid Net Revenues, Collateral Proceeds or Retained Funds in respect of any series of Common Fund Bonds Outstanding which have not been applied pursuant to Section 403(d) hereof to the purchase, payment, prepayment, redemption or discharge of such series of bonds (or interest or premium thereon) or as credit against payments due from a Contracting Party under a Revenue Agreement related to such series;

"Construction Contract" means any contract entered into by the Issuer or any Contracting Party and a contractor or contractors under which the contractor agrees to construct, install and supply on the Facility Premises all or a part of such building, improvements or equipment as are provided in the Plans and Specifications for such Facility;

"Construction Fund" means any account established for each Facility by the Issuer in its official books and records pursuant to Section 311 hereof;

"Contracting Party" means any Person who contracts with the Issuer under a Lease, Loan Agreement or other Revenue Agreement;

"Debt Service Account" means the account by that name in the Common Bond Fund created and established by Section 402 hereof;

"Deficiency Account" means the account by that name in the Common Bond Fund created and established by Section 402 hereof;

"Disbursing Agreement" means any Disbursing Agreement for a series of Common Fund Bonds pursuant to which funds are disbursed from the applicable Construction Fund;

"Facility" means any revenue-producing properties from time to time owned, leased or otherwise financed in whole or in part by the Issuer pursuant to this Basic Resolution and operated, used or leased for one or more of the purposes authorized by the Act and more specifically identified in the applicable Revenue Agreement;

"Facility Costs" means those costs of a Facility permitted under the Act to be financed from the proceeds of Common Fund Bonds as identified in the applicable Revenue Agreement;

"Facility Premises" means the premises upon which a Facility is located as more specifically identified in the applicable Revenue Agreement;

"Guarantee" means an agreement whereby any Person guarantees the performance in whole or in part of any Contracting Party under a Revenue Agreement;

"Guarantor" means a Person liable pursuant to a Guarantee for the performance of a Contracting Party under a Revenue Agreement;

"Hereby," "herein," "hereof," "hereto," "hereunder" and similar terms refer to this Basic Resolution as a whole; the term *"heretofore"* means before the date of execution of this Basic Resolution, and the term *"hereafter"* means after the date of execution of this Basic Resolution;

"Holder" when used with reference to any Common Fund Bond or Common Fund Bonds, means any Person who shall be the bearer of any Outstanding Common Fund Bond not registered or registered as to principal to bearer or the registered owner of any Outstanding Common Fund Bond which shall at the time be fully registered or registered as to principal other than to bearer, and, when used with reference to any coupon or coupons, means the bearer thereof;

"IDB Account" means, collectively, the "Issuer Subaccount" and the "A Subaccount" of the "IDB Account" created and established pursuant to the IDB Account Resolution and subject to all terms and conditions applicable to such account as established thereunder or pursuant thereto;

"IDB Account Resolution" means Resolution No. 2004R-255 of the Issuer, adopted on June 18, 2004, as amended;

"Independent Counsel" means any attorney (or firm of attorneys) designated by the Issuer and duly admitted to practice law before the highest court of any state who is not a full-time employee or officer of the Issuer or the Contracting Party for the Facility to which the engagement of such attorney (or firm of attorneys) relates and who or which shall be reasonably satisfactory to the Issuer;

"Independent Engineer" means an engineer or engineering firm designated by the Issuer, registered and qualified to practice the profession of engineering under the laws of the State who or which is not a full-time employee of either the Issuer or the Contracting Party for the Facility to which the engagement of such engineer (or engineering firm) relates and who or which shall be reasonably satisfactory to the Issuer;

"Issuer" means the City of Minneapolis, Minnesota, and any successor or successors to its powers, duties and obligations hereunder;

"Issuer Subaccount" means the subaccount of the IDB Account so named;

"Lease" means any written agreement whereby the Issuer leases one or more than one Facility to a Person;

"Letter of Credit" means an irrevocable letter of credit issued by a Bank in favor of the Trustee or the Issuer pursuant to the Reimbursement Agreement, meeting the requirements of Section 405 hereof;

"Loan Agreement" means any written agreement, other than a Lease or Operating Agreement, between the Issuer and a Borrower in connection with the financing of a Facility with proceeds of a series of Common Fund Bonds whereby the Borrower agrees to pay to the Issuer or its order such amounts at such times as the Issuer determines to be appropriate under such written agreement;

"Minimum Deposit" means in respect of any series of Common Fund Bonds the sum designated as such in Section 202 hereof;

“*Net Revenues*” means revenues received by the Issuer in respect of any series of Common Fund Bonds and all Facilities and designated as such in Sections 302 or 303 hereof;

“*Operating Agreement*” means a written agreement, other than a Revenue Agreement, between the Issuer and any other Person under which such Person operates or occupies any Facility pursuant to Section 303 hereof;

“*Operating Fund*” means the fund or funds established in accordance with Section 303 hereof for the purpose of paying operation and maintenance expenses incurred in connection with the operation of any Facility by the Issuer itself or by any Person under the Operating Agreement pursuant to Section 303 hereof;

“*Operator*” means any Person, other than the Issuer, who operates or occupies any Facility under an Operating Agreement;

“*Opinion of Bond Counsel*” means a written opinion of Bond Counsel delivered to the Trustee;

“*Opinion of Counsel*” means a written opinion of legal counsel (who or which may be counsel, except as otherwise expressly provided herein, for the Issuer or a Contracting Party of the Facility to which the opinion relates) and who or which is satisfactory to the Trustee, delivered to the Trustee;

“*Opinion of Independent Counsel*” means a written opinion of legal counsel who or which is not a full-time employee of either the Issuer or the Contracting Party of the Facility to which the opinion relates and who or which is satisfactory to the Trustee;

“*Outstanding*” when used herein with reference to Common Fund Bonds and as of any particular date, means all Common Fund Bonds of all series theretofore and thereupon being authenticated and delivered except:

(a) any Common Fund Bond canceled by the Trustee or surrendered to the Trustee for cancellation at or before said date;

(b) any Common Fund Bond discharged pursuant to Article VI hereof or concerning which moneys sufficient, together with any investment earnings thereon, to pay on the date of maturity or Redemption Date the principal or Redemption Price thereof, as the case may be, with interest to the date of maturity or Redemption Date, shall have theretofore or thereupon been deposited with the Trustee or one or more Paying Agents or escrow agents in trust (whether upon or prior to maturity or the Redemption Date of such Common Fund Bond) and, except in the case of a Common Fund Bond to be paid at maturity, of which notice of redemption shall have been duly given; and

(c) any Common Fund Bond for which another Common Fund Bond shall have been authenticated and delivered pursuant to the applicable Supplemental Bond Resolution in lieu thereof or in substitution therefor; provided, however, that in determining whether the Holders of the requisite principal amount of any particular Common Fund Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver thereunder, Common Fund Bonds owned by the Issuer or the Contracting Party with respect to the Facilities financed thereby or any affiliate of such Contracting Party shall be disregarded and deemed not to be Outstanding except that, in determining whether the Trustee or the Issuer, as the case may be, shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Common Fund Bonds which the Trustee knows to be so owned shall be so disregarded (an “*affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person; for the purposes of this definition, “*control*,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “*controlling*” and “*controlled*” have meanings correlative to the foregoing); provided, further, that Common Fund Bonds so owned which have been pledged in good faith may be regarded as “*Outstanding*” if the pledgee establishes to the satisfaction of the Trustee or the Issuer, as the case may be, the pledgee’s right to act as a Holder with respect to such Common Fund Bonds and that the pledgee is not the Issuer or the Contracting Party or any affiliate of the Contracting Party; provided, further, that a Common Fund Bond which would be considered “*Outstanding*” but for the fact that money, or money together with investment earnings thereon, sufficient for the payment or redemption thereof has theretofore been deposited in full with the Trustee or any Paying Agent or escrow agent in trust for the Holder thereof (or that the Basic Resolution has theretofore been discharged with respect to the series of which such

Common Fund Bond is a part pursuant to Article VI hereof) shall, for the purposes of Article III (to the extent that a default referred to herein or under the applicable Revenue Agreement might adversely affect the exemption from federal income taxation of interest on such Common Fund Bond) and Article VIII (to the extent that any supplement, amendment, modification or waiver referred to therein might adversely affect the exemption from federal income taxation of interest on such Common Fund Bond), be deemed to be "Outstanding" unless such Common Fund Bond shall be due and payable in accordance with its terms or through redemption proceedings or otherwise as provided in the Basic Resolution and the Supplemental Bond Resolution authorizing said series; provided, further, that the Trustee or the Issuer shall be fully protected in requiring and relying on an Opinion of Counsel with respect to whether any such default, supplement, amendment, modification or waiver might adversely affect the exemption from federal income taxation of interest on any such Common Fund Bond;

"*Paying Agent*" means any paying agent for Common Fund Bonds or coupons appointed by or pursuant to Section 702 hereof, and its successor or successors and any other corporation or association which may at any time be substituted in its place pursuant to this Resolution and the applicable Supplemental Bond Resolution;

"*Permitted Encumbrances*" means any lease and any mortgage or security agreement securing obligations under a Revenue Agreement and, as of any particular time and for any particular Facility:

(a) liens for taxes and special assessments not then delinquent or duly contested as permitted under the applicable Revenue Agreement;

(b) utility, access and other easements and rights-of-way, building, zoning and subdivision ordinances and regulations and any other restrictions and exceptions that Independent Counsel or an Independent Engineer certifies will not interfere with or impair the operation of or marketability of title to the Facility (or, if it is not being operated, the operations for which it was designed and last modified);

(c) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right in respect thereof if payment is not yet due under the contract in question or is duly contested in the manner permitted under the applicable Revenue Agreement;

(d) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to a Facility and do not, in the Opinion of Bond Counsel or Opinion of Independent Counsel, materially impair the property affected thereby for the purpose for which it was acquired or is held by the Contracting Party or materially impair the marketability of title to such property;

(e) any lien which, in the Opinion of Bond Counsel, will not materially impair the security of the Holders; and

(f) other restrictions, easements and encumbrances, if any, which are defined as Permitted Encumbrances under the applicable Revenue Agreement;

"*Person*" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof;

"*Plans and Specifications*" means the plans and specifications, including any modifications thereof, for the construction and improvement of a Facility;

"*Prepaid Net Revenues*" means any sum deposited in the Common Reserve Account required under a Revenue Agreement to be so deposited (a) upon termination of such agreement, or (b) upon the sale of the Facility financed in whole or in part by such agreement or (c) pursuant to any prepayment provision in such agreement, but only to the extent the amount of such sum is determined by the amount of funds necessary at the time of such termination, sale or prepayment to purchase, redeem or otherwise discharge all Common Fund Bonds Outstanding which financed such Facility in whole or in part;

"*Projected Debt Service Deficiency*" means in respect of a calendar year (a) the amount, if any, by which amounts projected to be withdrawn from the Common Bond Fund (other than transfers pursuant to 404(c) hereof) during such year (or remaining due from a prior year) exceed during such year all amounts projected to be deposited in the Common Bond Fund (other than transfers and deposits pursuant to Section 404(a) or 405(a) hereof) and the earnings thereon (other than Retained Earnings),

less (b) all reductions estimated to occur in such year in the Common Reserve Requirement (not considering any additions to the Common Reserve Requirement during such Year);

"Redemption Price" when used with respect to a Common Fund Bond or portion thereof, means the principal amount of such Common Fund Bond or portion thereof plus the applicable premium, if any, payable upon redemption thereof in the manner contemplated in accordance with its terms pursuant hereto or to the applicable Supplemental Bond Resolution;

"Reimbursement Agreement" means any agreement between the Issuer and a Bank pursuant to which a Letter of Credit is issued and which provides for the Issuer's reimbursement obligation with respect to any draw under the Letter of Credit and related matters, as the same may be amended, supplemented or replaced by any substitute agreement in connection with delivery of a substitute Letter of Credit;

"Reserve Deposit" means in respect of any series of Common Fund Bonds funds meeting the requirements of Section 202 hereof deposited in the Common Reserve Account as the applicable Minimum Deposit and any amounts paid to the Issuer or Trustee and deposited in the Common Reserve Account under or in substitution for any amounts payable under an Approved Letter of Credit or Subsequent Approved Letter of Credit;

"Restricted Funds" means any amounts, including earnings, transferred from the construction fund established in respect of a series of Common Fund Bonds after completion of the Facility financed in whole or part thereby, which amounts are required under the applicable Revenue Agreement to be applied or held for application solely to the purchase, redemption or discharge of Common Fund Bonds of such series;

"Retained Earnings" means any earnings on sums held in the Common Reserve Account of the Common Bond Fund or any subaccounts therein required under a Revenue Agreement to be applied to or credited against any payments due thereunder or to be credited to the applicable Contracting Party;

"Retained Funds" means Retained Earnings or Retained Revenues held in one or more subaccounts of the Common Reserve Account in accordance herewith;

"Retained Revenues" means any amounts (other than Reserve Deposits, Prepaid Net Revenues or Retained Earnings) required pursuant to a Revenue Agreement to be credited to or deposited in the Common Reserve Account to be held by the Issuer and applied to or credited against any payments due under a Revenue Agreement or to be credited to the applicable Contracting Party;

"Revenue Agreement" means any revenue or other agreement other than an Operating Agreement, including, without limitation, a Lease or Loan Agreement, authorized by the Act and entered into with the Issuer by a Contracting Party to finance a Facility;

"State" means the State of Minnesota;

"Subsequent Approved Letter of Credit" means in respect of a series of Common Fund Bonds a letter of credit delivered to the Trustee on or prior to the later of the expiration date of an Approved Letter of Credit delivered to the Trustee pursuant to Section 402(d) hereof in respect of such series or any other related Subsequent Approved Letter of Credit then drawable upon which has been delivered to the Trustee; provided such letter of credit may be drawn upon by the Trustee to obtain funds (a) promptly (as determined by the Issuer) in accordance with the applicable Supplemental Bond Resolution or Revenue Agreement upon the occurrence of any failure to pay any Net Revenues when due under the applicable Revenue Agreement, (b) during a period of at least one (1) year following such later of expiration dates at any time that a Reserve Deposit in respect of such series may be withdrawn from the Common Reserve Account pursuant to Section 403(c)(i) hereof, and the applicable Supplemental Bond Resolution, and (c) within forty-five (45) days prior to the expiration of such letter of credit ("Expiring Letter") at any time, provided that Common Fund Bonds of such series are then Outstanding (and not scheduled to finally mature on or prior to such expiration) and provided there has not been delivered to the Trustee prior to such time cash sums for deposit in the applicable Reserve Deposit Account of the Common Reserve Account, another Subsequent Approved Letter of Credit or any combination of such sums and other Subsequent Approved Letters of Credit, whereby any such sums, together with any amounts drawable under such other Subsequent Approved Letters of Credit, during the one (1) continuous year immediately following such expiration, equal the maximum amount drawable under such Expiring Letter; a Subsequent Approved Letter of Credit shall be in form and substance and issued by a financial institution satisfactory to the Issuer in its sole discretion;

“*Supplemental Bond Resolution*” means a resolution authorizing the issuance of a series of Common Fund Bonds pursuant to Section 202 hereof;

“*Surety*” means any Person who has paid Surety Proceeds;

“*Surety Proceeds*” means payments or proceeds under any letter of credit, insurance policy, guaranty or other surety or security instrument payable to Holders of any series of Common Fund Bonds upon the failure or inability of the Issuer to pay when due any principal or Redemption Price of or interest on such bonds, unless such proceeds or payments are required by the applicable Supplemental Bond Resolution or Revenue Agreement, or such letter of credit, policy, guaranty or instrument to be deposited in the Common Bond Fund or IDB Account;

“*Surety Rights*” means the rights of any Holders to receive payment of principal or Redemption Price of or interest on Common Fund Bonds, or any rights or claims of a Surety for money permitted to be satisfied from the Common Bond Fund, to which rights or claims a Surety becomes subrogated or entitled under the applicable Supplemental Bond Resolution upon payment by such Surety of Surety Proceeds;

“*Tenant*” means any Person who leases a Facility from the Issuer under a Lease Agreement;

“*Trustee*” means Wells Fargo Bank, National Association, or any corporation or association which may at any time be substituted in its place pursuant to Section 709 hereof, and means one or more Persons, as the context may require; and

“*Underwriter*” means Piper Jaffray & Co., Minneapolis, Minnesota and RBC Dain Rauscher, Inc., Minneapolis, Minnesota, or any other firm or firms of underwriters appointed by the Issuer.

Section 102. Legal Authorization. The Issuer is a municipal corporation duly organized and existing under the laws of the State of Minnesota and its home rule charter, and is authorized under the Act to finance revenue-producing projects and issue Common Fund Bonds in the manner and upon the terms set forth in the Act, this Basic Resolution and any Supplemental Bond Resolution.

ARTICLE II

COMMON FUND BONDS

Section 201. General Authorization to Issue Common Fund Bonds. The Issuer may issue Common Fund Bonds payable from the Common Bond Fund as provided herein and in any Supplemental Bond Resolution.

Section 202. Issuance of Common Fund Bonds. The Issuer may from time to time, upon the conditions stated in this Section 202, agree upon and approve the issuance and delivery of series of Common Fund Bonds for any purpose authorized under the Act, including the refunding of obligations previously issued, equally and ratably payable from the Net Revenues and other funds pledged and appropriated hereunder for Common Fund Bonds of any series theretofore or thereafter authorized, but bearing such date or dates and interest rate or rates and with such maturities and redemption privileges, redemption dates and premiums and other terms as may be determined under a Supplemental Bond Resolution. Every series of such Common Fund Bonds shall be authorized by a Supplemental Bond Resolution, establishing the terms thereof and providing for Net Revenues, which if collected in full and when due will be sufficient to pay the interest when due and to pay and redeem such Common Fund Bonds at maturity or when required by the provisions of such Supplemental Bond Resolution; provided, however, that credit may be given in the applicable Revenue Agreement against Net Revenues due thereunder to the extent of the Reserve Deposit and any Prepaid Net Revenues, Collateral Proceeds or Retained Funds deposited under the Revenue Agreement even though at the time such credit is given such Reserve Deposit, Prepaid Net Revenues, Collateral Proceeds or Retained Funds may have been withdrawn to pay the principal or Redemption Price of or interest on Common Fund Bonds because of defaults in the payment of any Net Revenues. Each series of such Common Fund Bonds shall be secured, executed, authenticated and delivered as provided herein and in the applicable Supplemental Bond Resolution, and prior to the delivery of such series of Common Fund Bonds there shall be filed with the Trustee the Opinion of Bond Counsel approving the legality of such series of Common Fund Bonds and such other documents and opinions as may be reasonably required by Bond Counsel. No such Common Fund Bonds, however, shall be issued, executed, authenticated or delivered if an effect thereof would be to subject the interest payable on any other issue of Common Fund Bonds to federal income taxes. No series of Common Fund Bonds shall be issued, executed, authenticated or delivered unless either consent to the issuance of such Common Fund Bonds and the approval of the Supplemental Bond

Resolution authorizing issuance of the Common Fund Bonds has been secured from the Underwriter (which consent shall not be unreasonably withheld) or such consent and approval has been secured from the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the then outstanding and undischarged Common Fund Bonds in the manner provided herein. Additional Common Fund Bonds in an amount sufficient to complete a Facility may be issued in accordance with Section 311(d) hereof without such Underwriter's or Holders' consent. No Common Fund Bonds of any series shall be issued under this Section 202 or secured by the Common Bond Fund or the IDB Account unless at or prior to the time of such issuance: (i) subject to Section 402(d) hereof, there shall have been deposited in the Common Reserve Account of the Common Bond Fund, from funds to which no lien has theretofore attached which remains undischarged under this Basic Resolution, a "Minimum Deposit" for such series which shall be a sum not less than the lesser of (A) the maximum aggregate principal and interest on the Common Fund Bonds of such series scheduled to become due in any future calendar year (determined with respect to such series as of the date of the Bond Closing thereof and taking into account redemptions only if made pursuant to a mandatory redemption schedule) or (B) fifteen percent (15%) of the original face amount of such series, unless the net amounts received by the Issuer from issuing such series (after all expenses of issuing such series) is less than ninety eight percent (98%) of such original face amount, in which case fifteen percent (15%) of such net amount; (ii) there shall have been deposited in the Common Bond Fund all other payments required hereunder or under the applicable Supplemental Bond Resolution with respect to such issue to be deposited therein; and (iii) there shall be on deposit in the IDB Account at least \$10,000,000 or the Bank shall have consented in writing to such issuance.

Section 203. Obligations Not Secured by the Basic Resolution. The Issuer reserves the right and power, in its discretion, to issue outside of this Basic Resolution any other obligations issued and secured under the provisions of any authorizing resolution for any purpose authorized by the Act or any other law, including the refunding of any Common Fund Bonds. Such obligations shall not be secured by the covenants and provisions hereof and may be issued without regard to the limitations contained herein. No obligations so issued or premium or interest thereon shall be payable from or be entitled to any lien or charge on the Common Bond Fund or the IDB Account, except as provided in the Issuer's Resolution No. 2004R-256 adopted on June 18, 2004, as amended.

**ARTICLE III
GENERAL COVENANTS**

Section 301. Payment of Principal or Redemption Price and Interest. The Issuer covenants that it will promptly and duly pay or cause to be paid the principal or Redemption Price of and interest on all Common Fund Bonds issued hereunder and under the applicable Supplemental Bond Resolutions at the place, on the dates and in the manner provided in such Supplemental Bond Resolutions and in said Common Fund Bonds and any coupons appurtenant thereto.

Section 302. Net Revenues Derived From Contracting Party. Prior to the issuance of each series of Common Fund Bonds, the applicable Contracting Party shall enter into a Revenue Agreement with the Issuer requiring the Contracting Party to pay to the Issuer amounts which are sufficient to pay when due the principal or Redemption Price of and interest on the Common Fund Bonds of such series; provided, however, that credit may be given in the Revenue Agreement against Net Revenues due thereunder to the extent of the Reserve Deposit and any Prepaid Net Revenues, Collateral Proceeds or Retained Funds deposited under the Revenue Agreement even though at the time such credit is given such Reserve Deposit, Prepaid Net Revenues, Collateral Proceeds or Retained Funds may have been withdrawn to pay the principal or Redemption Price of or interest on Common Fund Bonds because of defaults in the payment of any Net Revenues. The Contracting Party shall also be required under such Revenue Agreement to pay all taxes and special assessments levied on or with respect to the Facility financed by such series of Common Fund Bonds, all costs of operation, maintenance, repairs, insurance and utilities and all other costs (except such costs, if any, as may be specifically agreed to be paid by the Issuer from available funds). The Net Revenues of a Facility, in addition to the meaning assigned such term in Section 303 hereof, means (a) all amounts required under the applicable Revenue Agreement to be paid to the Issuer by or on behalf of the applicable Contracting Party for the purpose of providing funds which if paid when due will equal and fund when due all payments of principal and interest on Common Fund Bonds of the applicable series scheduled as of such Bond Closing to become

due thereafter and (b) any other amounts required pursuant to a Revenue Agreement to be deposited in the Common Bond Fund subsequent to Bond Closing (but such term shall not include Reserve Deposits, Prepaid Net Revenues, Collateral Proceeds, Administrative Fees, Retained Funds, Restricted Funds, Surety Proceeds, amounts required under a Revenue Agreement to be deposited in the Common Reserve Account or any charges payable to the Issuer for specific costs to be paid by the Contracting Party or any Guarantor under the applicable Revenue Agreement or any related Guarantee, except as and to the extent any such amounts shall be applied or credited against amounts otherwise payable as Net Revenues).

Section 303. Net Revenues From Operations. For each Facility operated by the Issuer itself or an Operator under an Operating Agreement, the Issuer will maintain in its official books and records a bookkeeping account to be designated as the Operating Fund of that Facility, reflecting all revenues derived from that Facility and all operating costs incurred by the Issuer in respect of the Facility. The revenues from time to time deposited in the Operating Fund shall be applied first to the payment, promptly as incurred, of all necessary, reasonable and current costs of the operation of such Facility, determined in accordance with accepted accounting practices, including, but without limitation, reasonable administrative expenses incurred solely with respect to the operation of the individual Facility; current maintenance and repairs necessary to maintain such Facility in adequate operating condition; labor and the cost of materials and supplies necessarily used for such current operation, maintenance and repairs; insurance of the premises against risks and in amounts for which insurance is usually carried by prudent owners of like properties; insurance of the Issuer and its officers and employees against liability for damage to persons and property incurred in connection with such operation in amounts such as are usually carried by prudent operators of similar enterprises or in lesser amounts to which the Issuer's liability may be limited by law; and charges for accumulation of appropriate reserves for the payment of operating costs which recur periodically but in varying amounts. The operating costs of any Facility shall not include any allowance or payment for depreciation, renewal, replacement or improvement of or additions to capital assets; any portion of the salary or wages paid to any officer or employee of the Issuer or any liability incurred by the Issuer or any officer or employee for damage to persons or property in excess of the amount of such liability compensated by insurance. The Net Revenues of any such Facility constitute all those revenues from time to time received by the related Operating Fund in a given calendar month, determined, in the discretion of the Issuer, to exceed total operating costs incurred or payable in such month.

Section 304. Pledge of Available Revenues. All Available Revenues are hereby pledged and appropriated and shall be credited as received by or credited to the Common Bond Fund (and the accounts therein) to the extent and in the manner set forth in Sections 401, 402, 403 and 404 hereof. The pledge herein made shall constitute a first and prior lien on all Available Revenues derived in respect of all Facilities; provided, however, that as set forth in Section 404(c) hereof, twenty-five percent (25%) of the Available Surplus for a calendar year is hereby pledged and irrevocably appropriated and shall be transferred to the A Subaccount of the IDB Account (subject to Section 404(a) hereof) and the remaining seventy-five percent (75%) of such amount shall be available for any proper lawful purpose of the Issuer; and provided further that in accordance with Section 403(e) hereof twenty-five percent (25%) of the Administrative Fees shall be transferred to the A Subaccount of the IDB Account and seventy-five percent (75%) thereof shall be available for any proper lawful purpose of the Issuer.

Section 305. Books and Records. The Issuer covenants that so long as any Common Fund Bonds of any series are Outstanding and unpaid the Issuer will keep or cause to be kept proper books and records and accounts in which full, true and correct entries will be made of all its financial dealings or transactions with and in relation to all Facilities, Reserve Deposits, Restricted Funds, the IDB Account and all Net Revenues and all other sums derived under a Revenue Agreement or Guarantee. The Issuer's books shall be open to inspection and copying during all reasonable business hours by any Holder or the agent or attorney of such Holder, and the costs of any copying shall be borne by the applicable Holder or the agent or attorney of such Holder. Any Operating Funds, Restricted Funds and each account in the Common Bond Fund and the IDB Account will be audited and certified annually by an independent certified public accountant selected by the Issuer, no later than one hundred twenty (120) days following the close of each calendar year, and the report of each such audit will be made available for examination at all reasonable business hours by any Holder of such Common Fund Bonds, without charge. A copy

of the report of each such audit shall be filed with the Underwriter, the rating bureaus, the Finance Officer (or his or her successor) of the Issuer and with each Holder who formally requests in writing each year that the name and address of the Holder be kept on file with the Issuer for such audit distribution purposes.

Section 306. List of Holders. To the extent that such information is made available to the Trustee, the Trustee will keep on file at its office a list of the names and addresses of the last-known Holders of all Common Fund Bonds and the serial numbers of the Common Fund Bonds believed to be held by each of such last-known Holders. Any Holder may request that his name and address be placed on said list by filing a written request therefor with the Trustee, which request shall include a statement of the principal amount of Common Fund Bonds held by such Holder and the serial numbers of such Common Fund Bonds. The Trustee shall be under no responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by Holders and/or owners (or a designated representative thereof) of ten percent (10%) or more in principal amount of Common Fund Bonds Outstanding hereunder, such authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

Section 307. Nature of Security. The Common Fund Bonds shall not be payable from or be a charge upon any funds of the Issuer other than the revenues and funds pledged to the payment thereof; nor may any Holder or Holders of the Common Fund Bonds have the right to compel any exercise of the taxing power of the Issuer to pay the principal or Redemption Price of any Common Fund Bonds or the interest thereon or to enforce payment thereof against any property of the Issuer other than the revenues and other amounts so pledged. The Common Fund Bonds shall not otherwise constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Issuer, and no Common Fund Bond of any series shall constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation; but nothing herein shall impair the rights of the Holders of Common Fund Bonds to enforce the covenants made for the security thereof as provided herein, and by authority of the Act, the Issuer has made the covenants and agreements herein for the equal and proportionate benefit of all Holders of the Common Fund Bonds of every series and any coupons appurtenant thereto and any Sureties to the extent and in the manner herein provided. Notwithstanding the foregoing, nothing herein shall impair the rights of the Holders of any Common Fund Bonds designated under Chapter 424 of the Code of Ordinances of the Issuer as secured thereby, to enforce the pledge and covenants made on behalf of the Holders of such designated Common Fund Bonds as provided in Chapter 424 of the Code of Ordinances.

Section 308. Enforcement of Covenants. The Issuer covenants that it will promptly give all notices and do all other acts and things required under the terms of all applicable Leases, Loan Agreements, Operating Agreements, Guarantees and other agreements it may from time to time have entered into with Contracting Parties, Guarantors, Operators or Sureties with respect to any of the Facilities for the performance of obligations of the Issuer and for the enforcement of all obligations of such Contracting Parties, Guarantors, Operators or Sureties and for the collection of all rentals, payments on notes or other similar payments or rates and charges to become due, to the extent and in the manner that the Issuer reasonably determines is prudent and necessary to protect the interests of the Holders; provided that nothing herein shall prevent the Issuer, with or without the consent of or notice to the Holders and at its sole discretion, from renegotiating any such Lease, Loan Agreement, Guarantee, Operating Agreement or other agreement or from waiving any default thereunder so long as such renegotiation or waiver is consistent with covenants made herein and in the applicable Supplemental Bond Resolution; and provided further that the Issuer may act upon the Opinion of Bond Counsel, Opinion of Independent Counsel or advice of an Independent Engineer or certified public accountant selected by the Issuer in the exercise of reasonable care; and the Issuer shall not be responsible for any loss or damage resulting from nonaction or from any action taken in good faith in reliance upon such opinion or advice.

Section 309. Production of Adequate Revenues and Staff Support. The Issuer covenants that, consistent with and in accordance with the terms hereof and of any applicable Revenue Agreement at the time in effect, the Issuer shall use its best efforts to lease, operate or otherwise cause each Facility to be used or held for sale and shall require such rentals, prices, payments on notes or other similar payments or rates and charges in connection with each such Facility as are sufficient to assure prompt payment of principal or Redemption Price of and interest on all Common Fund Bonds which financed, in whole or in part, such Facility. The Issuer shall employ and maintain a staff to administer the

operations of the Issuer in numbers, skill and training so as to permit the Issuer to use such best efforts to continuously: (a) monitor performance by all Contracting Parties of their covenants in the Revenue Agreements, (b) expend such time as is practicable and appropriate on leasing and releasing Facilities operated by itself or under an Operating Agreement, (c) enforce all covenants in the Revenue Agreements as may from time to time be required to assure a continuous flow to the Issuer of Net Revenues from Facilities and (d) perform such other duties as may from time to time be required to provide sufficient Net Revenues and other sums required to be deposited hereunder to meet the requirements hereof; provided that nothing herein shall be construed as imposing a duty on the Issuer to review any financial statements of any Contracting Party filed with the Issuer in accordance with the provisions of a Revenue Agreement.

Section 310. Continuing Status of Issuer. While any Common Fund Bonds of any series are Outstanding and not discharged, the Issuer will not, except as may be required by applicable law or judicial determination, terminate its existence as an independent governmental entity, terminate, surrender or otherwise delegate any of its authority or surrender or otherwise transfer any of its assets, except that this prohibition shall not apply to the sale or other disposition of the Issuer's assets by the Issuer in the course of its operation or as otherwise required or permitted hereby.

Section 311. Facilities Financed by Common Fund Bonds.

(a) Before issuing any series of Common Fund Bonds in accordance with Section 202 hereof to finance the acquisition, installation, construction or improvement of any one or more Facilities, the Issuer shall establish in its official books and records a bookkeeping account to be designated as the Construction Fund for each such Facility. In addition to such other amounts which the Issuer may authorize for deposit therein, the Issuer shall credit or allocate to such Construction Fund all proceeds of the Common Fund Bonds except any portion thereof deposited in the Common Bond Fund: (i) in accordance with Section 402(d) hereof, (ii) to pay interest accrued on such Common Fund Bonds prior to the related Bond Closing or thereafter, or (iii) for any purpose in accordance with the applicable Supplemental Bond Resolution. Subject to the terms hereof, the amounts and earnings thereon in each Construction Fund shall be held and disbursed therefrom in accordance with the applicable Supplemental Bond Resolution, Revenue Agreement and Disbursing Agreement. On or after the date of termination of the Letter of Credit, each such Construction Fund may be held and moneys disbursed therefrom by the Issuer or by any entity so designated by the Issuer. While the Letter of Credit is in effect, the Bank may act in such capacity, if required by the Reimbursement Agreement.

(b) Prior to completion of any Facility, as determined in accordance with the applicable Revenue Agreement, moneys in the related Construction Fund constituting proceeds of any Common Fund Bonds may be used only to pay or reimburse payment of any related Facility Costs which may be financed by bonds under the Act or, to the extent permitted in the applicable Supplemental Bond Resolution, to pay obligations of the Contracting Party due under the applicable Revenue Agreement or to redeem the applicable Common Fund Bonds. Earnings on sums in the Construction Fund shall be held and applied as established in the applicable Revenue Agreement or Supplemental Bond Resolution. No draw by a Contracting Party for Facility Costs (other than for costs related to the issuance of the applicable Common Fund Bonds) shall be allowed for payment or reimbursement from the applicable Construction Fund unless in the determination of the Trustee or the Issuer sums held in the Construction Fund, together with amounts pledged or drawable under letters of credit, loan agreements or other instruments or agreements (all in form satisfactory to the Issuer) for payment of Facility Costs on deposit in the Construction Fund, are sufficient to pay all such Facility Costs then estimated to be necessary for completion of the applicable Facility in accordance with the applicable Plans and Specifications and Revenue Agreement. Such a draw by a Contracting Party shall also not be permitted unless either: (i) a Construction Contract or Contracts shall have been entered into and executed and filed with the Issuer providing for the completion of the Facility in accordance with the Plans and Specifications, and a payment and performance bond shall have been secured from each contractor, unless waived by the Issuer, executed by a responsible surety company authorized to do business in the State, in a penal sum equal to the entire amount to become payable under the contract and conditioned as required by law, for the completion of the work in accordance with the Plans and Specifications and for the payment of all amounts due to subcontractors and suppliers or (ii) a Construction Contract shall have been entered into for at least the work and materials for which a draw

is requested (or if the work and materials were not furnished pursuant to a Construction Contract, other evidence satisfactory to the Issuer that the work and materials shall have been furnished in accordance with the Plans and Specifications) and the Issuer shall have received written estimates of the total cost of completing the Facility, and the Issuer shall have secured such bond or such other assurances as it deems necessary to assure completion of the Facility and payment of the costs thereof. No draw shall be allowed for payment or reimbursement under any Construction Contract until approved by the Issuer or its agent and except in accordance with the applicable Disbursing Agreement.

(c) The Issuer shall use its best efforts to cause the Contracting Party under each Revenue Agreement to cause each Facility to be completed as provided by the applicable Plans and Specifications and Construction Contract or Contracts (if any); and the Issuer shall thereafter, consistent with its rights under the applicable Revenue Agreement, use its best efforts to: (i) cause the same to be operated or held for sale for one or more of the purposes set forth in the Act and (ii) with respect to any Facility in which the Issuer holds title or has a mortgage or other security interest, hold such Facility free from all liens thereon except Permitted Encumbrances. The Issuer shall hold all Net Revenues and other sums derived by the Issuer from each Facility free from all liens other than the liens herein granted or provided for.

(d) In the Supplemental Bond Resolution authorizing a series of Common Fund Bonds respecting any Facility the Issuer may reserve the power to issue Additional Common Fund Bonds under Section 202 hereof in any amount which may be found necessary by the Issuer to pay all claims payable from the applicable Construction Fund until the Facility is completed. No liability will be incurred by the Issuer for the payment of capital costs in excess of the amount of the Common Fund Bonds agreed to be issued for a Facility, until and unless the amount of such excess is deposited in the applicable Construction Fund; provided that nothing herein shall be construed as preventing the Issuer from using its own funds or funds from other sources to meet such excess requirements allocated and, thereupon, receiving reimbursement for any such advance in accordance with the applicable Revenue Agreement.

(e) Upon completion of a Facility in accordance with the applicable Revenue Agreement and upon adequate provision having been made for payment of all costs thereof, any balance remaining in the Construction Fund related thereto, including any remainder of deposited funds and earnings thereon, shall be allocated and disbursed in accordance with the provisions of the applicable Supplemental Bond Resolution, Revenue Agreement and Disbursing Agreement.

Section 312. Enforcement of Common Fund Bond Covenants. No Holder of any Common Fund Bond of any series shall have the right to institute any suit, action or proceeding, in equity or at law, for the enforcement of any covenant contained herein, in any Supplemental Bond Resolution or Revenue Agreement unless:

(a) there shall have been obtained, prior to instituting such suit, action or proceedings the written concurrence thereto by the Holders of not less than ten percent (10%) in aggregate principal amount of all Common Fund Bonds then Outstanding or twenty percent (20%) in aggregate principal amount of any series of Common Fund Bonds then Outstanding, and pursuant to such concurrence, a written request, containing the reasons therefor, shall have been made of the Trustee to institute such suit, action or proceeding; and

(b) the Trustee shall have refused or neglected to comply with such request within forty-five (45) days after the Trustee's receipt of such request or the Trustee shall have given written consent thereto; and

(c) such suit, action or proceeding is initiated and continued for the ratable benefit of all Holders of each series of Common Fund Bonds Outstanding and any coupons appurtenant thereto which may be directly affected, adversely or positively, from the disposition of such suit, action or proceeding, subject to the provisions hereof.

The Holders of fifty-one percent (51%) in principal amount of the Outstanding Common Fund Bonds shall have the right to direct the Trustee on their behalf to direct the time, method and place of conducting any proceeding for any remedy available to the Holders of such Common Fund Bonds and for the exercise of any power conferred on them and the right to waive default in the performance of any covenant and its consequences as it relates to such Common Fund Bonds, except a default in the payment of the principal or Redemption Price of or interest on any such Common Fund Bond when due or required to be redeemed. However, nothing herein shall impair the absolute and unconditional right of the Holder of each Common Fund Bond to receive payment of the principal or Redemption Price thereof and interest

thereon at the times provided in the applicable Supplemental Bond Resolution and to institute suit for the enforcement of any such payment in accordance with the terms of the Common Fund Bond to the extent not inconsistent herewith. Before the Holders may take or require the Issuer or the Trustee to take any action hereunder, the Issuer and the Trustee may require that each be furnished an indemnity bond satisfactory to it for the reimbursement of all expenses which it may incur in such regard and to protect it against all liability, except liability which is adjudicated to have resulted from the negligence or willful default of the Issuer or the Trustee, by reason of any action so taken by the Holders, the Issuer or the Trustee.

Notwithstanding anything in this Section to the contrary, no Holder of any Common Fund Bond or any coupon appurtenant thereto shall have any right in any manner whatever by such Holder's action to affect, disturb or prejudice the lien and security interest of the Issuer pursuant hereto or to the Supplemental Bond Resolution or to the applicable Revenue Agreement on any Facility or any part thereof or, except in the manner herein provided, to enforce any right hereunder.

All rights of action hereunder, under the applicable Supplemental Bond Resolution or upon any of the Common Fund Bonds of any series or any coupons appurtenant thereto which are enforceable by the Holders may be enforced by the Trustee on behalf of the Holders without the possession of any of the Common Fund Bonds or any coupons appurtenant thereto or the production thereof at the trial or other proceedings relative thereto, and any suit, action or proceeding so instituted by the Trustee shall be brought in its name as the trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the Holders of said Common Fund Bonds and any coupons appurtenant thereto in respect of which such judgment shall have been recovered, subject to the provisions hereof.

Section 313. Operation of Facilities. Subject to the provisions of Section 308 hereof, the Issuer agrees in the event of a default under a Revenue Agreement with respect to any Facility to which the Issuer has title or in which it has a mortgage or other security interest, that it will use its best efforts while any Common Fund Bonds remain Outstanding and undischarged to lease or otherwise cause the Facility to be operated to provide revenues to help pay the principal or Redemption Price of and interest on the Common Fund Bonds and maintain the Common Bond Fund and, in the event of sale, to secure the best price obtainable, subject, however, to any limitations necessary to maintain the tax exempt status of any Common Fund Bonds. This covenant, to the extent that it may obligate the Issuer to lease, release or sell any Facility for the benefit of the Holders, may be enforced against the Issuer only to the extent that at such time the Issuer is permitted by law to sell the property or to the extent that any consent required for leasing or releasing the property has been given.

Section 314. Insurance. Consistent with the applicable Revenue Agreement, the Issuer shall use its best efforts to cause all Facilities to be insured with responsible insurance companies against all risks and in the amounts for which insurance is usually carried by prudent owners of like properties and will cause the Issuer and its officers and employees to be insured against liability for damage to persons and property incurred in connection with its ownership or operation of any such Facility, in such amounts as it deems appropriate, and will cause a provision for the maintenance of such insurance to be included in each applicable Revenue Agreement.

Section 315. Performance by Issuer of Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions to be performed by it contained herein, in each and every Common Fund Bond executed, authenticated and delivered hereunder and in all proceedings of its governing body pertaining thereto; that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the Act, to issue Common Fund Bonds (and to make the pledge set forth in Section 401 hereof in connection therewith) in the manner and to the extent herein set forth; that all action on its part for the issuance of Common Fund Bonds and for the execution and delivery of each series thereof has been or shall be duly and effectively taken; and that such Common Fund Bonds in the hands of the Holders and owners thereof are or shall be valid and enforceable obligations of the Issuer according to the terms thereof.

Section 316. Additional Restrictions on the Issuance of Common Fund Bonds. Notwithstanding any other provisions herein to the contrary, no Common Fund Bonds shall be issued, unless on the day of the delivery of such Common Fund Bonds, the sum of the Cash Reserve Ratio and the Letter of Credit Reserve Ratio total twenty-five percent (25%) or more. For purposes of this Section 316, and Section 317, the following terms have the following meanings:

(a) "*Cash Reserve Ratio*" means the sum of the following: (i) a fraction, the numerator of which is the sum of all money credited to the Common Reserve Account and the A Subaccount and the denominator of which is the Outstanding Principal, plus (ii) a fraction, the numerator of which is the sum of all money credited to the Issuer Subaccount and the denominator of which is the Outstanding CBF Principal;

(b) "*Letter of Credit Reserve Ratio*" means the sum of the following: (i) a fraction, the numerator of which is the sum of all unexpired Approved Letters of Credit and Subsequent Approved Letters of Credit, and the denominator of which is the Outstanding Principal, plus (ii) a fraction, the numerator of which is the amount of the Letter of Credit (if still in effect) and the denominator of which is the Outstanding CBF Principal;

(c) "*Outstanding Principal*" means, at any time, the aggregate principal amount of all Common Fund Bonds then outstanding under the Basic Resolution, exclusive of any defeased Common Fund Bonds and any other Common Fund Bonds, the underlying credit of which would be rated not less than "A" by Standard & Poor's, without giving effect to the credit enhancement provided by the Common Bond Fund;

(d) "*Outstanding CBF Principal*" means, at any time, the Outstanding Principal plus the aggregate principal amount of all Common Fund Bonds Outstanding under the Issuer's Resolution No. 2004R-256, as amended, exclusive of any defeased Common Fund Bonds issued under such resolution, or other Common Fund Bonds issued under such resolution, the underlying credit of which would be rated not less than "A" by Standard & Poor's, without giving effect to the credit enhancement provided by the Common Bond Fund created by such resolution.

Section 317. Maintenance of Cash Reserve Ratio and Letter of Credit Reserve Ratio. The Issuer shall maintain the sum of the Cash Reserve Ratio and the Letter of Credit Reserve Ratio at an amount equal to at least twenty-five percent (25%). If the sum of the Cash Reserve Ratio and Letter of Credit Reserve Ratio should at any time fall below 25% (the "Ratio Requirement") the Issuer shall:

(a) not issue additional Common Fund Bonds as set forth in Section 316;

(b) increase the amount of remaining Available Surplus, if any, transferred to the A Subaccount of the IDB Account in accordance with Section 404(c)(ii) from twenty-five percent (25%) to one hundred percent (100%) of any remaining Available Surplus until the Ratio Requirement is maintained; and

(c) increase the amount transferred from the Administrative Fee Account to the A Subaccount of the IDB Account in accordance with Section 403(e) from twenty-five percent (25%) to one hundred percent (100%) of such sums in the Administrative Fee Account until the Ratio Requirement is maintained.

The obligation to maintain the Ratio Requirement is limited solely to the sources herein specified and the Issuer shall not have any obligation to levy taxes for or make any advance or payment or incur any expense or liability from its general funds in performing the provisions of this Section 317.

ARTICLE IV

FUNDS AND ACCOUNTS

Section 401. Funds Pledged and Assigned. All Accumulated Revenues, Available Revenues, Net Revenues, Prepaid Net Revenues, Retained Funds, Collateral Proceeds, Administrative Fees and Reserve Deposits from time to time to be received or retained by the Issuer (not including Restricted Funds which shall be pledged to a particular series of Common Fund Bonds to the extent provided in the applicable Supplemental Bond Resolution) are hereby pledged and appropriated to secure the payment in accordance herewith when due of all principal and Redemption Price of and interest on all Common Fund Bonds from time to time Outstanding or any Surety Rights. All Net Revenues, Prepaid Net Revenues, Retained Funds, Collateral Proceeds, Administrative Fees, Reserve Deposits and other sums required to be deposited or credited in the Common Bond Fund (but not including Restricted Funds) pursuant hereto or an applicable Supplemental Bond Resolution shall be credited to the funds and accounts described herein to the extent, in the manner and for the purposes set forth herein and in all applicable Supplemental Bond Resolutions; and to the extent deposited and retained in the Common Bond Fund or A Subaccount of the IDB Account, but subject to this Article IV, such amounts shall not be subject to any lien or attachment by any creditor of the Issuer other than the lien of Holders or Sureties, and, to the extent expressly provided in the Reimbursement Agreement on the date hereof, the lien and security interest of the Bank.

Section 402. Common Bond Fund.

(a) *Common Bond Fund.* There is hereby created and established a Common Bond Fund which shall constitute a special and separate fund to be held by the Trustee. The Common Bond Fund shall consist of the Debt Service Account, Deficiency Account, Common Reserve Account and Administrative Fee Account as special and separate accounts in the Common Bond Fund, which special and separate accounts are hereby created and established. The Issuer from time to time as required shall establish and create within the Common Reserve Account segregated subaccounts with respect to each series of Common Fund Bonds to hold separately each of the following: (i) Reserve Deposits, (ii) Prepaid Net Revenues, (iii) Collateral Proceeds and (iv) Retained Funds. The Issuer may establish such additional subaccounts within any of the foregoing accounts as it deems appropriate, provided that claims permitted hereunder to any amounts held in any such account shall not in any manner be impaired thereby. Reference to the Common Bond Fund herein shall include reference to all accounts and subaccounts therein, unless otherwise stated. Unless otherwise provided herein or in the applicable Supplemental Bond Resolution, withdrawals permitted or required from any account established hereunder may be made from any subaccounts in such account in any order of withdrawal, as the Issuer in its sole discretion shall determine.

(b) *Debt Service Account.* In addition to transfers or payments into the Debt Service Account pursuant to Sections 402(h), 404(a), 403(d)(ii) and 405(a) hereof and subject to withdrawals in accordance herewith, the Issuer shall deposit in or credit to such account all Net Revenues when received by the Issuer and, to the extent required by any applicable Supplemental Bond Resolution or Revenue Agreement and to the extent not inconsistent herewith, proceeds from Common Fund Bonds for the payment of interest accrued on the applicable series of Common Fund Bonds prior to the Bond Closing therefor or thereafter (to the extent such proceeds may be lawfully so applied) or otherwise. Earnings on all funds held in or credited to the Debt Service Account shall be credited to such account.

(c) *Common Reserve Account.* In addition to transfers or payments into the Common Reserve Account pursuant to Sections 402(h) and 404(a) hereof and subject to withdrawals in accordance herewith, the Issuer shall deposit the following funds in respect of any series of Common Fund Bonds each into separate subaccounts established for such series in the Common Reserve Account: all Reserve Deposits, Prepaid Net Revenues, Collateral Proceeds and Retained Funds. Subject to Sections 402(d) and 402(e) hereof, earnings (other than Retained Earnings) on any funds held in the Common Reserve Account or in any subaccount thereof shall be credited to such account or subaccount as the case may be.

(d) *Reserve Deposit Funding Requirements; Approved Letter of Credit.* The Minimum Deposit required by Section 202 hereof in respect of each series of Common Fund Bonds may be met by deposits of any unencumbered funds qualifying under such Section, including proceeds of the Common Fund Bonds in respect of which any such requirement arises and funds provided by or on behalf of the applicable Contracting Party. Additionally, the Minimum Deposit shall be deemed met in respect of any series of Common Fund Bonds to the extent of amounts drawable under an Approved Letter of Credit. If at any time all Reserve Deposits retained in the Common Reserve Account are inadequate to meet any withdrawals otherwise required to be made hereunder from Reserve Deposits, the Trustee shall, in such order of priority as the Trustee deems appropriate (but not inconsistent with any applicable Supplemental Bond Resolution or Revenue Agreement), promptly draw upon funds available under Approved Letters of Credit and subsequent Approved Letters of Credit, if any, in an aggregate amount adequate for such withdrawals, and the Trustee shall promptly deposit such amounts in the applicable Reserve Deposit subaccounts in the Common Reserve Account. Between forty-five (45) and thirty (30) days prior to the expiration of any Approved Letter of Credit or Subsequent Approved Letter of Credit (the "Expiring Letter"), the Trustee shall cause such Expiring Letter to be fully drawn upon, if any Common Fund Bonds of the series to which such Expiring Letter relates are then Outstanding (and not scheduled to finally mature on or prior to such expiration), and if there has not been delivered to the Trustee prior to such time cash sums for deposit in the applicable Reserve Deposit subaccount in the Common Reserve Account, another Subsequent Approved Letter of Credit or any combination of such sums and other Subsequent Approved Letters of Credit, whereby any such sums, together with any amounts drawable under such other Subsequent Approved Letters of Credit during the one (1) continuous year immediately following such expiration, equal the maximum amount drawable under the Expiring Letter.

Notwithstanding any other provision herein, before withdrawal of Reserve Deposits pursuant to Section 403(c)(ii) hereof, the Trustee shall fully draw upon any Approved Letter of Credit or Subsequent Approved Letter of Credit in respect of which any default in any payment of Net Revenues has occurred under the applicable Revenue Agreement (unless such default has been theretofore cured). Notwithstanding anything to the contrary herein, the Issuer shall have the power to permit earnings on any Reserve Deposit to be free of any lien created hereby or to be credited to such Contracting Party or its designee under terms and conditions established by the Issuer; provided that in no event may the principal amount of such deposit be free of the lien thereon created hereby.

(e) *Retained Earnings.* All Retained Earnings shall be credited to the subaccount maintained for Retained Funds for the applicable series of Common Fund Bonds to which such Retained Earnings relate.

(f) *Administrative Fee Account.* Subject to withdrawals in accordance herewith, the Issuer shall deposit all Administrative Fees when received into the Administrative Fee Account; provided, however, that if the aggregate sums in a given month paid or credited as paid by a Contracting Party for Administrative Fees and Net Revenues are less than the total Administrative Fees and Net Revenues due to the Issuer from such party in such month, the aggregate sums so paid shall be allocated to the extent thereof first to satisfy such Net Revenues due (after satisfaction of any past due unpaid amounts of Net Revenues) and then to satisfy such Administrative Fees (after satisfaction of any past due unpaid amounts of Administrative Fees). Earnings on funds in the Administrative Fee Account shall when credited be deemed a deposit of Administrative Fees to such account.

(g) *Restricted Funds.* Restricted Funds received by the Issuer in respect of any series of Common Fund Bonds shall be deposited in such fund, account or subaccounts not maintained in the Common Bond Fund as the Issuer shall in its sole discretion determine, but subject to the terms of any applicable Revenue Agreement or Supplemental Resolution, and any amounts, including earnings, in any such fund, account or subaccount shall be applied, withdrawn or credited to the benefit of a Contracting Party as provided in the applicable Supplemental Bond Resolution or Revenue Agreement.

(h) *Deficiency Account.* Amounts transferred pursuant to Section 404(c)(i) hereof shall be deposited in the Deficiency Account, subject to withdrawals in accordance herewith. Earnings on amounts in the Deficiency Account shall be credited thereto, subject to withdrawals in accordance herewith.

(i) *Miscellaneous Funding.* Amounts received by the Issuer in respect of any Facility or Revenue Agreement not otherwise required hereunder to be deposited in a specific fund, account or subaccount established hereby may be deposited in any fund, account or subaccount, subject to any provisions not inconsistent herewith in any Supplemental Bond Resolution or Revenue Agreement, relating to the deposit, withdrawal, transfer or use of funds therein, or the treatment of earnings thereon.

Section 403. Withdrawals.

(a) *Bond Payments.* Except as otherwise provided herein: (i) all payments required hereunder to be made by the Issuer of principal or Redemption Price of or interest on Common Fund Bonds of any series or in respect of any Surety Rights when due shall be made, to the extent of funds therein, first from the Debt Service Account, then from the Deficiency Account, then from the Administrative Fee Account, then from retained Reserve Deposits in such order of priority as the Issuer may determine which is not inconsistent with the applicable Revenue Agreements or Supplemental Bond Resolutions (but subject to Section 402(d) hereof), and then from remaining subaccounts in the Common Reserve Account in such order of priority as the Issuer may determine; (ii) to the extent such foregoing funds shall not be sufficient to make all such payments, such payments shall be made, to the extent of funds therein, from the A Subaccount of the IDB Account, then from the Issuer Subaccount of the IDB Account and then (to the extent, if any, determined in the sole discretion of the Issuer) from other available funds of the Issuer in accordance with Section 404(a) hereof; and (iii) if all such foregoing funds required (or permitted at the discretion of the Issuer) to be used for such payments shall not be sufficient to make all such payments, the Letter of Credit (if outstanding) shall be drawn upon in accordance with Section 405(a) hereof.

(b) *Debt Service Account.* In addition to withdrawals pursuant to Sections 404(a), 404(c) and 405(b) hereof and any amounts advanced by the Issuer on behalf of a Contracting Party pursuant to the applicable Supplemental Bond Resolution, funds required hereunder to be deposited in or credited to the Debt Service Account may be withdrawn and used while any Common Fund Bonds are Outstanding

only for the payment of (i) interest on Common Fund Bonds as or after it becomes due and payable, including accrued interest on any Common Fund Bonds redeemed before maturity pursuant to the applicable Supplemental Bond Resolution, increases in interest resulting from a series of Common Fund Bonds becoming taxable for federal tax purposes, interest accruing on any Common Fund Bond after its stated maturity, if such bond is not then paid or redeemed, and to the extent that payment of such interest is lawful, interest upon overdue installments of interest due on Common Fund Bonds at the rate borne by such Common Fund Bonds, (ii) the principal amount or Redemption Price of any Common Fund Bonds at their stated maturities or when called for redemption and prepayment in accordance with any applicable Supplemental Bond Resolution, (iii) the discharge of Common Fund Bonds of any series in accordance with Article VI hereof, or the purchase of any such bonds in accordance herewith or with any applicable Supplemental Bond Resolution, (iv) any amounts due under the Reimbursement Agreement or under Section 405(b) hereof, (v) any amounts for which the Issuer has a right of reimbursement from a Contracting Party or Guarantor paid in the reasonable discretion of the Issuer to prevent impairment of the first lien created hereby or any equity or security interest of the Issuer in any Facility, and (vi) any Surety Rights. Notwithstanding any other provision herein, amounts constituting Net Revenues received by the Issuer after they were due and payable may be transferred to any subaccount in the Common Reserve Account to the extent amounts in such account were withdrawn because of the delay in receipt of such Net Revenues.

(c) *Reserve Deposits.* In addition to withdrawals pursuant to Section 404(c) hereof, and subject to Section 411 hereof, while any Common Fund Bonds are Outstanding Reserve Deposits shall be used and withdrawn only for (i) the last payments of the principal or Redemption Price of or interest on the applicable series of Common Fund Bonds; and (ii) any purpose for which funds in the Debt Service Account may be withdrawn, but only after exhaustion of the Administrative Fee Account, the Debt Service Account (as determined before any transfers thereto pursuant to Section 404(a) for the specific purpose for which such withdrawal is required) and the Deficiency Account. Except as otherwise provided in an applicable Supplemental Bond Resolution or Revenue Agreement and Section 402(d) hereof, funds may be withdrawn from Reserve Deposits in accordance herewith in any order of priority as among such Reserve Deposits as may be selected by the Issuer in its sole discretion; provided that for purposes of clause (ii) above, amounts shall first be drawn from the Reserve Deposits for any series of Common Fund Bonds in respect of which any default in payment of applicable Net Revenues has occurred and is then continuing.

(d) Prepaid Net Revenues, Collateral Proceeds and Retained Funds.

(i) Subject to Section 404 hereof, any funds required hereunder to be deposited in or credited to any subaccount established for a series of Common Fund Bonds concerning Prepaid Net Revenues or Collateral Proceeds shall be withdrawn and used only for the purpose of purchasing, paying, prepaying, redeeming or discharging Common Fund Bonds or interest or premium thereon (A) of such series in the case of Prepaid Net revenues and (B) of any series of Common Fund Bonds in the case of Collateral Proceeds; provided, however, that Prepaid Net Revenues and Collateral Proceeds shall be withdrawn to the extent required for the purposes for which other funds in the Common Reserve Account may be otherwise withdrawn, but only after exhaustion of the Deficiency Account, Debt Service Account and Administrative Fee Account and other funds in the Common Reserve Account other than in subaccounts for Prepaid Net Revenues, Collateral Proceeds or Retained Funds (as the foregoing funds and accounts are determined before any transfers pursuant to Section 404(a) hereof for the specific purpose for which withdrawal is required).

(ii) Any funds required hereunder to be deposited in or credited to any subaccount for Retained Funds established for a series of Common Fund Bonds shall be withdrawn and used when and in the manner as such funds are required to be applied and credited against payments due under the Revenue Agreement related to such series of bonds in accordance with the terms of such agreement; provided, however, that such funds may be used for the purpose of purchasing, redeeming or discharging Common Fund Bonds of the series to which such funds relate to the extent the Issuer expressly determines that such use will not materially adversely affect the future cash requirements of the Issuer; and provided further, that such funds shall be withdrawn to the extent required for the purposes for which other funds in the Common Reserve Account may be otherwise withdrawn, but only after exhaustion of the Deficiency Account, the Debt Service Account and Administrative Fee

Account and other funds in the Common Reserve Account other than in subaccounts for Prepaid Net Revenues, Collateral Proceeds or Retained Funds (as the foregoing funds and accounts are determined before any transfers pursuant to Section 404(a) hereof for the specific purpose for which withdrawal is required). Retained Funds credited against Net Revenues otherwise due under a Revenue Agreement shall, to the extent available therefore, be transferred to the Debt Service Account as and when so credited.

(iii) Notwithstanding any other provision herein, upon discharge of any series of Common Fund Bonds, funds in any subaccount for such bonds concerning Prepaid Net Revenues, Collateral Proceeds or Retained Funds shall thereupon be released to the Common Reserve Account generally or other appropriate subaccounts as determined in the sole discretion of the Issuer, except as such funds may be transferred in order to effect such a discharge and except as any such funds may be owing to the applicable Contacting Party under the terms of the applicable Revenue Agreement. Except as aforesaid or otherwise provided in the applicable Supplemental Bond Resolution or Revenue Agreement, amounts in subaccounts for Prepaid Net Revenues, Collateral Proceeds or Retained Funds may be withdrawn in any order of priority selected by the Issuer among such accounts. Any application of or withdrawal of Prepaid Net Revenues, Collateral Proceeds or Retained Funds shall be credited, if at all, against Net Revenues or other sums otherwise due in the manner and to the extent provided in any applicable Supplemental Resolution or Revenue Agreement.

(e) *Administrative Fee Account.* In addition to any withdrawals pursuant to Section 404(c) hereof, funds held in the Administrative Fee Account shall be withdrawn only for the purposes for which funds in the Debt Service Account may be withdrawn, but only after exhaustion of the Debt Service Account (as determined before any transfers thereto pursuant to Section 404(a) hereof for the specific purpose for which such withdrawal is required); provided that to the extent any amounts deposited in the Administrative Fee Account are not withdrawn for the foregoing purposes during the calendar month of such deposit, twenty-five percent (25%) of such amounts shall be transferred on the last day of such month to the A Subaccount of the IDB Account and seventy-five percent (75%) thereof shall be available for any proper lawful purpose of the Issuer.

(f) *Deficiency Account.* In addition to withdrawals pursuant to Section 404(c)(ii) hereof, amounts in the Deficiency Account after exhaustion of the Debt Service Account may be withdrawn only for the purposes for which funds in the Debt Service Account may be withdrawn.

Section 404. Transfers of Funds and Accounting Procedures.

(a) *Payment and Restoration of Deficiency.* If at any time funds in the Common Bond Fund are not sufficient to pay the principal or Redemption Price of and interest on any Common Fund Bonds of any series when due or to maintain funds in the Common Reserve Account sufficient to meet the Common Reserve Requirement, amounts sufficient to make such payment and maintain or restore the Common Reserve Account at or to the level of the Common Reserve Requirement shall be forthwith transferred, first to the Debt Service Account to the extent necessary for any such payments, and then to the Common Reserve Account into appropriate subaccounts therein (i) out of funds to the extent thereof held in the A Subaccount and then the Issuer Subaccount of the IDB Account, and (ii) in the event that funds in such IDB Account are not sufficient to fully make any such payment and restoration, but only if the Issuer so elects in its sole discretion, then from other available funds of the Issuer. Notwithstanding the foregoing, amounts in the Issuer Subaccount of the IDB Account may be used to maintain or restore the Common Reserve Account at or to the Common Reserve Requirement only to the extent that the amounts in the Issuer Subaccount, following any such maintenance or restoration, are not less than \$5,000,000. If transfers pursuant to this paragraph are not sufficient to pay all principal and interest on any Common Fund Bonds when due, the Trustee shall then draw upon the Letter of Credit pursuant to Section 405 hereof for the purpose of making such payment of principal or interest, but not (except as provided in Section 405) for the purpose of restoring the amount of funds in the Common Reserve Account to the level of the Common Reserve Requirement. If transfers pursuant to this paragraph to the Common Reserve Account are not sufficient to fully restore all subaccounts in the Common Reserve Account to the level at which the Common Reserve Requirement is determined, amounts so transferred shall be allocated among all subaccounts in the Common Reserve Account as determined by the Issuer (in a manner not inconsistent with any applicable Supplemental Bond Resolution or Revenue Agreement). Thereafter, subject to Section 405(b) hereof, the subaccounts in the Common Reserve Account shall

be fully restored from amounts, if any, available therefor from time to time in the Debt Service Account, IDB Account or earnings (other than Retained Earnings) on amounts in other accounts or subaccounts in the Common Bond Fund.

(b) *Available Surplus Determination.* Promptly following the end of each calendar year the Issuer shall determine the "Available Surplus," if any, from such year. Notwithstanding any other provision herein, the Issuer in its sole discretion may elect a different method to determine "Available Surplus" and amounts appropriate or not appropriate to transfer pursuant to Section 404(c) hereof based on procedures deemed by the Issuer to be more appropriately related than the foregoing procedure to the Issuer's receipt of Net Revenues in comparison with payments required to be made from the Common Bond Fund provided that such method shall not reduce the amounts retained in the Common Bond Fund below the amounts which would have been retained under the method expressly provided herein.

(c) *Available Surplus and Other Transfers.*

(i) On December 31 of each year there shall be transferred to the Deficiency Account (A) all amounts in the Debt Service Account, except for a reasonable carry over amount not to exceed one-twelfth of annual debt service on all Common Fund Bonds then Outstanding, and (B) all earnings (other than earnings exempted pursuant to Section 402(d) hereof, Retained Earnings and amounts in the Deficiency Account) held in any subaccount in the Common Reserve Account which, together with other sums held in such subaccount, exceed the amount related to such subaccount on which the Common Reserve Requirement is determined.

(ii) Promptly following a determination of the Available Surplus from a year pursuant to section 404(b) hereof and to the extent on the date of the following transfer the Common Reserve Account is not reduced below the Common Reserve Requirement determined as of such date (or the amounts in any subaccounts therein reduced below the levels upon which the Common Reserve Requirement is determined as of such date), such Available Surplus shall be transferred to the A Subaccount of the IDB Account to the extent of an amount equal to all available transfers previously made therefrom pursuant to Section 404(a) hereof (and which have not been previously repaid), and thereafter, twenty-five percent (25%) of any remaining Available Surplus shall be transferred to such A Subaccount of the IDB Account and seventy-five percent (75%) of such remaining Available Surplus shall be available for any proper lawful purpose as the Issuer shall from time to time determine.

Section 405. Letter of Credit.

(a) *Draws.* (i) The Trustee shall draw under the Letter of Credit (if it is still outstanding) to the extent necessary to pay the principal of or interest on Common Fund Bonds of any series then due (a "Payment Draw") and which the Issuer is then obligated and which the Issuer is unable to pay from the Common Bond Fund after all sums required to be transferred pursuant to Section 404(a) hereof have been transferred. All moneys received from a Payment Draw under the Letter of Credit shall be deposited in the Debt Service Account. At the time and date specified in the Letter of Credit, but in no event later than the expiration of the Letter of Credit, the Trustee shall draw the entire remaining balance of the Letter of Credit (an "Expiry Draw") if the Letter of Credit has not been renewed or extended, or if a substitute Letter of Credit meeting the requirements of Section 405(c) has not been delivered to the Trustee by or on behalf of the Issuer prior to the date of the Expiry Draw. All moneys received from an Expiry Draw under the Letter of Credit shall be deposited in the Issuer Subaccount of the IDB Account.

(b) *Repayment of Draws on Letter of Credit.* (i) A Payment Draw on the Letter of Credit and any interest accrued on the moneys therefrom shall be repaid by the Issuer from any funds of the Issuer legally available therefor and in addition, at the option of the Issuer, may be repaid by the Issuer from any amounts deposited in the Debt Service Account after any Payment Draw and not needed to pay principal or Redemption Price of and interest on Common Fund Bonds due within ninety (90) days following such deposit, and (ii) An Expiry Draw on the Letter of Credit and any interest accrued on the moneys therefrom shall be repaid (x) first, from amounts in the Issuer Subaccount of the IDB Account, provided that immediately after such repayment the amount of funds in the Common Reserve Account shall equal not less than the Common Reserve Requirement and amounts in the IDB Account shall equal not less than such levels as shall be required by Sections 202 and 406 hereof and the terms of the IDB Account Resolution and Supplemental Bond Resolutions, whichever shall be greatest, and (y) second, from any other funds of the Issuer legally available therefor.

(c) *Substitution of Letter of Credit.* The Issuer may substitute for the initial Letter of Credit a subsequent Letter of Credit issued by another bank or other financial institution at any time subsequent hereto, provided that such substitution does not cause the bond rating assigned to Common Fund Bonds by any national bond rating agency to be lowered below the rating obtainable immediately before such substitution; provided further that if at the time of any such substitution there is no such rating on Common Fund Bonds, then the other bank or financial institution shall have deposits or shareholders' equity or net worth (or the equivalent thereof) at least equal to that of the Bank at the date of such substitution.

(d) *Reduction of Amount Drawable.* The Issuer may, in its sole discretion, but however consistent with the terms of this Basic Resolution, the IDB Account Resolution and Supplemental Bond Resolutions, reduce the amount drawable under the Letter of Credit or terminate a Letter of Credit, as provided in the Letter of Credit or Reimbursement Agreement.

Section 406. IDB Account. In accordance with Section 404(c) the Issuer shall from time to time credit to the A Subaccount of the IDB Account Available Surplus and any other sums required hereunder or pursuant to a Supplemental Resolution to be transferred thereto. No Common Fund Bond of any series may be issued unless at the time of such issuance amounts or investments valued at market in the IDB Account are equal to at least \$10,000,000, unless a Letter of Credit of not less than a five (5) year initial term has been issued and is outstanding in favor of the Issuer that if fully drawn upon would provide an amount available for deposit in the Debt Service Account which, together with other sums on hand in the IDB Account, would be equal to at least \$10,000,000.

Section 407. Construction Fund. Forthwith upon the Bond Closing for any series of Common Fund Bonds the proceeds of such series of Common Fund Bonds (less any accrued interest and any other amounts paid into the Common Bond Fund as provided in Section 311 hereof), together with any other funds permitted to be deposited therein pursuant to the applicable Supplemental Bond Resolution, shall be deposited in a separate Construction Fund for such series of Common Fund Bonds established in accordance with Section 311 hereof. Except as otherwise provided in the applicable Supplemental Bond Resolution, earnings on amounts in such Construction Fund shall be credited thereto.

Section 408. Deposit of Funds with Trustee and Paying Agent and Paying Agent Fees.

(a) On or prior to any date of payment for principal or Redemption Price of or premium on any Common Fund Bonds Outstanding, the Issuer shall cause the transfer to the Trustee from the Common Bond Fund amounts required for such payment in accordance herewith when due, and the Trustee in turn shall disburse such amounts or transfer such amounts to the appropriate Paying Agent(s) for such payment when due. The Trustee and any Paying Agent shall hold in trust for the Holders of such Common Fund Bonds and of any interest coupons appurtenant thereto all sums so transferred to the Trustee and any Paying Agent, respectively, until paid to such Holders or otherwise disposed of as herein provided.

(b) The Issuer shall pay any Paying Agent fees from any available funds of the Issuer as the Issuer so directs unless otherwise provided in the applicable Supplemental Bond Resolution.

Section 409. Priority of Payment. All Common Fund Bonds shall be equally and ratably secured by and payable from the Common Bond Fund, without priority of one such Common Fund Bond over any other; provided that nothing herein shall preclude the Issuer from using in accordance herewith Prepaid Net Revenues, Collateral Proceeds or Retained Funds to purchase, prepay or discharge any Common Fund Bonds that the Issuer in its sole discretion shall determine appropriate. In the event that the balance in the Common Bond Fund is at any time insufficient to pay all principal or Redemption Price of and interest then due on Common Fund Bonds, the Issuer shall apply the balance first to pay pro rata the interest then due on all such Common Fund Bonds and all Surety Rights arising from subrogation rights of Sureties to receive interest on such bonds, and the Issuer shall apply any remaining balance first to the pro rata payment of principal of the then matured (but unaccelerated) Common Fund Bonds and all Surety Rights arising from subrogation rights of Sureties to receive such principal, and then to the payment of all other Surety Rights, principal due on Common Fund Bonds and other items payable from the Common Bond Fund.

**ARTICLE V
INVESTMENTS**

Section 501. Investments by Issuer. All sums held in the funds or accounts established hereunder, to the extent practicable and permitted by the Act, will be deposited as received with a bank

or banks duly designated and qualified as a depository of funds of the Issuer and shall be guaranteed by the pledge of securities of the types authorized by law, in value at all times equal to one hundred ten percent (110%) of such deposits not guaranteed by Federal Deposit Insurance. Notwithstanding the preceding sentence, amounts in the Common Bond Fund and each Construction Fund may be invested as permitted by applicable law in amounts or securities maturing before the times and in the amounts estimated to be required to pay expenses from the applicable Construction Fund and principal or Redemption Price and interest when due, including, but not limited to, repurchase agreements and mutual funds investing in commercial paper issued by United States corporations or their Canadian subsidiaries that is of the highest quality and matures in 270 days or less (including those with the Trustee) to the extent allowed by applicable law. The Trustee may make any and all such investments for the account of the Issuer through its own commercial or bond department. Nothing herein shall prevent the combining of funds in bank deposit accounts, in investment accounts, or in common trust funds maintained by the Trustee exclusively for the collective investment and reinvestment of moneys contributed thereto by the Trustee in the capacity as Trustee to the extent determined by the Issuer or Trustee to be necessary or desirable; provided, however, that accurate records shall be kept at all times showing the proportion of the income from investments properly attributable to each fund and account, and such income shall be credited on the books of the Issuer or Trustee to the fund or account from which the investment was made. Except as may be otherwise provided herein (or in any Supplemental Bond Resolution concerning funds related to the specific Facility financed thereunder or the construction of such Facility), all earnings on amounts credited to any fund, account or subaccount established pursuant hereto or pursuant to the applicable Supplemental Bond Resolution shall be credited when received to such fund, account or subaccount, as the case may be.

Section 502. Return on Investments. Except in respect of any Common Fund Bonds not issued for the purpose of bearing interest exempt from federal income taxation, (a) the Issuer will not use or permit the use of the proceeds of the Common Fund Bonds to be issued which shall cause such obligations to be arbitrage bonds within the meaning of Section 148 of the Code and any applicable and valid regulations from time to time promulgated thereunder; and (b) the Issuer will comply with the requirements of Section 148 of the Code and such applicable regulations pertaining thereto while any Common Fund Bonds remain Outstanding.

ARTICLE VI

DISCHARGE OF OBLIGATIONS TO HOLDERS

Section 601. Payment of Common Fund Bonds. When Common Fund Bonds of any series or portion of a series and any coupon appurtenant thereto have been discharged as provided in this Article, all pledges, covenants and other rights granted hereby and by the applicable Supplemental Bond Resolution shall cease as to the Holders of such series or portion of a series of Common Fund Bonds, such Common Fund Bonds shall no longer be considered outstanding under this Basic Resolution, and (if all Common Fund Bonds of such series be discharged) the lien herein created upon any Net Revenues and other sums derived from any Facility financed by such series of Common Fund Bonds and any and all covenants made herein with respect to the related Facility may be terminated with respect to the Holders of all Outstanding Common Fund Bonds; provided that nothing herein shall be construed as relieving the related Contracting Party with respect to the Facility financed by such series of Common Fund Bonds from its obligation under the Revenue Agreement relating to the Facility to continue to make the full amount of payments due under the applicable Revenue Agreement, nor as entitling the Contracting Party to a reduction in the amount by which such payments may be prepaid or the Facility may be purchased or for termination of the Revenue Agreement; and provided further that for the purposes of a particular Revenue Agreement all such Common Fund Bonds of that series whose maturity (or mandatory redemption) dates have not expired shall continue to be deemed Outstanding except if and to the extent the Contracting Party, with the consent of the Issuer, has provided for the discharge of the Common Fund Bonds. Subject to Section 602 hereof, the Issuer may discharge Common Fund Bonds under this Section 601 and interest due on any date by depositing with the Trustee or any escrow agent selected by the Trustee a sum sufficient for the payment thereof in full; and if any Common Fund Bond or interest thereon should not be paid when due, the same may nevertheless be discharged by depositing with the Trustee or any escrow agent selected by the Trustee a sum sufficient for the payment thereof in full with interest accrued from the due date to the day of such deposit.

Section 602. Prepayment of Common Fund Bonds. The Issuer may discharge any prepayable Common Fund Bonds of any series which are called for redemption on any date when they are prepayable according to their terms by depositing with the Trustee (or an escrow agent selected by the Trustee), who shall disburse or shall transfer to the appropriate Paying Agent for disbursement on or before that date a sum sufficient for the payment of the principal or Redemption Price thereof in full, including payment of interest thereon; provided that notice of the redemption thereof has been duly made in accordance with the terms of the Supplemental Bond Resolution authorizing such series of Common Fund Bonds.

Section 603. Deposit for Discharge. The Issuer may discharge all Common Fund Bonds of any series Outstanding at any time, when authorized by law, by irrevocably depositing in escrow with a suitable banking institution, as defined in Minnesota Statutes, Section 475.67, a sum of cash and securities in such aggregate face amount bearing interest at such rates and maturing or callable at the option of the holders thereof on such dates as shall be required to pay all principal or Redemption Price of and interest due on such series of Common Fund Bonds to their stated maturity (or mandatory redemption) dates or any earlier date upon which they may be redeemed prior to maturity (or mandatory redemption) in accordance with their terms; provided that notice of any such redemption shall have been duly given in accordance with the terms of the Common Fund Bonds of that series and the Supplemental Bond Resolution pursuant to which such series was authorized. The securities to be so deposited shall be limited to securities permitted under Minnesota Statutes, Section 475.67, Subdivision 8, and any laws amendatory thereof or supplemental thereto but shall not otherwise be limited by the provisions hereof.

Section 604. Use of Deposited Funds. Any moneys or securities which at any time shall be deposited by or on behalf of the Issuer with the Trustee or any Paying Agent, escrow agent or any other banking institution for the purpose of paying and discharging any Common Fund Bonds of any series and any coupons appurtenant thereto shall be held in trust for the respective Holders of such Common Fund Bonds and coupons and are hereby irrevocably appropriated for such payment and discharge.

Section 605. Unclaimed Moneys. Notwithstanding any other provision hereof, any moneys held by the Trustee (or escrow agent selected by the Trustee) or any Paying Agent for the payment and discharge of any Common Fund Bond or any coupon appurtenant thereto which remains unclaimed after the date when that Common Fund Bond or coupon has become due and payable or which remains unclaimed after the date of deposit of moneys for the payment and discharge of a Common Fund Bond or coupon not paid when due, for a period of five (5) years after such due date or deposit date, shall be free from such trust and shall promptly thereafter be transferred to the Issuer by such Trustee, escrow agent or Paying Agent, if applicable, and the Trustee, such escrow agent or such Paying Agent shall be released and discharged with respect thereto, and the Holders of Common Fund Bonds and coupons payable from any such moneys shall look only to the Issuer for the payment thereof.

Section 606. Cancellation of Surrendered Common Fund Bonds and Coupons. The Issuer may at any time surrender to the Trustee for cancellation by the Trustee any Common Fund Bonds previously authenticated and delivered hereunder, together with any unpaid coupons thereto belonging, which the Issuer acquired in any manner whatsoever, and such Common Fund Bonds and any coupons appurtenant thereto, upon such surrender and cancellation, shall be deemed to be paid and retired.

ARTICLE VII

THE TRUSTEE AND THE PAYING AGENT

Section 701. Trustee. Wells Fargo Bank, National Association, is hereby appointed as Trustee, and the rights, powers and duties of the Trustee hereunder and under the applicable Supplemental Bond Resolution are hereby vested in said Trustee or such successor in trust for the Holders. The Issuer may appoint a successor Trustee pursuant to Section 709 hereof. In the event the Issuer appoints a successor Trustee, such successor shall execute and deliver to the Issuer a written acceptance of the office of Trustee, whereupon such successor shall signify its acceptance of the duties and obligations imposed upon it as Trustee hereby and by the applicable Supplemental Bond Resolution with respect to all Common Fund Bonds theretofore or thereafter to be issued pursuant hereto, but only, however, upon the terms and conditions set forth herein and in the applicable Supplemental Bond Resolution.

When required by the law of any jurisdiction or in the reasonable judgment of the Trustee, to enable the Trustee to perform the Trustee's duties and functions and exercise its powers and rights hereunder or under any Supplemental Bond Resolution on the Trustee's behalf as Trustee or on behalf of the Holders, the Trustee may appoint an additional individual or institution or additional individuals or institutions, as a separate trustee or co-trustee or both, and if and when the Trustee makes any such appointment or appointments, each and every remedy, power, right, claim, demand, cause of action and immunity expressed or intended hereby or by any Supplemental Bond Resolution (other than appointment of an additional or successor trustee or co-trustee hereunder) to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate trustee or co-trustee to exercise such powers, rights and remedies under applicable law, and every covenant and obligation necessary to the exercise thereof by such separate trustee or co-trustee shall run to and be enforceable by either of them. Every such separate trustee or co-trustee shall execute and deliver to the Issuer written acceptance thereof; and should any deed, conveyance or instrument in writing from the Issuer or the Trustee be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such separate trustee or co-trustee such rights, powers, trusts, remedies, duties and obligations, any and all such conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

Section 702. Paying Agents. The Issuer may appoint by resolution one or more Paying Agents for the Common Fund Bonds of each series, which appointment shall be specified in the applicable Supplemental Bond Resolution adopted prior to the execution, authentication by said Paying Agent and delivery of said series of Common Fund Bonds; and the Issuer may, thereafter, at any time or from time to time by resolution, appoint one or more additional Paying Agents or one or more successor Paying Agents for any series of Common Fund Bonds. Each Paying Agent shall be a bank, trust company or national banking association having trust powers and having a capital and surplus aggregating at least ten million dollars (\$10,000,000), if there be such a bank or trust company or national banking association willing and able to accept the office of Paying Agent on reasonable and customary terms and authorized by law to perform all the duties imposed upon said Paying Agent hereby and by the applicable Supplemental Bond Resolution. Each Paying Agent shall signify its acceptance of the duties and obligations imposed on each Paying Agent hereby and by the applicable Supplemental Bond Resolution by executing and delivering to the Issuer and the Trustee written acceptance thereof. The Trustee may act as Paying Agent.

Section 703. Responsibilities of Trustee and Paying Agent.

(a) *General.* The recitals contained herein and in the Common Fund Bonds shall be taken as the statements of the Issuer, and neither the Trustee nor the Paying Agent assumes any responsibility for or shall have any liability in respect of the correctness of the same. Neither the Trustee nor the Paying Agent shall be under any responsibility or liability or duty with respect to the issuance of any Common Fund Bonds for value, the use thereof or the application of the proceeds thereof (except the Trustee to the extent such proceeds are paid to the Trustee in its capacity as Trustee) or the application of any moneys paid to the Issuer or to those other than the Trustee or the Paying Agent in accordance herewith and with the applicable Supplemental Bond Resolution. Neither the Trustee nor any Paying Agent shall be under any responsibility or liability or duty with respect to the application of any moneys to any other successor or to any separate or co-trustee or additional Paying Agent. Notwithstanding the foregoing, the Paying Agent shall be responsible for its representation contained in the certificate of authentication on the Common Fund Bonds.

(b) *Other Immunities, Duties and Powers of the Trustee.* The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder, either directly or by or through agents, attorneys or other persons not regularly in the Trustee's employ. The Trustee may in all cases pay reasonable compensation to all such agents, attorneys and other persons and shall be reimbursed or such compensation shall be paid in accordance with the provisions of the applicable Revenue Agreement.

The Trustee shall be responsible for the recording or re-recording, registration or re-registration or filing or re-filing of any financing, continuation or similar statements or other instruments of further assurance, with respect hereto, to any Supplemental Bond Resolution and to any security documents in connection therewith.

The permissive right of the Trustee to do things enumerated herein shall not be construed as a duty, and the Trustee shall not be liable for any action taken, suffered or omitted by the Trustee in good faith without negligence and reasonably believed by the Trustee to be within the discretion or power conferred upon the Trustee hereby.

The Trustee shall be under no liability for interest upon any uninvested moneys that the Trustee may at any time hold in trust or receive under any of the provisions hereof or of any Supplemental Bond Resolution, except such as the Trustee may agree in writing with the Issuer or a Contracting Party, as the case may be, to pay thereon.

Section 704. Funds Held in Trust. All moneys held by the Trustee and any Paying Agent at any time pursuant to the terms hereof and of the applicable Supplemental Bond Resolution shall be and hereby are assigned, transferred and set over unto the Trustee or the Paying Agent, as the case may be, in trust for the purposes and under the terms and conditions hereof and of the applicable Supplemental Bond Resolution.

Section 705. Evidence on Which Trustee and Paying Agent May Act. The Trustee and any Paying Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion, Common Fund Bond, coupon, requisition, voucher, invoice or other paper or document believed by it to be genuine and to have been signed or presented by the proper person or persons.

The Trustee may consult with Bond Counsel, and the written advice of Bond Counsel or an Opinion of Bond Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by the Trustee hereunder in good faith and in accordance therewith. Whenever the Trustee shall deem it necessary or desirable that a fact or matter be proved or established prior to taking, suffering or omitting to take any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by any certificate required or permitted to be filed with the Trustee under the provisions hereof and of the applicable Supplemental Bond Resolution or the applicable Revenue Agreement stating the same, and such certificate shall be full warrant for any action taken, suffered or omitted to be taken in good faith under the provisions hereof and of the applicable Supplemental Bond Resolution upon the faith thereof, but in its discretion, the Trustee may, in lieu thereof (but shall have no obligation to), accept other evidence of such fact or matter or may require such further or additional evidence as the Trustee may deem reasonable. Except as otherwise expressly provided herein, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof, any Supplemental Bond Resolution or any Revenue Agreement by or on behalf of the Issuer or any Contracting Party to the Trustee shall be sufficiently evidenced if executed by an authorized representative of the Issuer or an officer or other authorized representative of a Contracting Party and any resolution of the Issuer or of the board of directors or duly authorized action of the Contracting Party shall be sufficiently evidenced to the Trustee by a copy thereof certified by the Finance Officer of the Issuer or any duly authorized officer or party of the Contracting Party.

Each Paying Agent shall be protected in acting upon and shall act upon the written request, order, notice or other direction of the Issuer pursuant hereto and pursuant to and in accordance with the provisions of the applicable Supplemental Bond Resolution.

Section 706. Certain Permitted Acts. The Trustee and the Paying Agent may become the owner of or may deal in Common Fund Bonds and any coupons appurtenant thereto as fully and with the same rights the Trustee or the Paying Agent would have if it were not the Trustee or Paying Agent, respectively. To the extent permitted by law, the Trustee and the Paying Agent may act as depository for and permit any of their respective officers or directors to act as a member of or in any other capacity with respect to any committee formed to protect the rights of the Holders of Common Fund Bonds or to effect or aid in any reorganization growing out of the enforcement of the Common Fund Bonds or any coupons appurtenant thereto, this Basic Resolution and any Supplemental Bond Resolution, whether or not any such committee shall represent the Holders of at least a majority in aggregate principal amount of the Common Fund Bonds Outstanding.

Section 707. Resignation of Trustee or Paying Agent. The Trustee, the Paying Agent or any successors thereto may at any time resign and be discharged of its duties and obligations created hereby and by any Supplemental Bond Resolution by giving not less than forty-five (45) days' written

notice to the Issuer (to the Issuer and the Trustee, if the Paying Agent shall resign and the Paying Agent be other than the Trustee) and by publishing notice thereof, specifying the date when such resignation shall take effect, in an Authorized Newspaper within twenty (20) days after the giving of such written notice, if any coupon Common Fund Bonds not registered as to principal or registered as to principal to bearer are Outstanding, and by mailing a notice to the foregoing effect to Holders of registered Common Fund Bonds and Holders of coupon Common Fund Bonds registered as to principal other than to bearer. Such resignation shall take effect upon the date specified in such written notice to the Issuer or the Issuer and the Trustee, as the case may be, unless a successor shall have been appointed prior to said date, in which event such resignation shall take effect immediately on the appointment of such successor and such successor shall have assumed in writing all of the duties and obligations of its predecessor.

Section 708. Removal. The Trustee, or any successor Trustee subsequent thereto may be removed at any time by resolution of the Issuer or by the Holders of at least a majority in aggregate principal amount of all Common Fund Bonds then Outstanding, by an instrument or concurrent instruments in writing signed and duly acknowledged by such Holders or by their attorneys duly authorized in writing and delivered to the Issuer. Copies of each such resolution or instrument shall be delivered, by the Issuer to the Trustee and any successor Trustee subsequent thereto.

The Paying Agent or any successor Paying Agent may be removed at any time by resolution of the Issuer. Copies of such written action shall be delivered to the Trustee and to such Paying Agent and any successor Paying Agent.

Section 709. Appointment of Successor Trustee. In the event that at any time the Trustee or any successor Trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged a bankrupt or insolvent or if a receiver, liquidator or conservator of the Trustee or such successor Trustee of its property shall be appointed or if any public officer shall take charge or control of the Trustee or such successor Trustee or of its property or affairs, the Issuer shall by resolution forthwith appoint a successor Trustee. The successor to the Trustee and each and every successor thereafter, shall be a bank, trust company or national banking association having trust powers and having a capital and surplus aggregating at least fifty million dollars (\$50,000,000), if there be such a bank or trust company or national banking association willing and able to accept the office of Trustee hereunder, on reasonable and customary terms and authorized by law to perform all the duties imposed upon such successor Trustee hereunder and under the applicable Supplemental Bond Resolution. The Issuer shall publish notice of any such appointment of a successor Trustee to the Trustee or mail notice thereof in accordance with the provisions of Section 707 hereof.

The Holders of at least a majority in aggregate principal amount of all Common Fund Bonds then Outstanding may, by an instrument or concurrent instruments in writing signed by such Holders or their attorneys duly authorized in writing and delivered to such successor Trustee appointed by the Issuer, with notification thereof to the Issuer and the predecessor Trustee, appoint a successor Trustee to supersede said successor Trustee so appointed by the Issuer. In such event, any successor Trustee appointed by the Issuer shall, immediately and without further act, be superseded by a successor Trustee appointed by the requisite percentage of Holders in the aforementioned manner, but only if such successor has the requisite capital and surplus as determined herein.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 709 within forty-five (45) days after the Trustee shall have given written notice to the Issuer as provided in Section 707 hereof or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any other separate trustee or co-trustee or any Holder may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as said court may deem proper and prescribe, appoint such successor Trustee.

Section 710. Transfer of Rights to Successor. Any successor to the Trustee which is appointed hereunder and any successor Trustee thereafter appointed shall execute, acknowledge and deliver to its predecessor Trustee and also to the Issuer an instrument accepting such appointment, and thereupon such successor Trustee, without any further act or conveyance, shall become fully vested with all moneys, estates, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if named herein as such Trustee, but the Trustee ceasing to act shall, nevertheless, on the written request of the Issuer or of the successor Trustee, execute, acknowledge and deliver such instruments

of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all rights, powers, duties and obligations of the predecessor Trustee hereunder and in and to the Common Bond Fund and the IDB Account. Should any conveyance or instrument in writing from the Issuer be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such rights, powers, duties and obligations, any and all such conveyances and instruments in writing shall, on request and so far as may be authorized by law, be executed, acknowledged and delivered by the Issuer. Any such successor Trustee shall promptly notify any other separate trustee or co-trustee and any Paying Agent of its appointment as such successor Trustee.

Any successor Paying Agent appointed by the Issuer as provided for in this Basic Resolution shall execute, acknowledge and deliver to its predecessor Paying Agent and also to the Trustee and any separate trustee or co-trustee and the Issuer an instrument accepting such appointment, and thereupon, such successor Paying Agent, without any further act, deed or conveyance, shall become fully vested with all rights, powers, duties and obligations of such predecessor Paying Agent, with like effect as if named in the applicable Supplemental Bond Resolution as such Paying Agent. The Paying Agent ceasing to act as Paying Agent shall, on the written request of the Issuer, the Trustee and the successor Paying Agent, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required by the Issuer for more fully and certainly vesting in and confirming to such successor Paying Agent all rights, powers, duties and obligations of the predecessor Paying Agent.

Section 711. Merger or Consolidation. Any company into which the Trustee or any Paying Agent may be merged or converted or with which the Trustee or any Paying Agent may be consolidated or any company resulting from any merger, conversion or consolidation to which the Trustee or any Paying Agent shall be a party or any company to which the Trustee or any Paying Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company or national banking association which is qualified to be a successor Trustee under Section 709 hereof or a successor Paying Agent under Section 702 hereof, as the case may be, shall be authorized by law to perform all the duties imposed upon it hereby and by the applicable Supplemental Bond Resolution, and shall be the successor to the Trustee or Paying Agent, as the case may be, without the execution or filing of any paper or the performance of any further act.

ARTICLE VIII BASIC RESOLUTION

Section 801. Amendments Not Requiring Consent. The Issuer reserves the right to amend this Basic Resolution at any time for the purpose of curing any ambiguity or formal defect or omission herein or in any amending or Supplemental Bond Resolution, to modify the accounting procedures herein and order of source of payment in respect of Bonds from accounts and subaccounts in the Common Bond Fund, to grant for the benefit of the Holders of Common Fund Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted or to make any other change which is not to the prejudice of any Holders of Common Fund Bonds. The Issuer covenants and agrees with the Holders of Common Fund Bonds issued hereunder and secured hereby that it will not amend this Basic Resolution in any other manner except upon consent of the Holders as hereinafter provided. Nothing herein shall limit the power of the Issuer to authorize the issuance of Common Fund Bonds by Supplemental Bond Resolution without Holder consent in accordance with the terms and conditions of Section 202.

In addition to the foregoing, the Issuer reserves the right to amend Sections 316 and 317 of this Basic Resolution, at any time, without the consent of any holders of Common Fund Bonds; provided however that consent of owners of 51% of owners of Common Fund Bonds affected by such amendment shall be required for any amendment which would decrease the Ratio Requirement to a level below 15%, or which would otherwise contravene the provisions of any Supplemental Bond Resolution.

Section 802. Amendments with Holders' Consent. The Holders of not less than fifty-one percent (51%) in aggregate principal amount of Common Fund Bonds which are at any time Outstanding and not discharged shall have the right to consent to and approve the amendment of this Basic Resolution (excluding any Supplemental Bond Resolution authorizing the issuance of Common Fund Bonds) by the Issuer, for the purpose of authorizing any modification, alteration, amendment or rescission of or any

addition to this Basic Resolution, except that nothing herein shall permit a reduction in the aggregate principal amount of the Common Fund Bonds required for consent to any such amendment nor an extension of the maturity (or mandatory redemption) date of the principal of or the interest on any Common Fund Bond not held by a consenting Holder, nor grant a privilege or priority to any Common Fund Bond over any other Common Fund Bond not provided for herein. Any written consent to such an amendment may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing, and such consent shall become effective when such instrument or instruments are delivered to the Trustee.

Section 803. Proof of Consent. Proof of the execution of any consent or of a writing appointing any agent or of the holding by any person of Common Fund Bonds which are transferable by delivery shall be sufficient for any purpose (including those for which Holders have a voice under Sections 312, 708, 709 and 802 hereof) and shall be conclusive in favor of the Issuer or the Trustee, as the case may be, if made in the following manner: The fact and date of the execution by any person of any such consent may be proved by the affidavit of any witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the person signing such consent acknowledged to him the execution thereof. The amount of Common Fund Bonds transferable by delivery held by any person executing any such consent as a Holder and the distinguishing numbers of such Common Fund Bonds and the date of his holding the same may be proved by a certificate executed by any trust company, bank or other depository, wherever situated, if such certificate shall be deemed satisfactory by the Issuer, showing that at the date therein mentioned such person had on deposit with such depository or exhibited to it the Common Fund Bonds therein described; or such facts may be proved by the certificate or affidavit of the person executing such consent as a Holder, if such certificate or affidavit shall be deemed satisfactory by the Issuer. The Issuer may conclusively assume that such ownership continues until written notice to the contrary is served upon it. The fact and date of execution of any such consent and the amount and distinguishing numbers of Common Fund Bonds held by the person executing the same may also be proved in any other manner which the Issuer may deem sufficient but the Issuer may nevertheless, in its sole discretion, require further proof in cases where it deems further proof desirable. Any consent by the Holder of any Common Fund Bond shall bind any future Holder of the same Common Fund Bond with respect to any amendment adopted by the Issuer pursuant to such consent.

Section 804. Notice of Amendment. Before adopting any amendment hereto which requires the consent of the Holders of Outstanding Common Fund Bonds, the Issuer will file a copy of the proposed amendment in its office and at the office of the Trustee or the Paying Agent at which such Common Fund Bonds are payable and will mail a notice to all owners of such Common Fund Bonds then Outstanding who shall have filed their names and addresses with the Issuer and will cause such notice to be published in a financial journal of general circulation in the State. Such notice shall briefly state the nature of the proposed amendment and that a copy is on file at the office of the Issuer for inspection by all Holders. No such amendment shall be adopted unless consent is received from the required percentage of Holders within six (6) months after such publication.

Section 805. Amendment of Supplemental Bond Resolution. In addition to the purposes set forth in Section 801, the Issuer may amend any Supplemental Bond Resolution authorizing the issuance of Common Fund Bonds for any purpose, in any manner and subject to any conditions set forth in the Supplemental Bond Resolution; provided that no such amendment may be inconsistent with the terms and conditions of this Basic Resolution.

ARTICLE IX MISCELLANEOUS

Section 901. Severability. If any provision of this Basic Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule of public policy or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses

or paragraphs contained in the Basic Resolution shall not affect the remaining portions of the Basic Resolution or part thereof.

Section 902. Limitation of Liability. To the extent permitted by law and consistent with covenants made with the Holders of any series of Common Fund Bonds, no provision, covenant or agreement contained in the Basic Resolution shall give rise to or impose any pecuniary liability upon the Issuer or any of its officers, employees or agents.

Section 903. Table of Contents and Headings. The Table of Contents and headings herein are for convenience only and shall not affect the construction hereof.

Section 904. Minnesota Law to Govern. The Basic Resolution is delivered in and shall be governed by and construed in accordance with the laws of the State of Minnesota.

Section 905. Basic Resolution to Govern. Unless the express language or the clear context of a provision in any Supplemental Bond Resolution or Revenue Agreement clearly requires to the contrary, all provisions of such Supplemental Bond Resolution or Revenue Agreement shall be interpreted to apply in a manner not inconsistent herewith, and in case any such provision is inconsistent herewith, the provisions herein shall govern and control.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee, having under consideration a proposal by Infinite Graphics, Incorporated to expand and purchase additional equipment for their existing facilities at 4611 E Lake St, now recommends passage of the accompanying resolution giving final approval to the issuance of up to \$2,400,000 in Tax-exempt and Taxable Limited Tax Supported Development Revenue Bonds, Common Bond Fund, Series 2004, for Infinite Graphics, Inc. to be issued through the Common Bond Fund and designating the bonds as bonds entitled to the security provided by Ordinance No. 87-Or-084, Tax Reserve and Pledge Ordinance.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Resolution 2004R-258, a Supplemental Bond Resolution and Indenture, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2004-258
By Goodman**

SUPPLEMENTAL BOND RESOLUTION AND INDENTURE.

Resolved by The The City Of Minneapolis of The City of Minneapolis:

That the Basic Resolution is Supplemented and amended as follows:

ARTICLE I

DEFINITIONS, LEGAL AUTHORIZATION AND FINDINGS

Section 101. Definitions. The following terms, unless the context hereof shall require otherwise, shall have the meanings set forth below; provided, however, that any additional capitalized terms used herein and not defined herein (unless such capitalization is due solely to application of the rules of grammar) shall have the meanings assigned to such terms in the Basic Resolution or the Agreement, unless the context or use herein requires another or different meaning:

“Act of Bankruptcy” means the filing of a petition in bankruptcy with respect to a Person by or against such Person under the United States Bankruptcy Code.

“Additional Common Fund Bonds” means those Common Fund Bonds issued to pay the cost of completion of a Facility pursuant to Sections 202 and 311(d) of the Basic Resolution, Section 206 hereof and an Additional Supplemental Bond Resolution.

"Additional Supplemental Bond Resolution" means the Additional Supplemental Bond Resolution and Indenture authorizing the issuance of Additional Common Fund Bonds.

"Agreement" means the Lease Agreement, dated as of July 1, 2004, between the Tenant and the Issuer, as amended from time to time.

"Articles and Sections," mentioned by number only, means the respective Articles and Sections of this Supplemental Bond Resolution so numbered.

"Authorized Newspaper" means a newspaper furnishing financial news as part of its service, printed in the English language, published weekly or daily in Minneapolis, Minnesota, or its metropolitan area, and circulated throughout the State.

"Basic Resolution" means Resolution No. 2004R-257, entitled "Amending and restating the Basic Resolution of the City of Minneapolis (A)," adopted on June 18, 2004 by the Issuer, as amended to the date hereof, including any amendments made by this Supplemental Bond Resolution.

"Bond Closing" means the date on which there is delivery of and payment for the Bonds.

"Bond Register" means the register for the registration and transfer of the Bonds kept by the Trustee on behalf of the Issuer pursuant to Section 210 hereof.

"Bonds" means the Series 2004-1 Bonds, issued pursuant to the Basic Resolution and the Supplemental Bond Resolution in the aggregate principal amount specified in Section 203 hereof, as such principal amount may be adjusted by certification of the Finance Officer of the Issuer.

"Bond Year" means from the Bond Closing to December 31, 2004, inclusive, and thereafter the period commencing on the day after expiration of the preceding Bond Year and ending on the earlier of the day preceding the first anniversary of such commencement date or the date on which no Bonds are Outstanding.

"Chapter 424" means Code of Ordinances, Title 16, Chapter 424, as amended.

"Code" means the Internal Revenue Code of 1986, as amended as of the date hereof, and applicable Regulations promulgated thereunder.

"Code of Ordinances" means the Minneapolis Code of Ordinances, as amended.

"Computation Date" means any of the following dates: (i) the date on which the IDB Account is first fully depleted after the date hereof; and (ii) any date on which money has been drawn from the Tax Reserve Fund as a result of a certification by the Trustee pursuant to Section 415 hereof. The IDB Account shall be deemed to have been first fully depleted on the first date that no cash, investments, or letters of credit are credited to the IDB Account.

"Construction Fund" means the fund by that name created pursuant to Section 403 hereof.

"Designated Common Fund Bonds" means Common Fund Bonds designated by the Issuer under Chapter 424 as Bonds to which Chapter 424 applies.

"Expected Available Tax Revenue" means the product of the total tax capacity of all taxable property in the City of Minneapolis on the Computation Date and one-half percent.

"Financial Advisor" means Dougherty & Company LLC.

"Hereby," "herein," "hereof," "hereto," "hereunder" and any similar terms refer to this Supplemental Bond Resolution as a whole; the term *"heretofore"* means before the date of execution and delivery hereof, and the term *"hereafter"* means after the date of execution and delivery hereof.

"Interest Payment Date" means December 1, 2004, and each June 1 and December 1 thereafter until all Bonds are paid.

"Issuer" means the City of Minneapolis, Minnesota.

"Other Redemption Funds" means all funds or accounts not within the Common Bond Fund or IDB Account established by any resolution authorizing Common Fund Bonds (other than the Bonds) which are pledged to the payment of principal, premium and interest due on any such series of Common Fund Bonds on any date for which any redemption thereof was duly called.

"Outstanding" means when used with reference to all series of Common Fund Bonds, the same as that term is defined in the Basic Resolution and also means, when used with reference to the Bonds and as of any particular date, all Bonds theretofore and thereupon being authenticated and delivered except:

- (a) any Bond canceled by the Trustee or the Paying Agent or surrendered to the Trustee or the Paying Agent for cancellation at or before said date;

(b) any Bond for payment or redemption of which money equal to the principal or Redemption Price thereof, as the case may be, with interest to the date of maturity or Redemption Date, shall have theretofore been deposited with the Trustee or any Paying Agent in trust (whether upon or prior to maturity or the Redemption Date of such Bond) and, except in the case of a Bond to be paid at maturity, of which notice of redemption shall have been duly given; and

(c) any Bond for which in lieu thereof or in substitution therefor another Bond shall have been authenticated and delivered pursuant to Section 213 hereof; provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Issuer or the Tenant or any affiliate of the Tenant shall be disregarded and deemed not to be Outstanding except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded (an "affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person; for the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing); provided, further, that Bonds so owned which have been pledged in good faith may be regarded as "Outstanding" if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer or the Tenant or any affiliate of the Tenant. A Bond that would be considered "Outstanding" but for the fact that money sufficient for the payment or redemption thereof has theretofore been deposited in full with the Trustee or any Paying Agent in trust for the Holder thereof (or that the Basic Resolution has theretofore been discharged with respect to the series of which such particular Bond is a part pursuant to Article VI of the Basic Resolution) shall, for the purposes of Article III of the Basic Resolution (to the extent that a default referred to therein or under the Agreement might adversely affect the exemption from federal income taxation of interest on any Bond) and Article VII of the Basic Resolution (to the extent that any supplement, amendment, modification or waiver referred to therein might adversely affect the exemption from federal income taxation of interest on any Bond), be deemed to be "Outstanding" unless such Bond shall be due and payable in accordance with its terms or through redemption proceedings or otherwise as provided in the Basic Resolution and herein. The Trustee shall be fully protected in requiring and relying on an Opinion of Counsel with respect to whether any such default, supplement, amendment, modification or waiver might adversely affect the exemption from federal income taxation of interest on any Bond.

"*Paying Agent*" means Wells Fargo Bank, National Association, in Minneapolis, Minnesota, and its successor or successors designated pursuant to the provisions of Article VII of the Basic Resolution and Section 204 hereof as the agent of the Issuer to receive and disburse the principal or Redemption Price of and interest on the Bonds.

"*Payment Date*" means the date on which any payment of principal of or interest on any Common Fund Bonds is due.

"*Preference Funds*" means any money credited to the Common Bond Fund or IDB Account, other than either money derived from a draw under the Letter of Credit or earnings received on amounts held by the Trustee, held by the Trustee for less than ninety-one (91) days or concerning which the depositor thereof was subject to an Act of Bankruptcy within ninety-one (91) days after deposit of such amounts with the Trustee.

"*Property Insurance and Award Fund*" means the fund by that name created pursuant to Section 406 hereof.

"*Rebate Amounts*" means any amount of money subject to rebate to the government of the United States of America pursuant to Section 148(f) of the Code and applicable Regulations.

"*Rebate Fund*" means the fund by that name created pursuant to Section 414 hereof.

"*Redemption Date*" means, when used with respect to any Bond to be redeemed, the date fixed for such redemption in accordance with the provisions hereof.

"*Redemption Fund*" means the fund by that name created pursuant to Section 411 hereof.

“*Redemption Price*” means, when used with respect to a Bond or portion thereof, the principal amount of such Bond or portion thereof plus the applicable premium, if any, payable upon redemption thereof in accordance with its terms and as provided herein.

“*Regulations*” means regulations promulgated by the Department of the Treasury of the government of the United States of America pursuant to the Code.

“*Supplemental Bond Resolution*” means this Supplemental Bond Resolution and Indenture.

“*Tax Reserve Fund*” means the fund by that name created by Chapter 424, held by the Issuer separate and apart from the Common Bond Fund.

“*Tax Reserve Requirement*” means zero Dollars (\$0) prior to the first Computation Date and, thereafter, an amount equal to twice the Expected Available Tax Revenue, determined as of the most recent Computation Date.

“*Tenant*” means Lake Street Holdings, LLC, its successors and assigns.

“*Trustee*” means Wells Fargo Bank, National Association, in Minneapolis, Minnesota, its successors and co-trustees, as permitted under the Basic Resolution.

“*Underwriter*” or “*Underwriters*” means RBC Dain Rauscher, Inc. and Piper Jaffray & Co.

“*Underwriting Agreement*” means the Underwriting Agreement, dated as of the date of adoption hereof, among the Underwriters, the Issuer and the Tenant.

“*United States Bankruptcy Code*” means 11 U.S.C. Sections 101 *et seq.*, as amended.

Section 102. Legal Authorization. The Issuer is a municipal corporation under the laws of Minnesota and is authorized under the Act to finance the Facility and to issue and sell the Bonds for that purpose in the manner and upon the terms and conditions set forth in the Basic Resolution and herein. The City Council of the Issuer has approved the issuance of bonds for an amount not less than the aggregate face amount of the Bonds for the purpose of financing the Facility.

Section 103. Findings. The Issuer has heretofore determined and does hereby determine and find as follows:

(a) The Issuer is authorized by the Act to adopt this Supplemental Bond Resolution and execute and deliver the Agreement.

(b) The Issuer has made the necessary arrangements with the Tenant for the financing of the Facility, which Facility consists of certain property used in connection with the operation of a revenue producing enterprise contemplated by Minnesota Statutes, Section 469.153 Subdivision 2, which property is of the character and accomplishes the purposes provided by the Act, and the Issuer has by this Supplemental Bond Resolution authorized execution of the Agreement and all other documents in relation thereto and has specified the terms and conditions of the financing of the Facility.

(c) In authorizing the issuance of Bonds, the Issuer’s purpose is and, in the Issuer’s judgment, the effect thereof shall be to promote the public welfare by: the attraction, encouragement and development of economically sound commerce and industry so as to prevent, so far as possible, blighted and marginal lands and areas of chronic unemployment and the emergence of such land and areas, the development of commerce and industry to use the available resources of the community in order to retain the benefit of the community’s existing investment in educational and public service facilities and to halt the movement of talented, educated personnel of mature age to other areas, thus preserving the economic and human resources needed as a base for providing governmental services and facilities, the provision of accessible employment opportunities for residents in the area, and the expansion of an adequate tax base of Hennepin County and the City of Minneapolis to finance the increase in the amount and cost of governmental services, including educational services for the school districts of the City of Minneapolis.

(d) The amount estimated to be necessary to finance the Facility shall require the Issuer to issue, sell and deliver the Bonds in the aggregate principal amount authorized herein.

(e) The Bonds are Common Fund Bonds within the meaning of Section 202 of the Basic Resolution and are payable from revenues derived by the Issuer from a revenue-producing enterprise and shall be on a parity of lien with all other Common Fund Bonds which have heretofore and may hereafter be issued by the Issuer and made payable from funds pledged and appropriated thereto pursuant to the Basic Resolution and hereunder.

(f) The issuance and sale of the Bonds, the execution and delivery of the Agreement and the performance of all covenants and agreements of the Issuer contained herein and in the Agreement and

the Basic Resolution and of all other acts and things required under the Constitution and laws of the State to make the Agreement and the Bonds valid and binding obligations of the Issuer in accordance with their terms are authorized by the Act, the Basic Resolution and this Supplemental Bond Resolution.

(g) The Underwriters have offered to purchase the Bonds in accordance with the terms and conditions of the Underwriting Agreement and this Supplemental Bond Resolution.

ARTICLE II

AUTHORIZATION, TERMS AND PROVISIONS OF BONDS

Section 201. Qualification under the Basic Resolution, IDB Account Resolution and Chapter 424. The Bonds shall be issued and secured under the provisions of the Basic Resolution, and all applicable terms, covenants and conditions contained therein are hereby incorporated into and made a part hereof the same as if said terms, covenants and conditions were set out herein in their entirety. It is hereby found, determined and declared that upon the issuance of the Bonds in accordance herewith and execution of the Agreement, the Agreement shall provide for Basic Rent, which if collected in full and when due shall be sufficient to pay the interest when due and to pay and redeem the Bonds at maturity or when required or permitted pursuant to the terms hereof. In accordance with Sections 202 and 402(d) of the Basic Resolution, at or prior to the Bond Closing for the Bonds, cash in the amount, or a Reserve Letter of Credit drawable in the amount, of the Minimum Deposit shall be delivered to or by the Issuer as required for the Bonds and further, all other conditions required to be met under Section 202 of the Basic Resolution shall have been met as have the conditions specified herein. Consistent with the provisions of the Basic Resolution and the IDB Account Resolution, the Issuer specifically pledges to further secure the Bonds (on a parity basis with all Common Fund Bonds) with the funds held in the A Subaccount and Issuer Subaccount of the IDB Account established in accordance with the provisions of the IDB Account Resolution. The Issuer covenants to make appropriations, advances and payments in respect of the Bonds in accordance herewith and with the terms of the Basic Resolution and the IDB Account Resolution. The Bonds shall also be secured by amounts available, if any, in the Tax Reserve Fund, pursuant to Chapter 424. The Issuer hereby designates the Bonds as bonds secured by the pledge made pursuant to Chapter 424.

Section 202. Forms Generally. The Bonds shall be in substantially the form set forth in Schedule A hereof with such other appropriate insertions, omissions, substitutions and other variations as are required or permitted hereby and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may, consistently herewith, be placed thereon by the officials of the Issuer executing the Bonds, as evidenced by their execution thereof. Any part of the text of any Bond may be set forth on the reverse side thereof with an appropriate reference thereto on the face of the Bond.

The definitive Bonds shall be printed, lithographed, engraved, typewritten, mimeographed or otherwise reproduced or produced by a combination of these methods or may be produced in any other manner permitted by the rules of any securities exchange, all as determined by the officials of the Issuer executing such Bonds, as evidenced by their execution thereof.

The approving opinion of Bond Counsel may be printed on the Bonds.

Section 203. Authorization of Bonds and Terms. Pursuant to the Basic Resolution, the Bonds are hereby authorized to be and shall be issued under and secured by the Basic Resolution and this Supplemental Bond Resolution. The Bonds and any Additional Common Fund Bonds shall bear CUSIP numbers or any other identification, notations or symbols as the Issuer may determine, and when issued shall be numbered separately from R-1 consecutively upward. The Bonds shall be issued in the aggregate principal amount of up to \$2,500,000 and shall be designated "Limited Tax Supported Development Revenue Bonds, Common Bond Fund Series 2004-1." The Bonds shall bear interest from the date thereof, payable semiannually on June 1 and December 1 in each year, commencing December 1, 2004, at the interest rates per annum to be determined by the Finance Officer of the Issuer prior to the issuance of the Bonds (with the average weighted interest rate not to exceed 6.50% per annum), and shall mature on or before December 1, 2024.

The foregoing aggregate principal amount, maturity dates and principal amounts maturing on such dates are subject to adjustment and, if adjusted, such terms shall be finally and specifically designated at Bond Closing by a certification of the Finance Officer of the Issuer. Such adjustment may include the creation of one or more serial maturities and/or term bonds that are subject to mandatory sinking

fund redemption in accordance with Section 305 hereof. The Finance Officer's certification shall also establish the interest rate for each maturity of Bonds.

Section 204. Accrual and Payment of Interest. Each Bond shall bear interest from its date, which shall be as of the date six (6) months preceding the Interest Payment Date next following the date of authentication thereof by the Paying Agent, provided that: (a) if such date of authentication shall be an Interest Payment Date, such Bond shall be dated as of such date of authentication, (b) if such date of authentication shall be before the first Interest Payment Date, such Bond shall be dated as of the first day of the month in which such Bond was issued, and (c) if interest on such Bond shall not have been paid in full when due, then notwithstanding any of the foregoing provisions of this Section 204, such Bond shall be dated as of the date on which interest was last paid in full on such Bond. All Bonds shall be payable as to principal or Redemption Price at the principal office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, hereby designated as Paying Agent for the Bonds, or at the office of any successor Paying Agent designated by the Issuer pursuant to Article VII of the Basic Resolution, and interest on Bonds shall be payable by check or draft drawn upon the Paying Agent mailed on the Interest Payment Date to the registered Holder thereof as reflected as of the close of business on the 15th day of the month immediately preceding any Interest Payment Date at the address of such Holder as it appears on the Bond Register maintained by the Trustee. Overdue principal or Redemption Price of and (to the extent legally enforceable) overdue interest on any Bond shall bear interest at the rate borne by such Bond.

Section 205. Conditions Precedent to the Delivery of Bonds. In addition to the performance of such acts and the occurrence of such events as are required under Section 202 of the Basic Resolution, prior to or simultaneously with the delivery of the Bonds:

(a) there shall be delivered to the Trustee a written order by the Representative of the Issuer to authenticate and deliver the Bonds to or upon the order of the Underwriters, upon the payment to the Trustee for the account of the Issuer of a specified sum plus a specified amount of accrued interest, together with a copy of this Supplemental Bond Resolution, duly certified by the recording officer of the Issuer; and

(b) there shall be delivered to the Issuer the following items:

- (i) an executed original of the Agreement and the Disbursing Agreement;
- (ii) the executed original or copies thereof satisfactory to the Issuer of all Subleases of the Facility then in effect, if any;
- (iii) financing statements endorsed as having been filed with the Secretary of State of the State of Minnesota and the County Recorder or Registrar of Titles of Hennepin County, Minnesota, or both, whichever is applicable, showing the interest of the Issuer in the Facility Equipment;
- (iv) a policy or binder of title insurance in current ALTA form acceptable to the Issuer and Bond Counsel in an amount not less than the original principal of the Bonds insuring the Issuer's fee simple title to the Facility Premises, subject only to Permitted Encumbrances and insuring against all standard exceptions, including mechanics' liens, survey and zoning restrictions;
- (v) the manually signed Opinion of Bond Counsel approving the legality of the Bonds and exclusion from gross income of interest on the Bonds;
- (vi) written evidence from the Underwriters and the Bank consenting to the issuance of the Bonds;
- (vii) an original of the Underwriting Agreement;
- (viii) written acceptance by the Paying Agent and the Trustee;
- (ix) evidence of insurance complying with Section 4.06 of the Agreement;
- (x) all executed Construction Contracts, including any related architects' contracts and payment and performance bonds required by the Agreement, if any;
- (xi) an executed original of each Guaranty; and
- (xii) such other documents as Bond Counsel and the Bank reasonably determine are necessary as a precondition to the delivery of the Bonds;

provided, however, that the Issuer may waive the requirement that one or more of the foregoing items be filed with the Trustee on or prior to Bond Closing, except the manually signed Opinion of Bond Counsel approving the validity of the Bonds.

Section 206. Additional Common Fund Bonds. Pursuant to the authority given in Section 202 of the Basic Resolution to issue Additional Common Fund Bonds in accordance with Section 311(d) thereof, one or more series of such Additional Common Fund Bonds may be authenticated and delivered for the purpose of financing the cost of completing the Facility. Such Additional Common Fund Bonds shall be secured by the Basic Resolution, this Supplemental Bond Resolution and the Additional Supplemental Bond Resolution providing for the issuance of the applicable series of such Additional Common Fund Bonds and shall rank on a parity of security in all respects with the Bonds and all Additional Common Fund Bonds issued and to be issued hereunder. Such Additional Common Fund Bonds may, at the election of the Issuer as provided by Chapter 424, be further secured by the Tax Reserve Fund. Such Additional Common Fund Bonds shall have such identifying designation, be in such form and denominations, be dated, mature at such time or times, bear interest at such rate or rates, be subject to redemption at such times and prices, be executed substantially in the form and manner set forth herein and contain such other provisions not inconsistent herewith and with the Basic Resolution and as the Additional Supplemental Bond Resolution providing for the issuance thereof shall fix and determine. Such Additional Common Fund Bonds shall be payable from the Common Bond Fund as provided in the Basic Resolution. Prior to the adoption of the Additional Supplemental Bond Resolution authorizing the issuance of Additional Common Fund Bonds, the Issuer and the Tenant shall enter into an amendment to the Agreement which shall provide that the Basic Rent due under the Agreement shall be increased and computed so as to amortize in full the principal or Redemption Price of and interest on such Additional Common Fund Bonds and provide for the payment of any other costs in connection therewith. The Additional Common Fund Bonds shall be issued only in accordance with Sections 202 and 311(d) of the Basic Resolution.

Section 207. Form and Denominations. All Bonds shall be in fully registered form without coupons and payable to a named Person or registered assigns. Bonds shall each be of the denomination of \$5,000 or any integral multiple thereof. The Bonds may contain or have endorsed thereon such provisions, specifications and descriptive words as are:

- (a) not inconsistent with those provisions hereof and of the Basic Resolution that are applicable to all Bonds or to Common Fund Bonds generally;
- (b) necessary or desirable to comply with custom or the rules of any securities exchange or commission or brokerage board; or
- (c) authorized hereby or by any Additional Supplemental Bond Resolution adopted prior to the authentication and delivery of the Bonds.

Section 208. Execution of Bonds. Each Bond shall be executed, as provided by law, in the name and on behalf of the Issuer by the manual or facsimile signature of its Finance Officer (or such other person acting in the stead of the Finance Officer in accordance with law). Any Bond may be signed on behalf of the Issuer by any person who, at the date of such act, shall hold the proper office, and the validity thereof shall not be impaired by the fact that one or more of such officers authorized to execute such Bond shall have ceased to hold such office on the date of delivery of such Bond.

Section 209. Authentication of Bonds. Each Bond shall bear thereon a certificate of authentication, substantially in the following form, manually executed by the Trustee:

“Certificate of Authentication”

This Bond is one of the Common Fund Bonds described in the within-mentioned Basic Resolution and Supplemental Bond Resolution and is one of the Bonds of the City of Minneapolis referred to herein.

WELLS FARGO BANK,
NATIONAL ASSOCIATION,
as Trustee

Dated: _____

By [Manual]
Authorized Signature

Only such Bonds that bear thereon the manually executed certificate of authentication shall be entitled to any security, right or benefit hereunder and under the Basic Resolution. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication upon such Bond shall have been duly

executed by the Paying Agent. The certificate of authentication upon any Bond executed as herein provided on behalf of the Issuer shall be conclusive and the only evidence that the Bond so authenticated has been duly authenticated and delivered hereunder and under the Basic Resolution and that the Holder thereof is entitled to the security, right or benefit hereunder and under the Basic Resolution.

Section 210. Appointment of Trustee as Transfer Agent for Bonds. The Trustee is hereby irrevocably appointed the agent of the Issuer for the registration, transfer or exchange of Bonds. The Trustee, on behalf of the Issuer, shall maintain and keep a Bond Register for the registration and transfer of the Bonds, and upon presentation thereof for such purpose, the Trustee shall register or cause to be registered thereon and permit to be transferred thereon or to be exchanged, under such reasonable regulations as the Trustee may prescribe, any Bond entitled to registration, transfer or exchange.

Section 211. Transfer of Bonds. Each Bond shall be transferable only upon the Bond Register at the office of the Trustee by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or such duly authorized attorney. Upon the transfer of any such Bond, the Issuer shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds registered in the name of the transferee of the same aggregate principal amount, series designation, maturity and interest rate as the surrendered Bond.

Section 212. Ownership of Bonds and Effect of Registration. The Issuer, the Trustee and any Paying Agent may treat and consider the person in whose name any Bond for the time being shall be registered upon the Bond Register as the Holder and absolute owner thereof, whether or not such Bond shall have matured, for the purpose of receiving payment of the principal or Redemption Price of and interest on such Bond and for all other purposes whatsoever, and neither the Issuer, the Trustee nor any Paying Agent shall be affected by any notice to the contrary, and payment of or on account of the principal or Redemption Price of and interest on such registered Bond shall be made only to or upon the order of such registered owner thereof. All payments made as in this Section 212 provided shall be valid and effectual to satisfy and discharge the liability upon the several Bonds to the extent of the sum or sums so paid.

Section 213. Bonds Mutilated, Destroyed, Stolen or Lost. In the event that any Bond is mutilated, destroyed, stolen or lost, the Issuer shall execute and the Trustee shall authenticate and deliver, in lieu of any such mutilated, destroyed, stolen or lost Bond, a new Bond of like date and denomination as the Bond mutilated, destroyed, stolen or lost, provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any such destroyed, stolen or lost Bond, there shall be first furnished to the Issuer and the Trustee evidence of such destruction, theft or loss satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. The Issuer and the Trustee may charge the Holder of such Bond their reasonable fees and expenses in this connection. All such Bonds so surrendered to the Trustee shall be canceled by the Trustee.

In case any such mutilated, destroyed, stolen or lost Bond has become or is about to become due and payable, the Issuer may, instead of issuing a new Bond, cause the Trustee to pay such Bond out of money held by the Trustee and available for such purpose.

The provisions of this Section 213 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, stolen or lost Bonds.

Section 214. Payment for and Limitations on Exchanges and Transfers. In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver the Bonds in accordance with the provisions hereof and of the Basic Resolution. The Bonds so delivered shall be in such form or denominations as shall permit the exchange or transfer for the surrendered Bonds in such manner that no gain or loss of interest results from such exchange or transfer. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Trustee. For every such exchange or transfer of Bonds, the Trustee may make a charge sufficient to reimburse the Trustee for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. The cost of preparing each new Bond upon each exchange or transfer and any other expenses (except any applicable tax, fee or other governmental charge) of the Issuer or the Trustee incurred in connection with such exchange or transfer shall be paid by the Tenant

pursuant to Section 2.03 of the Agreement. Neither the Issuer nor the Trustee shall be required to register, transfer or exchange Bonds for a period of fifteen (15) days next preceding any Interest Payment Date on Bonds or next preceding any selection of Bonds to be redeemed or thereafter until after the later of the first publication or mailing of notice of redemption of Bonds selected, called or being called for redemption as a whole or the portion being redeemed of any Bonds selected, called or being called for redemption in part.

Section 215. Delivery of Temporary Bond. In order to facilitate timely delivery of the Bonds, the Underwriters may elect, with respect to the Bonds, to receive in lieu of definitive Bonds a single temporary registered Bond that may be printed, lithographed, engraved, typewritten, mimeographed or otherwise reproduced, which Bond shall, upon the printing of the appropriate Bonds and the execution and authentication thereof, be exchanged therefor and canceled.

Section 216. Book Entry Provisions. Notwithstanding any provision of this Supplemental Bond Resolution to the contrary:

(a) Upon initial issuance of the Bonds the ownership of one fully registered Bond for each maturity of the Bonds shall be registered in the name of Cede & Co. ("Cede"), as nominee of The Depository Trust Company ("DTC"), New York, New York. Payments of interest on, principal of and any premium on the Bonds shall be made to the account of Cede on each payment date at the address indicated for Cede in the Bond Register kept by the Trustee in accordance with arrangements acceptable to DTC and the Trustee. DTC has represented to the Issuer that it will maintain a book-entry system in recording ownership interests of its participants (the "Direct Participants"), and the ownership interests of a purchaser of a beneficial interest in the Bonds (a "Beneficial Holder") will be recorded through book entries on the records of the Direct Participants.

(b) With respect to Bonds registered in the name of Cede, the Issuer and the Trustee shall have no responsibility or obligation to any Direct Participant or to any Beneficial Holder of such Bonds. Without limiting the immediately preceding sentence, the Issuer and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede or any Direct Participant with respect to any beneficial ownership interest in the Bonds, (ii) the delivery of any Direct Participant, Beneficial Holder or other Person, other than DTC, of any notice with respect to the Bonds, including any notice of redemption, (iii) the payment of any Direct Participant, Beneficial Holder or other Person, other than DTC, of any amount with respect to the principal or redemption price of, or any interest on, the Bonds or (iv) any consent given or other action taken by DTC as Holder of the Bonds. With respect to the Bonds registered in the name of Cede, the Issuer and the Trustee may treat DTC as, and deem DTC to be, the absolute owner of each Bond for all purposes whatsoever including (but not limited to) (i) payment of the principal or redemption price of, and interest on, each such Bond, (ii) giving notices of purchase or redemption and other matters with respect to such Bonds and (iii) registering transfers with respect to such Bonds. The Trustee shall pay the principal or redemption price of, and interest on, all such Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to such principal or redemption price, and interest, to the extent of the sum or sums so paid. Until and unless the services of DTC as depository of the Bonds are terminated or discontinued, no Person other than DTC shall receive a Bond evidencing the obligation of the Issuer to make payments of principal or redemption price of, and interest on, the Bonds pursuant to this Supplemental Bond Resolution. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the transfer provisions hereof, the word "Cede" in this Supplemental Bond Resolution shall refer to such new nominee of DTC.

(c) (i) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving reasonable written notice to the Issuer and the Trustee and discharging its responsibilities with respect thereto under applicable law.

(ii) The Trustee shall terminate the services of DTC with respect to the Bonds if the Issuer determines that the continuation of the system of book-entry-only transfers through DTC (or a successor securities depository) is not in the best interests of the Beneficial Holders of the Bonds or is burdensome to the Trustee, and shall terminate the Services of DTC with respect to the Bonds upon receipt by the Trustee of written notice from DTC to the effect that DTC has received written notice from Direct Participants having interests, as shown in the records of DTC, in an aggregate

principal amount of not less than 50% of the aggregate principal amount of the Bonds then Outstanding to the effect that; (a) DTC is unable to discharge its responsibilities with respect to the Bonds or (b) a continuation of the requirement that all of the Bonds be registered in the Bond Register in the name of Cede, as nominee of DTC, is not in the best interest of the Beneficial Holders of such Bonds.

(d) Upon the termination of the services of DTC with respect to the Bonds pursuant to subsection (c)(ii)(b) hereof, or upon the discontinuance or termination of the services of DTC with respect to the Bonds pursuant to subsection (c)(i) or subsection (c)(ii)(a) hereof after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found or which, in the opinion of the Trustee, is willing and able to undertake such functions upon reasonable and customary terms, the Bonds shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of Cede as nominee of DTC. In such event, the Trustee shall transfer and exchange Bond certificates as requested by DTC or Direct Participants and confirmed by DTC of like principal amount, series and maturity, in Authorized Denominations to the identifiable Beneficial Holders in replacement of such Beneficial Holders' beneficial interests in the Bonds.

(e) Notwithstanding any other provision of this Supplemental Bond Resolution to the contrary, so long as any Bond is registered in the name of Cede, as nominee of DTC, all payments with respect to the principal or redemption price of, and interest on, such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the representation letter addressed to DTC with respect to the Bonds.

(f) In connection with any notice or other communication to be provided to Holders pursuant to this Supplemental Bond Resolution by the Trustee with respect to any consent or other action to be taken by Holders, the Trustee shall establish a record date for such consent or other action and give DTC notice of such record date not less than 15 calendar days in advance of such record date to the extent the Trustee is reasonably able to do so.

(g) Notwithstanding any provision herein to the contrary, the Trustee may agree to allow DTC, or its nominee, Cede, to make a notation on any Bond redeemed in part to reflect, for informational purposes only, the principal amount and date of any such redemption.

ARTICLE III REDEMPTION OF BONDS

Section 301. Privileges of Redemption and Redemption Prices. The Bonds issued pursuant hereto which are redeemable prior to maturity shall be subject to redemption upon notice as and to the extent provided in this Article III, at such time or times, in such order, and on such other terms and conditions, in addition to and consistent with this Article III, as is provided in the form of Bonds set forth herein and as shall be provided in the forms thereof with respect to Additional Common Fund Bonds issued pursuant to Section 206 hereof consistent with the Additional Supplemental Bond Resolution pursuant to which such Additional Common Fund Bonds may be issued (but shall not be redeemed prior to maturity except as so provided). In all cases any such redemption made shall be at a price equal to the principal amount of each Bond or portion thereof to be redeemed, plus such redemption premium or differing redemption premiums, if any, as shall be set forth in said Bonds and applicable upon such redemption, together with interest accrued to the Redemption Date. Except as may be otherwise provided herein, if less than all of the Bonds then Outstanding are to be redeemed, the particular Bonds to be redeemed shall be selected by inverse order of maturity and within a maturity as set forth in Section 302 hereof.

Section 302. Selection of Bonds to be Redeemed. In the event of redemption of Bonds of like maturity, the Trustee shall assign a distinctive number for each \$5,000 of principal amount of each Bond to be so redeemed and shall select the principal amount to be so redeemed, using such method of selection from the assigned numbers as the Trustee shall deem proper in its discretion. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected, but only so much of the principal amount of each such Bond of a denomination of more than \$5,000 shall be redeemed as shall equal \$5,000 for each number assigned to it and so selected. For the purposes of this Section 302, Bonds, or portions thereof, which have been selected for redemption shall not be deemed Outstanding, and the order of selection for such Bonds shall remain the same upon exchange or transfer thereof pursuant to Section 211 hereof.

Section 303. Notice of Redemption.

(a) In the case of the redemption of any Bonds, the Trustee, in accordance with the terms and provisions of all Bonds and of this Supplemental Bond Resolution, shall select the Bonds to be redeemed and shall give notice of the redemption of such Bonds. However, the Trustee shall not give notice for redemption pursuant to Section 306 hereof prior to deposit of the applicable Redemption Price in the Redemption Fund.

(b) The notice shall specify the maturities of the Bonds to be redeemed, the Redemption Date and the place or places where amounts due upon such redemption shall be payable and, if less than all of the Bonds of any like maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of a Bond to be redeemed in part only, such notice shall also specify the portion of the principal amount thereof to be redeemed. Such notice shall further state that on such Redemption Date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof or the Redemption Price of the specified portion of the principal thereof in the case of a registered Bond to be redeemed in part only, together with interest accrued to such Redemption Date, and that from and after such date interest thereon shall cease to accrue and be payable. The Trustee shall mail a copy of such notice, first-class mail, postage prepaid, not less than thirty (30) nor more than sixty (60) days before such Redemption Date, to the registered owner of each Bond all or a portion of which is to be redeemed, at said owner's last address, if any, appearing upon the Bond Register maintained by the Trustee, but failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of any proceedings for the redemption of Bonds. Such notice shall additionally be sent to Kenny Information System and Standard & Poor's Called Bond Department. Notwithstanding the foregoing, the Trustee shall, to the extent required by law, publish notice of any redemption of Bonds in an Authorized Newspaper.

(c) For the purpose of discharging Bonds as provided in Section 603 of the Basic Resolution greater than 60 days prior to a redemption date for the Bonds, notice of redemption shall be deemed given if the Issuer shall have given the Trustee irrevocable instructions to provide the notice of redemption as required in (b) above.

Section 304. Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 303 hereof, the Bonds or portions thereof called for redemption and specified in said notice shall become due and payable on the Redemption Date specified in said notice at the applicable Redemption Prices on such Redemption Date, plus unpaid interest on the Bonds or portions thereof accrued to such Redemption Date, and upon presentation and surrender thereof at the place or places specified in the notice together with a written instrument of transfer duly executed by the registered owner or by his attorney duly authorized in writing, the Bonds or portions thereof shall be paid at the Redemption Prices, plus unpaid interest on the Bonds or portions thereof accrued to the Redemption Date. If there shall be called for redemption less than all of a Bond, the Issuer shall execute and the Paying Agent shall authenticate and cause to be delivered, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like series designation, interest rate and maturity in any of the authorized denominations and registered in such name or names as may be requested. If on such Redemption Date, money for the redemption of all the Bonds of any like maturity to be redeemed, together with interest thereon accrued and unpaid to such Redemption Date, shall have been on deposit with the Paying Agent so as to be available therefor on such Redemption Date and if notice of redemption thereof shall have been given as aforesaid, then from and after such Redemption Date interest on the Bonds or portions thereof of such maturity so called for redemption shall cease to accrue and become payable and said Bonds shall no longer be considered as Outstanding hereunder. All money on deposit with the Paying Agent for the redemption of particular Bonds shall be held in trust for the account of the Holders of the Bonds to be so redeemed. Any Bonds redeemed shall be paid, to the extent available, from funds held by the Trustee other than Preference Funds.

Section 305. Sinking Fund Redemption. In the event that the Finance Officer by certification under Section 203 hereof designates one or more term bonds, such term bonds shall be subject to mandatory sinking fund redemption, in part, in integral multiples of \$5,000, with the particular Bonds to be redeemed to be selected by the Trustee and notice of redemption to be given by the Trustee in accordance with the provisions of this Supplemental Bond Resolution. Such mandatory sinking fund

redemptions shall be at a redemption price equal to one hundred percent (100%) of par, plus accrued interest to the date fixed for mandatory sinking fund redemption (the "Mandatory Sinking Fund Redemption Date").

In the event that Bonds are purchased by the Issuer or the Tenant, or Bonds are redeemed pursuant to Section 306 hereof, the Bonds so purchased, or redeemed, at the option of the purchaser (in the case of purchased Bonds) or the Issuer (in the case of redeemed Bonds), may be applied as a credit against any subsequent mandatory sinking fund redemption payment for the Bonds, and such credit shall be equal to the principal amount of Bonds so purchased or redeemed, provided that notice of such election has been delivered to the Trustee not less than sixty days prior to the date of such mandatory sinking fund redemption. In such case, the principal amount of Bonds to be redeemed on such Mandatory Sinking Fund Redemption Date shall be reduced by the principal amount of Bonds so purchased or redeemed that are delivered to the Trustee on or before the date the notice of such election has been delivered to the Trustee. Any credit given to a mandatory sinking fund redemption pursuant to this paragraph shall not affect any subsequent mandatory sinking fund redemption which shall remain payable in such amounts and on such terms as otherwise set forth herein.

Section 306. Optional Redemption. The Bonds maturing after December 1, 2014, are subject to redemption prior to maturity, at the option of the Issuer, in whole or in part and from time to time, on December 1, 2014, and on any Interest Payment Date thereafter, after the notice of redemption given in accordance with the terms of this Supplemental Bond Resolution, at a Redemption Price (expressed as a percentage of the principal amount to be redeemed) set forth below, plus accrued interest to the Redemption Date:

<u>Redemption Date</u>	<u>Redemption Price</u>
December 1, 2014 and thereafter	100%

The terms set forth in this Section 306 are subject to adjustment and modification and if adjusted, such terms shall be finally designated by certification of the Finance Officer of the Issuer delivered in connection with Bond Closing. Such adjustment may include the addition of a redemption premium on certain dates.

Section 307. Extraordinary Optional Redemption. The Bonds are subject to redemption prior to maturity, at the option of the Issuer, in whole but not in part, on any date upon notice as provided in Section 303 hereof, at a Redemption Price equal to the principal amount thereof, plus accrued interest to the Redemption Date, following termination of the Agreement and prepayment by the Tenant of all amounts payable thereupon pursuant to Section 7.03 of the Agreement, which termination may occur at the election of Tenant only upon the occurrence of certain events of casualty, condemnation, changes of law, or other occurrences as described in such provision of the Agreement.

Section 308. Taxability Redemption. The Bonds shall be redeemed prior to maturity, in whole but not in part, on any date upon notice as provided in Section 303 hereof, if the Facility is purchased pursuant to Section 6.12 of the Agreement because interest on the Bonds has become includable in gross income for Federal income tax purposes, at a Redemption Price equal to the principal amount of the Bonds plus accrued interest to the Redemption Date; provided, however, that if interest on the Bonds has become includable in gross income for Federal income tax purposes as a result of the failure of the Tenant to comply with a requirement of the Code (as defined herein and as separately defined in the Agreement) or Regulations, or as a result of any other cause under the control of the Tenant, then the Redemption Price shall be one hundred and three percent (103%) of the principal amount of Outstanding Bonds plus accrued interest to the Redemption Date.

Section 309. Default Redemption. The Bonds are subject to redemption prior to maturity, at the option of the Issuer, in whole but not in part, on any date upon notice as provided in Section 303 hereof, at a Redemption Price equal to the principal amount thereof, plus accrued interest to the Redemption Date, following the occurrence of all of the following: (i) an Event of Default, as defined in the Agreement, has occurred and is continuing; (ii) the Issuer has exercised its option to declare an acceleration of all Basic Rent to become due under the Agreement pursuant to Section 8.02(a) of the Agreement; and (iii)

the Issuer has determined that sufficient amounts can be derived from the Facility, proceeds of the Bonds (or any refunding bonds) available therefor, sums in the Common Bond Fund available therefor, or any combination of the foregoing amounts or otherwise to discharge the Bonds pursuant to the Basic Resolution.

ARTICLE IV

ADDITIONAL GENERAL COVENANTS AND FUNDS

Section 401. Maintenance and Repair. The Issuer covenants that the Issuer shall at all times use its best efforts to cause the Tenant to maintain, preserve and keep the Facility in good condition, repair and working order.

Section 402. Recording and Filing. The Trustee shall cause the Agreement or a short form thereof and all related financing statements concerning the Facility to be kept, recorded, and filed in such manner and in such places as may be required by law in order to fully preserve and protect the Issuer's title to and security interest in the Facility and shall cause rerecording and refiling of each financing statement and each supplement thereto as is necessary to maintain, preserve and protect such title and security interest.

Section 403. Construction Fund.

(a) There is hereby created and established a separate and special Construction Fund to be held by the Trustee, in which there shall be deposited at the Bond Closing or thereafter, the additional contributions, if any, required by the Agreement and the Disbursing Agreement, all proceeds of the Bonds, including capitalized interest, but excluding proceeds required to be deposited in the Common Bond Fund pursuant to Section 405 hereof and proceeds of the Bonds deposited in the Costs of Issuance Account of the Construction Fund pursuant to this Section 403. Amounts in the Construction Fund shall be withdrawn or disbursed pursuant to Section 3.03 and 3.04 of the Agreement, this Article IV, and the Disbursing Agreement.

(b) Subject to Section 413 hereof, but notwithstanding any other provision herein or in the Agreement, upon the occurrence and continuance of an Event of Default as defined in the Agreement, the Issuer may apply any amounts in the Construction Fund (i) to discharge any obligations of the Tenant under the Agreement, or (ii) to redeem Bonds if the Issuer elects to redeem all outstanding Bonds upon acceleration of the Basic Rent due under the Agreement pursuant to Section 8.02(a) of the Agreement.

(c) Subject to Section 413 hereof, but notwithstanding any other provision herein, any sums transferred from the Construction Fund as Retained Funds shall be credited and be applied by the Issuer in accordance with the applicable requirements of the Agreement. Subject to Section 413 hereof, all proceeds of the Bonds and earnings derived from the investment of such proceeds that are required by the Agreement to be held by the Trustee as Restricted Funds shall be applied in accordance with the provisions of Treasury Regulations Sections 1.142-2 and 1.144-2 and any amendments thereof or supplements thereto.

(d) Subject to Section 413 hereof, upon any purchase of the Facility by Tenant pursuant to Sections 6.09 or 7.04 of the Agreement, amounts in the Construction Fund shall be transferred to the Debt Service Account.

(e) There is hereby created and established a separate and special account in the Construction Fund to be known as the "Costs of Issuance Account" to be held by the Trustee, in which there shall be deposited at the Bond Closing any money contributed by the Tenant and designated by the Tenant to be deposited in the Costs of Issuance Account, together with proceeds of the Bonds designated by the Tenant for deposit to the Costs of Issuance Account (but in no event shall such amount which consists of proceeds of the Bonds exceed 2% of the proceeds thereof). Amounts in the Costs of Issuance Account shall be withdrawn or disbursed pursuant to the Disbursing Agreement.

(f) There is hereby created a separate and special account in the Construction Fund to be known as the "Equity Account" to be held by the Trustee, in which shall be deposited at the Bond Closing for the Bonds, and thereafter from time to time as may be required by Section 3.02 of the Disbursing Agreement, all money contributed by the Tenant to pay costs related to the Facility, the issuance of the Bonds, or other obligations under the Agreement. Amounts in the Equity Account shall be withdrawn or disbursed pursuant to the Disbursing Agreement and the Agreement, provided however, that to the extent that Facility Costs, Costs of Issuance (as defined in the Disbursing Agreement), or other costs which are the obligation of the Tenant under the Agreement or Disbursing Agreement cannot legally be

paid from Bond proceeds, said amounts may be paid from the Equity Account to the extent thereof and to the extent other provision is not made for their payment.

Section 404. Common Bond Fund. All accrued interest on the Bonds delivered at Bond Closing, all Net Revenues with respect to the Facility and the Agreement, Basic Rent, interest accruing on past due Basic Rent, all Retained Funds, Collateral Proceeds, Prepaid Net Revenues, and all other sums payable into the Common Bond Fund pursuant hereto or the Agreement, shall be credited to the Common Bond Fund, as received, and, subject to the Tenant's rights (if any) to earnings on the Reserve Deposit pursuant to the terms of the Agreement, are hereby pledged to the Common Bond Fund to the extent and in the manner provided in the Basic Resolution and herein. Subject to Section 413 hereof, amounts deposited in the Common Bond Fund (or any subaccounts therein) shall be credited against installments of Basic Rent or to the benefit of the Tenant only as and to the extent provided in the Agreement; provided that, subject to the Agreement, earnings on sums in the Common Bond Fund (including earnings on money credited to the Debt Service Account, the Common Reserve Account, and all subaccounts therein) shall not be credited against any installments of Basic Rent or otherwise to the benefit of the Tenant, but shall accrue to the benefit of the Issuer and shall be credited and applied in accordance with the Basic Resolution. Except as otherwise set forth in the Agreement, all amounts deposited in the Common Bond Fund pursuant hereto shall secure the payment of Common Fund Bonds to the extent and in the manner provided in the Basic Resolution.

Section 405. Debt Service Account and Common Reserve Account.

(a) At Bond Closing the Issuer shall deposit into the Debt Service Account in the Common Bond Fund proceeds of the Bonds to the extent of interest accrued on the Bonds from their nominal issuance date to the Bond Closing. All Net Revenues with respect to the Facility or the Agreement and Basic Rent (and all interest accruing on past due amounts therefor) shall be deposited in the Debt Service Account in the Common Bond Fund, together with any amounts transferred from the Common Reserve Account which are being credited in accordance herewith or the Agreement to the benefit of the Tenant against installments of Basic Rent or other payments due under the Agreement.

(b) At Bond Closing there shall be deposited in the Common Reserve Account by the Issuer cash in an amount, or a Reserve Letter of Credit drawable in an amount, not less than the Minimum Deposit. Any amounts drawn under a Reserve Letter of Credit shall be deposited in the Common Reserve Account. The Issuer may substitute a Reserve Letter of Credit for all or a portion of the cash deposited in the Common Reserve Account at the Bond Closing by providing a Reserve Letter of Credit for deposit therein in the amount of such withdrawal; provided, however, that the Issuer shall have first obtained a written opinion of Bond Counsel that such transaction will not cause interest on the Bonds to become includable in gross income for purposes of Federal income taxation.

(c) Any funds in the Construction Fund transferred pursuant to Section 3.04 of the Agreement and not constituting Restricted Funds shall be deposited in the Common Reserve Account as Retained Funds, together with any amounts otherwise required hereunder to be deposited in the Common Reserve Account or subaccount thereof. Amounts deposited hereunder or pursuant to the Agreement in a subaccount in the Common Reserve Account shall be credited to the benefit of the Tenant and applied, if at all, only in accordance with Sections 2.02 and 2.03 of the Agreement, and such amounts so credited, to the extent they are or become available therefor, shall be transferred from any such subaccount in the Common Reserve Account into the Debt Service Account as and to the extent such amounts are applied against payments of Basic Rent or other items due and payable under the Agreement.

Section 406. Property Insurance and Award Fund.

(a) The proceeds of fire and extended coverage insurance on the Facility received under the Agreement from a claim for loss in excess of \$50,000 per occurrence or \$100,000 per calendar year in the aggregate and any award in the event of Condemnation of the Facility or any part thereof as referred to in Section 5.02 of the Agreement are to be paid to the Issuer. The Issuer shall deposit all such insurance proceeds and any award received in the Property Insurance and Award Fund to be established and held by the Trustee in the event that the Trustee receives any such insurance proceeds or any such award. Any money deposited in the Property Insurance and Award Fund shall be withdrawn only for the purposes and upon the conditions stated in this Section 406.

(b) The Issuer shall first deduct from any Condemnation Award or insurance proceeds any costs reasonably incurred by the Issuer or the Tenant in connection with the Condemnation proceedings or

the collection of the insurance, including, but not limited to, attorneys' fees, witness fees and any extraordinary expenses of the Issuer or the Tenant in connection therewith. The amount remaining after such payments is referred to in this Section 406 as the "Net Proceeds."

(c) In the event that the Tenant exercises its option to terminate the Agreement as provided in Section 7.03 of the Agreement, the Net Proceeds shall be deemed "Prepaid Net Revenues" under Section 101 of the Basic Resolution and shall be deposited in a separate subaccount in the Common Reserve Account and may be applied therein as provided in Section 403(d) of the Basic Resolution.

(d) Subject to Section 5.04 of the Agreement, if the conditions for termination under Section 7.03 of the Agreement do not exist or the option to terminate thereunder is not exercised, the Net Proceeds shall be retained in the Property Insurance and Award Fund, and the Tenant is required under Article V of the Agreement to restore the Facility after any such casualty or Condemnation. The following items shall be deposited with the Issuer and the Trustee before any disbursement is made from the Property Insurance and Award Fund to pay such cost of restoration:

(i) plans and specifications reasonably satisfactory to the Issuer for restoration of the Facility, which restoration the Tenant is required to effect in accordance with Section 5.01 or Section 5.02 of the Agreement, as the case may be;

(ii) a contract or contracts for the furnishing of work and materials required for restoration in accordance with the plans and specifications, with a payment and performance bond or bonds (unless otherwise agreed by the Issuer) in an aggregate amount at least equal to the total cost of restoration under the contract or contracts conditioned for the completion thereof in accordance with the plans and specifications and for the payment of all claims for labor and materials to be incorporated in the Facility in the course of restoration;

(iii) a certificate of a member of the Issuer's staff approving: (A) the plans and specifications for such restoration, (B) the contract or contracts, and (C) the payment and performance bond or bonds, if any, which approval the Issuer has agreed shall not be unreasonably withheld, provided that upon the passage of fifteen (15) days from the receipt of such plans and specifications, contracts, and bonds during which the Issuer has not given such certificate, the requirement of this subparagraph (iii) need not be satisfied; and

(iv) cash or a certified check (or a letter of credit in form and substance reasonably acceptable to the Issuer) for any amount by which the total cost of restoration as then ascertained or estimated exceeds the balance then on hand in the Property Insurance and Award Fund.

(e) After compliance with Section 406(d) hereof, where applicable, the Trustee shall pay costs of restoration to the Tenant or other persons entitled thereto, subject to customary restrictions on disbursement, as such restrictions are deemed applicable or appropriate by the Issuer; provided that, unless waived by the Issuer, not more than ninety percent (90%) of the total cost of restoration as so certified pursuant to Section 3.03 of the Agreement shall be paid until receipt by the Issuer of (i) an Opinion of Independent Counsel stating that all filings and other steps necessary to perfect the security interests and title created by the Agreement in all personal property which constitutes part of the Facility as a result of such restoration, as against third party creditors of or purchasers for value from the Tenant, have been completed and that the personal property which constitutes part of the Facility is subject to no liens and encumbrances except Permitted Encumbrances or such other encumbrances consented to by the Issuer and the Tenant, and (ii) an endorsement to the title insurance policy delivered under Section 205(b)(iv) hereof with respect to the real property constituting part of the Facility in form and substance acceptable to the Issuer. In the event that the restoration of the Facility to substantially the condition existing before a taking by Condemnation would require the furnishing of land or rights or interests in land additional to or in substitution for any part or all of the Facility Premises, the cost thereof may be added to the cost of restoration to be paid under the provisions of this Section 406 if such acquisition is authorized by the Issuer and there are filed with the Issuer evidence of the acquisition of such land or an interest therein, together with an endorsement to the title insurance policy delivered under Section 205(b)(iv) hereof in relation to such additional or substituted land and rights or interests therein, all in form and manner acceptable to the Issuer. Any additional property or rights or interest therein so acquired shall be and become part of the Facility as fully as though originally set forth and described in Exhibits A and B of the Agreement.

(f) Any Net Proceeds not used for such restoration shall, upon completion of such restoration, be credited to a separate subaccount of the Common Reserve Account in the Common Bond Fund and applied and credited in accordance with the Basic Resolution and the Agreement.

(g) All earnings on sums in the Property Insurance and Award Fund shall be credited to such fund for the purposes permitted in this Section 406.

Section 407. Prepayment of Basic Rent. Any prepayment by the Tenant of Basic Rent as provided in Section 7.02 of the Agreement shall be deposited in a separate subaccount of the Common Reserve Account for Retained Funds and credited and applied as provided in such Section 7.02 of the Agreement.

Section 408. Compliance with Arbitrage Restrictions; Restriction on Yields; Rebates.

(a) The Issuer hereby covenants and agrees, with respect to the Bonds, that the Issuer will take all actions necessary to ensure compliance with Section 148 of the Code and applicable Regulations. On the Bond Closing the Issuer shall deliver investment instructions to the Trustee, with respect to the funds and accounts held by the Trustee, setting forth the arbitrage restrictions applicable to the money and investments credited to such funds and accounts and the actions to be taken by the Trustee to determine the Rebate Amounts and the deposits to and disbursements from the Rebate Fund. The Trustee is hereby authorized to take all actions directed by the Issuer in such investment instructions and in any subsequent investment instructions delivered to the Trustee by the Issuer.

(b) The Issuer hereby finds, determines, and covenants that the Agreement, together with all other agreements heretofore or hereafter entered into by the Issuer and deemed to be "purpose investments" with respect to the Bonds, carry out and shall continue to carry out a program of economic development within the City and a "governmental program" within the meaning of Section 1.148-1(b) of the Regulations and that:

(i) said program of the Issuer involves and shall continue to involve acquisition of purpose investments;

(ii) at least ninety-five percent (95%) of all such purpose investments acquired under the program, by amount of cost outstanding, are and shall continue to be evidences of loans to be made to a combination of a substantial number of Persons representing the general public, loans to 501(c)(3) organizations, loans to provide housing and related facilities, or any combination of the foregoing;

(iii) at least ninety-five percent (95%) of all of the amounts received by the Issuer with respect to such purpose investments acquired under the program are or shall continue to be used for one or more of the following purposes: to pay the principal or Redemption Price and interest or otherwise to service the debt on bonds or notes of the Issuer relating to the governmental program, to reimburse the Issuer or to pay for administrative costs of issuing such bonds or notes, to reimburse the Issuer or to pay for administrative and other costs and anticipated future losses directly related to the program financed by such bonds or notes, to make additional loans for the same general purposes specified in such program or to redeem and retire such bonds or notes at the next earliest possible date of redemption; and

(iv) the program documents require that any Person (or any related person, as defined in Section 144(a)(3) of the Code) with whom the Issuer may, under the program, enter into a purpose investment shall not, pursuant to an arrangement, formal or informal, purchase bonds or notes of the Issuer in an amount related to the amount of the obligations to be acquired under the program from such Person by the Issuer;

unless and to the extent that Bond Counsel determines all or any of the foregoing requirements need not be met for purposes of preventing any bonds or notes of the Issuer from becoming arbitrage bonds.

Section 409. Compliance with Information Reporting Requirements. The Issuer shall comply with the information reporting requirements of Section 149(e) of the Code, and the Finance Officer and other officers of the Issuer are hereby authorized to perform all such acts necessary or appropriate therefor.

Section 410. Draws on the Letter of Credit. If at 9:00 a.m. Minneapolis time on the day five Business Days prior to any Payment Date amounts in the Common Bond Fund, the IDB Account and the Redemption Fund are insufficient to pay in full all principal, premium or interest on any Common Fund Bonds due on or before the Payment Date, the Trustee shall, if the Letter of Credit is in effect, on such

day submit before the close of business a draw under the Letter of Credit for the amount of such insufficiency (to the extent of amounts drawable under the Letter of Credit), and upon receipt of the proceeds thereof the Trustee shall deposit the same in the Debt Service Account to be applied as provided in the Basic Resolution.

Section 411. Redemption Fund.

(a) There is hereby created and established a separate and special Redemption Fund, to be held by the Trustee as a fund separate from the Common Bond Fund and the IDB Account. Amounts deposited therein, other than Rebate Amounts, are hereby pledged solely to the payment of the Redemption Price on the Bonds duly called for redemption or repayment to the Issuer as provided herein.

(b) There shall be deposited in the Redemption Fund, all amounts to be paid as the Redemption Price on any Bonds to be called for redemption pursuant to Sections 306, 307, 308 and 309 hereof. Such amounts shall be deposited prior to notice of such redemption being given pursuant to Section 303 hereof. Earnings on the investment of amounts deposited in the Redemption Fund shall also be deposited in such fund.

(c) Subject to Section 413 hereof, amounts in the Redemption Fund shall be applied to payment when due of the Redemption Price payable on any Bonds duly called for redemption by transfer thereof to the Paying Agent on the date when due. Amounts remaining in the Redemption Fund and not required for the payment of any Redemption Price of Bonds duly called for redemption, shall be transferred by the Trustee at the direction of the Issuer.

(d) Amounts in the Redemption Fund shall be invested solely in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the Government National Mortgage Association, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Land Banks, the Export-Import Bank of the United States or the Federal Home Loan Bank; provided, however, no amounts may be invested for a period expiring later than the earlier of ninety-one (91) days or the next succeeding Interest Payment Date on which Bonds will be redeemed. Amounts in the Redemption Fund shall not be invested at a yield greater than the yield on the Bonds following 30 days from the deposit thereof unless an Opinion of Bond Counsel is obtained stating that a higher yield is permitted without causing the Bonds to become arbitrage bonds within the meaning of Section 148 of the Code.

Section 412. Draws on the Reserve Letter of Credit. The following shall be applicable only if there is a Reserve Letter of Credit for the Bonds:

(a) if (i) the Tenant shall fail at any time or times to pay when due (including any applicable grace period) any Basic Rent (including amounts due by acceleration), or (ii) any Basic Rent previously paid is required by law to be disgorged by the Issuer, the Trustee, or holders because of the bankruptcy or insolvency of the Tenant, or (iii) any amount is then drawable under the Basic Resolution from the applicable subaccount for Reserve Deposits established in the Common Reserve Account, then to the extent of amounts drawable the Trustee may submit a draw under the Reserve Letter of Credit, and shall provide a notice of such draw to the Tenant. Amounts so drawn shall be deposited in the Common Reserve Account, subject to withdrawal pursuant to the Basic Resolution.

(b) The Trustee shall submit a draft to fully draw under the Reserve Letter of Credit no more than forty-five (45) days and no less than thirty (30) days prior to its expiration unless (i) such expiration is on or after the date on which all principal of, premium, if any, and interest on the Bonds is paid in full, or (ii) prior to such draw an Approved Substitute Letter of Credit drawable in an amount not less than the amount drawable under the expiring Reserve Letter of Credit shall have been delivered to the Trustee, or immediately available funds (in United States currency) in an amount equal to the amount drawable under the expiring Reserve Letter of Credit shall be delivered to the Trustee for deposit in a subaccount in the Common Reserve Account. Amounts so drawn shall be deposited in a subaccount in the Common Reserve Account.

Section 413. Computation and Transfer of Rebate Amounts. The Issuer shall cause the Rebate Amounts to be determined in such manner and at such times as required by Section 148 of the Code and applicable Regulations. The Issuer shall cause money to be deposited in the Rebate Fund in such amounts and at such times as to permit payment from the Rebate Fund to the government of the United States of America of all Rebate Amounts when due. Notwithstanding any term of this Supplemental Bond Resolution or the Agreement to the contrary, the Trustee shall transfer any money

from any fund or account held by the Trustee to the Rebate Fund if directed to do so by the Issuer and shall deposit in the Rebate Fund any money delivered to the Trustee with directions that it be deposited in the Rebate Fund.

Section 414. Rebate Fund. There is hereby created and established a separate and special Rebate Fund, to be held by the Trustee as a fund separate from the Common Bond Fund and the IDB Account. There shall be deposited in the Rebate Fund all Rebate Amounts required to be transferred or deposited to such fund. The Trustee, on behalf of and at the direction of the Issuer, shall cause amounts in the Rebate Fund to be paid to the government of the United States in the amounts and on the dates required by Section 148 of the Code and applicable Regulations. The Issuer shall timely pay all Rebate Amounts to the United States which are not paid by the Trustee pursuant to the preceding sentence. Until all Rebate Amounts payable to the United States have been duly paid, amounts in the Rebate Fund shall be applied solely to such payments. Following the full and final payment to the government of the United States of all Rebate Amounts, the Trustee shall promptly transfer amounts remaining in the Rebate Fund, if any, to the IDB Account.

Section 415. Tax Reserve Fund. Whenever all amounts in the Common Reserve Fund and the IDB Account have been expended and all amounts have been drawn under the Letter of Credit or further draws thereunder are for any reason unavailable (or if the Letter of Credit is no longer outstanding) and the Trustee has determined that without receipt of amounts from the Tax Reserve Fund principal, interest or the Redemption Price of the Bonds would not be paid when due under the terms of the Bonds or would continue past due, the Trustee shall certify the same to the Finance Officer and shall further certify to the Finance Officer the amount then required to be received and applied to the payment of the principal, interest or Redemption Price of Outstanding Designated Common Fund Bonds in order to prevent the Issuer from defaulting on any such payment. Funds received by the Trustee from the Finance Officer shall be applied only to the payment of principal, interest or Redemption Price of Outstanding Designated Common Fund Bonds. Except as otherwise provided herein, the Issuer is under no obligation to provide money to the Trustee except from amounts in the Tax Reserve Fund that have been deposited in the Tax Reserve Fund pursuant to the terms of Chapter 424. If the amount received, together with all other amounts available to the Trustee, is not sufficient to pay all principal or Redemption Price of and interest then due on Designated Common Fund Bonds, the Trustee shall apply the balance first to pay pro rata the interest then due on all such Designated Common Fund Bonds and the Trustee shall apply any remaining balance first to the pro rata payment of principal of the then matured (but unaccelerated) Outstanding Designated Common Fund Bonds and then to the payment of all other principal due on Common Fund Bonds and other items payable from the Common Bond Fund in respect of such Outstanding Designated Common Fund Bonds.

Section 416. Maintenance of Letter of Credit; Substitute Pledge. The Issuer agrees that it shall either:

(a) renew or extend the Letter of Credit from time to time so that either (i) there shall at all times be at least five years remaining until its expiration, or (ii) it shall expire on or after the date of the latest maturity date of the Bonds; or

(b) irrevocably pledge all earnings on the IDB Account accruing during the period the Issuer fails to meet the condition in (a), above, to the repayment of Common Fund Bonds on the same terms as other funds in the IDB Account (irrespective of whether, at such time or any time thereafter, the sum in the IDB Account may exceed \$10,000,000); provided, however, that no sums in the IDB Account in excess of \$20,000,000 need be pledged by reason of this Section 416.

Section 417. Investments by Issuer. All sums held in the funds or accounts established hereunder, to the extent practicable and permitted by the Act, will be invested as provided in Section 501 of the Basic Resolution. The Issuer, at its discretion, may allow the Tenant to direct the investment of the Reserve Deposit with respect to the Bonds. In such event, the Trustee shall value the investments in the Reserve Deposit on each January 1, April 1, July 1 and October 1, at the lower of cost or fair market value. If, pursuant to such valuation, the Reserve Deposit is less than the Minimum Deposit, the Trustee shall immediately notify the Tenant and the Issuer.

ARTICLE V

POSSESSION, USE AND RELEASE OF PROPERTY

Section 501. Possession and Use. Subject to the terms of this Supplemental Bond Resolution and the Agreement, until the occurrence of an "Event of Default" as defined in the Agreement, the Tenant shall be permitted to possess, use and enjoy the Facility (except cash or other personal property deposited or pledged or determined by the terms hereof to be deposited or pledged to the Issuer) as permitted under the Agreement and to receive and use the issues and profits of the Facility.

Section 502. Conveyance for Access or Other Easement. Subject to the terms of the Agreement, the Tenant is authorized, without consent of or notice to the Holders of any Bonds, to grant such conveyance or easement as the Issuer deems necessary to give adequate ingress or egress to and from the Facility Premises and to grant any other easement on the Facility Premises as the Issuer deems appropriate so long as the Issuer determines that such easement shall not materially impair the structural integrity of the Facility.

Section 503. Release of Encumbered Facility Equipment. The Issuer is authorized, without consent or notice to the Holders of any Bonds, to permit the Tenant to remove Facility Equipment from time to time in accordance with the terms and conditions set forth in Section 4.04 of the Agreement and release the same from the Issuer's security interest therein or on such other terms as the Issuer deems appropriate, so long as the Issuer determines that such removal and release shall not materially impair the structural integrity of the Facility.

ARTICLE VI

SUPPLEMENTAL AND AMENDATORY RESOLUTIONS

Section 601. Supplemental and Amendatory Resolutions Not Requiring Consent of Holders. The Issuer may, from time to time and at any time, without the consent of or notice to any of the Holders of any Bonds, and, when so required by this Supplemental Bond Resolution, shall adopt a resolution or resolutions supplemental hereto or amendatory hereof so as to thereby:

(a) permit the issuance of Additional Common Fund Bonds as provided in Section 202 and Section 311(d) of the Basic Resolution;

(b) cure any ambiguity, formal defect, omission or error herein or in any other supplemental bond resolution concerning Common Fund Bonds;

(c) grant for the benefit of the Holders of any Common Fund Bonds or any Holders of the Bonds herein authorized any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon such Holders;

(d) substitute or add additional equipment, machinery or land or release land or property in the manner, if any, specifically provided herein or more precisely identify any machinery forming a part of the Facility;

(e) modify, eliminate and/or add to the provisions hereof to such extent as shall be necessary to prevent any interest on the Bonds from becoming includable in gross income for purposes of federal income taxation;

(f) make any other change deemed by the Issuer necessary to reconcile this Supplemental Bond Resolution with the Agreement or any amendment thereto; or

(g) make any change to this Supplemental Bond Resolution which, in the reasonable judgment of the Issuer, is not to the prejudice of any Holders of Bonds.

Section 602. Supplemental and Amendatory Resolutions Requiring Consent of Holders. Exclusive of supplemental and amendatory resolutions covered by Section 601 hereof and subject to the terms and provisions contained in this Section 602 and not otherwise, the Issuer, upon receipt of an instrument evidencing the consent to the below-mentioned supplemental or amendatory resolution by the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the Bonds then outstanding, such consent being secured in accordance with the provisions of Sections 801 and 802 hereof, shall adopt such other resolution or resolutions supplemental or amendatory thereto as shall be deemed necessary and desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained herein or in any other supplemental or amendatory resolution; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) any amendment which is inconsistent with the terms and conditions of the Basic Resolution and the provisions relating to the IDB Account established by the IDB Account Resolution;

(b) an extension of the maturity of the principal of any Bond or an extension of the interest on any Bond not held by a consenting Holder;

(c) a reduction in the principal amount of any Bond or a reduction in the rate of interest due on any Bond not held by a consenting Holder;

(d) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, except as otherwise provided herein; or

(e) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental or amendatory resolution (except as otherwise provided herein or in the Agreement or any amendment thereto made without Holder consent under Section 601 hereof), without the consent of the Holders of one hundred percent (100%) of the principal amount of the Bonds (or, in the case of an amendment described in Section 602(a) hereof, all Common Fund Bonds) then Outstanding, such consent being secured in accordance with Section 801 hereof.

Anything herein to the contrary notwithstanding, a supplemental or amendatory resolution under this Article VI which adversely affects the rights of the Tenant under the Agreement shall not become effective unless and until the Tenant shall have consented in writing to the adoption and delivery of such resolution. In this regard, the Issuer shall cause notice of the proposed adoption of any such Additional Supplemental Bond Resolution, together with a copy of the proposed Additional Supplemental Bond Resolution, to be mailed by certified or registered mail to the Tenant at least twenty (20) days prior to the proposed date of adoption of any such Additional Supplemental Bond Resolution. The Tenant shall be deemed to have consented to the adoption of any such Additional Supplemental Bond Resolution if the Issuer does not receive a letter of protest or objection thereto, signed by an authorized representative of the Tenant, on or before 4:30 p.m., Central Standard or Central Daylight Time, whichever is then in effect, on the fifteenth (15th) day after the mailing of said notice and a copy of the proposed Additional Supplemental Bond Resolution to the Tenant, unless such fifteenth (15th) day falls on a Sunday or legal holiday, in which event, the letter of objection must be received on the next succeeding Business Day.

ARTICLE VII AMENDMENT TO AGREEMENT

Section 701. Amendments Without Holder Consent. The Issuer and the Tenant may, without the consent of or notice to any of the Holders of Bonds, consent to any amendment to or change or modification of the Agreement to effect any change therein which, in the reasonable judgment of Bond Counsel, does not jeopardize the exclusion from gross income of interest on any Bonds for purposes of federal or State income taxation and is consistent with the terms and conditions of the Basic Resolution and this Supplemental Bond Resolution (without amendment pursuant to Section 601(e) hereof), including, but not limited to, changes for the following purposes:

(a) to facilitate the issuance of Additional Common Fund Bonds without the consent of any Holders of Bonds as provided by Sections 202 and 311(d) of the Basic Resolution;

(b) to meet the requirements of the provisions hereof or of the Agreement;

(c) to cure any ambiguity, formal defect, omission or error;

(d) in connection with any property or equipment acquired and which constitutes a part of the Facility so as to more precisely identify the same;

(e) to prevent the Bonds from becoming arbitrage bonds within the meaning of Section 148 of the Code;

(f) to reconcile the Agreement with any supplement or amendment to this Supplemental Bond Resolution; or

(g) to effect any other change therein which, in the reasonable judgment of the Issuer, is not to the prejudice of any Holders of the Bonds.

Section 702. Amendments Requiring Holder Consent. Neither the Issuer nor the Tenant shall consent to any amendment to or change or modification of the Agreement which, in the reasonable judgment of the Bond Counsel, (a) jeopardizes the exclusion from gross income of the interest on the Bonds for purposes of Federal income taxation, or (b) is inconsistent with the terms and conditions of the Basic Resolution, except in the case of (a), such change or modification may occur only after publication of notice and receipt of the written approval or consent of the Holders of not less than 51% of the then Outstanding Bonds adversely affected thereby, such consent being procured as provided in

Sections 801 and 802 hereof. If at any time the Tenant shall request the consent of the Issuer to any proposed amendment to or change or modification of the Agreement requiring Holder consent, the Issuer shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be published in the same manner as provided in Section 802 hereof.

**ARTICLE VIII
MISCELLANEOUS**

Section 801. Consent of Holders. Any consent, request, direction, approval, objection or other instrument required hereby to be signed and executed by any Holders of Bonds may be in any number of concurrent writings of similar tenor and must be in writing and signed. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes hereof and shall be conclusive in favor of the Issuer or the Trustee with regard to any action taken by the Issuer or Trustee under such request or other instrument, namely:

(a) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such writing acknowledged before him the execution thereof or by an affidavit of any witness to such execution.

(b) The fact of the holding by any Person of Bonds and the amounts and numbers of such Bonds and the date of the holding of the same may be proved by a certificate executed by any trust company, bank or banker, wherever situated, stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank or to such banker, as the property of such party, the Bonds if such certificate shall be deemed by the Issuer or the Trustee, as the case may be, to be satisfactory. The Issuer or Trustee may, in its discretion, require evidence that such Bonds shall have been deposited with a trust company, bank or banker before taking any action based on such ownership.

Section 802. Notice of Amendments. If at any time the Issuer desires to adopt any supplemental or amendatory resolution hereto or to amend the Agreement as herein provided without consent of all of the Holders of Outstanding Bonds, unless consent of and notice to any of the Holders is not required hereunder, the Issuer shall cause notice of the proposed resolution or amendment to be published at least once in a financial periodical or newspaper of general circulation published in the City of Minneapolis, Minnesota, and shall, in addition, cause such notice to be mailed by registered mail, return receipt requested, to the Holders of all Bonds as such Holders' names and addresses appear on the Bond Register. Such notice shall set forth the nature of the proposed resolution or amendment and shall state that copies thereof are on file at the office of the Issuer for inspection by all Holders. The Issuer shall not, however, be subject to any liability to any Holder by reason of its failure to publish or mail such notice, and any such failure shall not affect the validity of such resolution or amendment when consented to and approved as herein provided. If the Holders of not less than the requisite percentage in aggregate principal amount of Bonds Outstanding at the time have consented to and approved the adoption thereof as provided in this Supplemental Bond Resolution, no Holders of any Bonds shall have any right to object to any of the terms and provisions contained therein or the operation thereof or in any manner question the propriety of the adoption thereof or enjoin or restrain the Issuer or the Tenant from adopting or executing the same or from taking any action pursuant to the provisions thereof.

Section 803. Severability. If any provision hereof shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any Constitution, statute, rule or public policy or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever and shall not affect the remaining portions of this Supplemental Bond Resolution or any part hereof.

Section 804. Limitation of Liability. No provision, covenant or agreement contained herein shall give rise to or impose any pecuniary liability upon the Issuer or any of either of its officers, employees or agents.

Section 805. Authentication of Transcript. The officers of the Issuer are directed to furnish to Bond Counsel certified copies of this Supplemental Bond Resolution and all documents referred to herein and affidavits or certificates as to all other matters which are reasonably necessary to evidence the validity and marketability of the Bonds. All such certificates and affidavits, including any heretofore furnished, shall constitute recitals of the Issuer as to the correctness of all statements contained therein made by or on behalf of such officers or the Issuer.

Section 806. Approval of Tenant. The Tenant has examined and given approval of this Supplemental Bond Resolution and all terms hereof and approves the sale of the Bonds as provided for herein for the price and terms set forth herein.

Section 807. Authorization to Execute Agreement and Incidental Documents.

(a) The Agreement, the Disbursing Agreement and the Underwriting Agreement are hereby approved in substantially the forms now on file in the offices of the Issuer, and the Finance Officer of the Issuer is authorized to execute, in the name of and on behalf of the Issuer, those documents (and all other agreements required therein or in this Supplemental Bond Resolution) in substantially the forms hereby approved, subject to changes thereto approved by the Finance Officer executing the same (which approval shall be conclusively presumed upon execution thereof) and such other documents as Bond Counsel shall consider appropriate for Bond Closing. In the event of the disability or the resignation or other absence of the Finance Officer of the Issuer, such other officers of the Issuer who may lawfully act in the Finance Officer's behalf shall, without further act or authorization of the Issuer, do all things and execute all instruments and documents required to be done or to be executed by such absent or disabled official. The Finance Officer of the Issuer is hereby authorized to deliver this Supplemental Bond Resolution and such certificates attesting to its authenticity as may be required by and to Bond Counsel, the Holders of the Bonds, the Underwriters and such other persons as the Finance Officer may deem appropriate.

(b) The delivery of the certifications referenced in Sections 203, 305 and 306 is hereby authorized and upon delivery of such certifications, if any, the terms thereof shall be conclusive as to the matters therein addressed and shall be deemed to be a part of this Supplemental Bond Resolution as if set forth fully herein.

Section 808. Schedules. Schedule A hereto is hereby incorporated by reference and made a part hereof as though the same shall have been set forth in full herein. Such Schedule A shall control over any contrary provisions herein not contained in such Schedule A.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee, having under consideration the Heritage Park Phase III Rental Project and having been informed that an increase in interest cost to the developer requires a short-term loan to the project until additional tax credit funding is secured, now recommends approval of up to \$247,000 in Community Development Block Grant (CDBG) funds as a contingent source of short-term financing for said project.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee, having under consideration the Low Income Housing Tax Credit (LIHTC) Program and having received recommendations from the Community Planning and Economic Development (CPED) Department to update and modify the manual for said program, now recommends approval of the LIHTC Manual and Qualified Allocation Plan as outlined in Petn No 269680; and, further, that the proper City officers be authorized to issue a Request for Proposals for projects seeking allocation of tax credits.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee recommends passage of the accompanying resolution approving the addition of the following six parcels to the Minneapolis Housing Replacement Tax Increment Financing District II:

1316 14th Av N
3246 Emerson Av N
2815 Bryant Av N
2300 James Av N
1400 25th Av N
1900 Willow Av N.
Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

Resolution 2004R-259, approving the addition of six parcels to the Minneapolis Housing Replacement Tax Increment Financing District II, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-259
By Goodman

Adopting the Addition of Parcels to the Housing Replacement Tax Increment Financing (TIF) District II

Resolved by The City Council of The City of Minneapolis:

Section 1. Recitals.

1.1 Pursuant to Laws of Minnesota 2003, Chapter 127, Article 12, Sections 31-34, and Minneapolis Code of Ordinances, Chapter 415, the City of Minneapolis (the "City"), acting by and through its department of Community Planning and Economic Development, has been granted the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts, all pursuant to Minnesota Statutes, Sections 469.001 through 469.134, and 469.174 through 469.179, as amended, and Laws of Minnesota 1995, Chapter 264, Article 5, Sections 44 through 47, as amended by Minnesota Session Laws 1996, Chapter 471, Article 7, Minnesota Session Laws 1997, Chapter 231, Article 10, and Minnesota Session Laws 2002, Chapter 377, Article 7 (the "Act") and other laws enumerated therein (collectively, the "Project Laws").

1.2 By Resolution No 2003R-386 duly adopted on August 22, 2003, the City Council of the City (the "Council") adopted a resolution approving the Minneapolis Housing Replacement TIF District II Plan enabling the Agency to establish a Housing Replacement Tax Increment Financing District (the "District") within the City.

1.3 That the Act and the Plan specify the procedures whereby parcels may be added to and deleted from the District.

1.4 It has been proposed that the City add six parcels to the District.

Section 2. Findings for the Adoption of the Plan.

2.1 The Council hereby finds, determines and declares that these six parcels qualify for inclusion in the District pursuant to the Act and the Plan; and that the reasons and supporting facts for this determination are retained and available from the Agency.

2.2 The Council further finds, determines and declares that the property to be added to and certified within the District includes three vacant, substandard single-family dwellings located at 3246 Emerson Avenue North, 2815 Bryant Avenue North and 1316 14th Avenue North, and three vacant lots located at 2300 James Avenue North, 1900 Willow Avenue North, and 1400 25th Avenue North.

2.3 The Council further finds, determines and declares that the intended reuse of these properties is market-rate, owner-occupied housing, pursuant to the Project Laws.

2.4 The Council further finds, determines and declares that there are now 25 parcels in the Minneapolis Housing Replacement District TIF II with the inclusion of the above named parcels. The maximum number of parcels that can be included in the District is 100 parcels.

Be It Further Resolved that the parcels listed above are hereby approved for inclusion as part of the Minneapolis Housing Replacement TIF District II.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee, having under consideration a proposal for redevelopment of the Hollywood Theatre site (as outlined in Petn No 269680) , now recommends the following:

a) That the proper City officers be authorized to continue analysis of the proposed project, and approval of project analysis fees of \$2,000 and a site holding cost fee of \$15,000;

b) Authorization to prepare a redevelopment plan, and approval of continued analysis of the funding concepts described in the proposal including the use of tax abatement;

c) Granting of exclusive development rights to the Awsumb Development Team for 60 days;

d) Direction to appropriate City staff to pursue the tax abatement process with Hennepin County; and

e) Direction to staff to continue working on the Awsumb and Associates proposal.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev - Your Committee, having under consideration a report from the Community Planning and Economic Development (CPED) Department outlining the recommendations of a staff team that studied regulatory policies as part of the CPED transition from the Minneapolis Community Development Agency to the City, now recommends concurrence with the recommended policy on prevailing wages and apprenticeship programs (as outlined in Petn No 269680).

Schiff moved that the report be postponed. Seconded.

Lost upon a voice vote.

The report was adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev -Your Committee, having received a recommendation from the Community Planning and Economic Development (CPED) Department to restate and consolidate the existing City housing policies into one unified document, now recommends passage of the accompanying resolution rescinding previous policy actions and adopting a Unified City of Minneapolis Housing Policy.

Your Committee further recommends:

a) That the City Council directs CPED staff to forward the Unified City of Minneapolis Housing Policy to the Neighborhood Revitalization Program (NRP) Policy Board and to all neighborhood groups for their information and requests that such groups carefully consider this policy while preparing their Phase II housing plans;

b) That the City Council requests that no NRP funding decisions be finalized and that the City take no action on any submitted or pending NRP plans until the NRP Business Plan and 5-Year Budget is submitted and considered as a part of the Mayor's and City's 2005 Budget process;

c) That the City Council requests the City representatives on the NRP Policy Board as well as on the NRP Management Review Team implement this direction.

Goodman moved to amend the report by changing paragraphs "b" and "c" to read as follows:

"b) That the City Council requests that no Phase II NRP funding decisions be finalized and that the City take no action on any submitted or pending Phase II NRP plans until the NRP Business Plan and 5-Year Budget is submitted for consideration as a part of the Mayor's and City's 2005 Budget process;

c) That the City Council requests the that City representatives on the NRP Policy Board advocate for this direction at the policy level and the NRP Management Review Team implement this direction." Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted 6/18/04.

Resolution 2004R-260, rescinding Certain Previously Adopted Housing Policy Actions and Adopting a Unified City of Minneapolis Housing Policy, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-260
By Goodman

Rescinding Certain Previously Adopted Housing Policy Actions and Adopting a Unified City of Minneapolis Housing Policy.

Whereas, the City of Minneapolis desires to clarify and streamline existing City housing policies by adopting a unified document that consolidates various fragmented policies of the City; and

Whereas, the unified policy restates, consolidates and replaces, in part or in whole, as indicated, previous City housing policy documents;

Now, Therefore, Be it Resolved by the City Council of the City of Minneapolis:

That the City of Minneapolis hereby adopts the Unified City of Minneapolis Housing Policy and rescinds previous housing policies to the extent such previous policies are replaced by the Unified Housing Policy as indicated below:

1. Consistency With The Minneapolis Plan and General Principles

Minneapolis housing policy shall be consistent with The Minneapolis Plan, goals 4.9.1 through 4.19 as follows.

4.9.1 Minneapolis will grow by increasing its supply of housing.

4.10 Minneapolis will increase its housing that is affordable to low and moderate income households.

4.11 Minneapolis will improve the availability of housing options for its residents.

4.12 Minneapolis will reasonably accommodate the housing needs of all its citizens.

4.13 Eliminated.

4.14 Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city.

4.15 Minneapolis will carefully identify project sites where housing redevelopment and/or housing revitalization are the appropriate responses to neighborhood conditions and market demand.

4.16 Minneapolis will work closely with Neighborhood Revitalization Program (NRP) planning and implementation to ensure that NRP plans are consistent with the City's Housing Policy.

4.17 Minneapolis will promote housing development that supports a variety of housing types at designated Major Housing Sites throughout the city.

4.18 Minneapolis will encourage both a density and a mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.

4.19 Minneapolis will require design standards for TSAs that are oriented to the pedestrian and bicyclist and that enforce traditional urban form.

(Restates parallel language in The Minneapolis Plan: adopted March 2000).

The City will foster the development and preservation of a mix of quality housing types that is available, affordable, meets current needs, and promotes future growth. (Restates parallel language in Minneapolis City Goals and Expectations, adopted January 17, 2003).

2. Affordable Housing

That Resolution 1999R-192 entitled "Adopting an Affordable Housing Policy for the City of Minneapolis", passed September 7, 1999, and Resolution 2001R-057 entitled "Strengthening the City of Minneapolis/Minneapolis Community Development Agency's Affordable Housing Policy", passed February 16, 2001, be and are hereby rescinded.

The City of Minneapolis has launched an "Affordable Housing Initiative." The City of Minneapolis shall have as a clearly stated goal, consistent with The Minneapolis Plan, to grow the population and to have no net loss of housing across all income levels. The City policy will be positive gain on affordable housing units.

Each year the City will create more units affordable at 30-50% of Metropolitan Median Income (MMI) through new construction/positive conversion than the number of habitable units affordable to 30-50% of MMI that are demolished as a result of City sponsored projects.

Funding for housing programs serving those above 50% of MMI shall continue and those programs will remain a vital part of the City's housing policy.

Twenty percent (20%) of the units of each City assisted housing project of ten or more units will be affordable to households earning 50% or less of the MMI. It is understood that these affordable units may include any mix of rental and/or homeownership, and can be located on the project site or anywhere within the City of Minneapolis. For the purposes of this provision, financial assistance shall include tax increment financing, pollution remediation, condemnation, land buydowns, issuance of bonds to finance the project, and direct subsidy. Any specific projects requesting exemptions to this requirement must seek City Council approval on the basis of alternative public purpose.

The City will have a coordinated housing and economic development strategy. New affordable housing will be targeted for designated growth areas and commercial and transit corridors that can benefit from and support increased housing density.

The City will focus on linking incentives to housing opportunities in proximity to jobs and transit.

No City funds or resources shall be used for operating subsidies and/or rental assistance for any units or projects initiated or created under this policy.

3. SRO Replacement

That Resolution 1986R-379 entitled "Establishing a Policy for Replacement of Low-Income Dwelling Units in those Projects Where Public Financial Assistance is Requested", passed September 10, 1986, and Resolution 2000R-433 entitled "Preserving or replacing Single Room Occupancy (SRO)-type housing", passed September 29, 2000, be and are hereby rescinded.

That the City of Minneapolis prohibits the demolition/condemnation/elimination of SRO-type housing for any project receiving City assistance in the City of Minneapolis, as defined above, unless demolition/condemnation is unavoidable, in which case replacement of such units will be required as part of the project finance plan.

4. Senior Housing

That Resolution 2001R-539 entitled "Establishing a Senior Rental Housing Policy", passed December 28, 2001 be and is hereby rescinded.

The City has the following goals and objectives:

- Support development of affordable and mixed-income senior rental housing in all quadrants of Minneapolis. Senior rental housing may include independent rental, congregate, and/or assisted living projects;
- Seek opportunities for public and private partnerships;
- Seek new financing options outside of existing affordable housing resources;
- Identify appropriate sites for senior rental housing development based on market information, not solely on opportunity. Locate senior developments close to transit, retail and services;
- Ensure quality management and supportive services;
- Encourage high quality design and amenities.

5. Preservation/Stabilization of Federally Subsidized Low Income Housing

That the report passed by the Council on September 13, 1991 approving the Policy on Preservation/Stabilization of Federally Subsidized Low-Income Housing be and is hereby rescinded;

The preservation and stabilization of federally (HUD) subsidized rental housing that is in danger of converting to market-rate housing, having subsidies expire, or is deteriorating due to poor management, is a priority for the City. The highest priority is the preservation of subsidized housing for families with children (2+ bedroom units). Federally subsidized housing for singles (efficiency and 1 bedroom units) should only be preserved to the extent there are federal funds available, with the exception of special needs populations.

6. Homeless Housing

That Resolution 2000R-192 entitled "Adopting the recommendations of the City/County Homeless Task Force", passed May 5, 2000; and the report passed on August 10, 2001 adopting legislative, system and housing creation recommendations be and are hereby rescinded.

We must address the affordable housing crisis if we ever hope to alleviate homelessness in Hennepin County. The major problem underlying shelter use is the lack of affordable permanent and supportive housing. The metropolitan region is experiencing a severe shortage of affordable housing which is exacerbating homelessness in our community and there is a need for a metropolitan-wide response to issues of homelessness.

The City of Minneapolis will be an active partner in the City-County Homeless Task Force to address the housing needs of the homeless.

Be It Further Resolved that Resolution 1995R-198 entitled "Outlining principles for housing and tax base growth in the City of Minneapolis", passed June 30, 1995 be and is hereby rescinded.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

The **COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET** Committees submitted the following reports:

Comm Dev & W&M/Budget - Your Committee, having under consideration the Midtown Exchange Project and having held a public hearing to consider redevelopment plan and tax increment plan modifications for said project, now recommends approval of the following actions approving the redevelopment and tax increment plan modifications and authorizing execution of various documents to allow the project to proceed (including a redevelopment agreement with the developer, Ryan Companies US, Inc.) as further outlined in Petn No 269682:

1) Authorization for the proper City and Minneapolis Community Development Agency (MCDA) officers to execute a Redevelopment Contract and related documents with Ryan Companies US, Inc. and Assigned Developers based upon the Amended and Restated Term Sheet approved by the City Council on May 14, 2004, as further amended by Petn No 269682;

2) Passage of the accompanying resolutions adopting Modification No. 1 to the Lake Street Center Redevelopment Plan and Modification No. 1 to the Lake Street Center Tax Increment Financing Plan;

3) Authorization for the proper City officers to execute loan, grant, subrecipient and related documents for the financing outlined in said Petition:

a) Passage of the accompanying resolutions authorizing the issuance of three pay-as-you-go tax increment financing notes for the office/commercial, rental housing, and parking ramp components of the project and tax increment revenue bonds or notes for the 1928 building rental or ownership housing components of the project and authorization for the City Finance Officer to make the necessary revenue and appropriation increases to the 2004 General Appropriation Resolution to facilitate the issuance and expenditure of tax increment revenue bonds or notes as described in this report;

b) Approval of the terms of the parking ramp and/or environmental loan(s) outlined in said Petition and passage of the accompanying resolution amending the 2004 General Appropriation Resolution by increasing the appropriation for the Community Planning & Economic Development (CPED) Agency Fund CLC-CPED Leveraged Opportunity Fund by \$1,100,000;

c) Acceptance of the anticipated Metropolitan Council (TBRA) and Hennepin County (ERF) environmental grants and authorization for the Hennepin County (ERF) and DEED loans outlined in said Petition and passage of the accompanying resolution amending the 2004 General Appropriation Resolution by increasing the appropriation (and revenue) for the CPED Agency in the State Loans and Grants Fund by \$2,100,000;

d) Acceptance of the anticipated Department of Housing and Urban Development (HUD) 108 loan and EDI grant outlined in said Petition and passage of the accompanying resolution amending the 2004 General Appropriation Resolution by increasing the appropriation (and revenue) for the CPED Agency in the Federal Grants & Other Fund by \$8,500,000 (the amounts awarded);

e) Authorization for the proper City officers to execute a subrecipient agreement with Ryan for the \$433,334 parking ramp grant from DEED and passage of the accompanying resolution amending the 2004 General Appropriation Resolution by increasing the appropriation (and revenue) for the CPED Agency in the Defaulted Properties Fund by \$2,200,000 to effect the transfer of land sale proceeds to Fund CLC (CPED Leveraged Opportunity Fund);

- 4) Approval of the termination of the Ionex Corporation lease;
- 5) Authorization for a parking ramp lease and sublease as outlined in said Petition;
- 6) Authorization for the assignment and assumption of the MCDA interest in Redevelopment Contract and related agreements by the City.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

RESOLUTION 2004R-261
By Goodman and Johnson

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended as follows:

a) By increasing the appropriation for the Community Planning & Economic Development Agency (CLC-CPED) in the Leveraged Opportunity Fund (CLC0-890-8933) by \$1,100,000, from fund balance;

b) By increasing the appropriation for the Community Planning & Economic Development Agency (SMN-CPED) in the State Grants & Loans Fund (SMN0-890-8933) by \$2,100,000 and increasing the revenue source (SMN0-890-8490 - Source 3215) by \$2,100,000;

c) By increasing the appropriation for the Community Planning & Economic Development Agency (FGO-CPED) in the Federal Grants & Other Fund (FGO0-890-8933) by \$8,500,000 and increasing the revenue source (FGO0-890-8490 - Source 3210) by \$8,500,000;

d) By increasing the appropriation for the Community Planning & Economic Development Agency (EDP-CPED) in the Defaulted Properties Fund (EDP0-890-8490) by \$2,200,000 to effect the transfer of land sale proceeds to Fund CLC (CPED Leveraged Opportunity Fund), and increasing the revenue source (CLC0-890-8490 - Source 3485) by \$2,200,000.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Resolution 2004R-262, adopting Modification No 1 to the Lake Street Center Redevelopment Plan and Modification No. 1 to the Lake Street Center Tax Increment Financing Plan, and authorizing the designation of property that may be acquired, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-262
By Goodman and Johnson

Adopting Modification No 1 to the Lake Street Center Redevelopment Plan and Modification No. 1 to the Lake Street Center Tax Increment Financing Plan, and authorizing the designation of property that may be acquired.

Resolved by The City Council of The City of Minneapolis:

Section 1. Recitals

1.1 Pursuant to Laws of Minnesota 2003, Chapter 127, Article 12, Sections 31-34, and Minneapolis Code of Ordinances, Chapter 415, the City of Minneapolis (the "City"), acting by and through its department of Community Planning and Economic Development, has been granted the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts in accordance with Minnesota Statutes, Sections 469.001 through 469.134, and 469.174 through 469.1791, as amended, Laws of Minnesota 1971, Chapter 677 and other laws enumerated therein (collectively, the "Project Laws"). Laws of Minnesota 1998, Chapter 389, Article

11, Section 19, as provided for in Minnesota Laws, Sections 469.1782, Subdivision 2, and 645.021, Subdivision 2, authorizes special provisions for the Minneapolis Lake Street Center Redevelopment Tax Increment Finance District.

1.2 That by Resolution 2002R-300 duly adopted on September 13, 2002, and subsequent resolutions, the City Council (the "Council") approved the Lake Street Center Redevelopment Plan and the Lake Street Center Tax Increment Finance ("TIF") Plan.

1.3 It has been proposed that the City modify the Lake Street Center Redevelopment Plan and the Lake Street Center TIF Plan (the "Modifications") to designate property that may be acquired, and to amend the tax increment budget to include projections for an additional phase of development known as the Midtown Exchange Project.

1.4 The City has prepared, and this Council has examined the proposed Modifications that describe more precisely the property that may be acquired and the amended budget.

1.5 The City has performed all actions required by law to be performed prior to the adoption of the Modifications, including, but not limited to, a review of the proposed Modifications by the affected neighborhood groups and the Planning Commission, transmittal of the proposed Modifications to the Hennepin County Board of Commissioners and the School Board of Special School District No 1 for their review and comment, and the holding of a public hearing after published and mailed notice as required by law.

Section 2. Findings for the Adoption of the Modifications

2.1 The Council hereby finds, determines and reaffirms the findings made in Resolution 2002R-300 on September 13, 2002.

2.2 The Council further finds, determines and declares that the Modifications conform to the general plan for the development or redevelopment of the City as a whole. Written comments of the Planning Commission with respect to the Modifications were issued, are incorporated herein by reference, and are on file in the office of the City Clerk.

The Council further finds, determines and declares that the objectives and actions authorized by the Modifications are all pursuant to and in accordance with the Project Laws.

The Council further finds, determines and declares that it is necessary and in the best interest of the City at this time to approve the Modifications.

Section 3. Approval of the Modifications

3.1 Based upon the findings set forth in Section 2 hereof, the Modifications presented to the Council on this date are hereby approved and shall be placed on file in the office of the City Clerk.

Section 4. Implementation of the Modifications

The officers and staff of the City, and the City's consultants and counsel, are authorized and directed to proceed with the implementation of the Modifications, and for this purpose to negotiate, draft, prepare and present to this Council for its consideration, as appropriate, all further modifications, resolutions, documents.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Resolution 2004R-263, authorizing the issuance of a tax increment limited revenue note in substantially the form recited herein in a principal amount not exceeding \$7,000,000 in connection with the Office/Commercial Component of the Midtown Exchange Project, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2004R-263
By Goodman and Johnson**

Authorizing the issuance of a tax increment limited revenue note in substantially the form recited herein in a principal amount not exceeding \$7,000,000 in connection with the Office/Commercial Component of the Midtown Exchange Project.

Whereas, pursuant to Laws of Minnesota 2003, Chapter 127, Article 12, Sections 31-34, and Minneapolis Code of Ordinances, Chapter 415, the City of Minneapolis (the "City"), acting by and through its Department of Community Planning and Economic Development, has been granted the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts, transact business and exercise powers under Minnesota Statutes, Sections 469.001 through 469.134, and 469.174 through 469.179, as amended, and other laws enumerated therein (collectively, the "Project Laws"); and

Whereas, in furtherance of the objectives of the Project Laws, the City has undertaken a program for commercial revitalization, historic preservation, and the clearance and reconstruction or rehabilitation of blighted, deteriorated, deteriorating, vacant, unused, underused or inappropriately used, areas of the City, and in this connection the City has adopted the Lake Street Center Redevelopment Plan, as modified (the "Plan"), which describes the boundaries and objectives for redevelopment of the area generally bounded by Chicago Avenue, E. Lake Street, 11th Avenue South and E. 28th Street (the "Project Area"); and

Whereas, in furtherance of the Plan, the City is engaged in carrying out a redevelopment project known as the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project (hereinafter referred to as the "Project") through a redevelopment contract (the "Redevelopment Contract") to be entered into by and among the Minneapolis Community Development Agency, the City and Ryan Companies US, Inc. (the "Developer"); and

Whereas, pursuant to the Project Laws, the City has approved the Lake Street Center Tax Increment Finance Plan, as amended by Modification No. 1 to the Lake Street Center Tax Increment Finance Plan dated May 7, 2004, for the Project; and

Whereas, pursuant to Minnesota Statutes, Section 469.178, subd. 4, the City is authorized to issue its tax increment limited revenue notes to finance the public redevelopment costs of the Project; and

Whereas, the City proposes to issue a tax increment limited revenue note to the Developer pursuant to the Redevelopment Contract, which includes a development plan and commitment by the Developer to cause the development of certain real property located in the Project Area into tenant office and retail space, rental and for-sale housing, a global market, a structured parking facility, a hotel, a transit hub, greenway and pedestrian connections and related site and public improvements;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

1. That it is desirable that the City issue a tax increment limited revenue note (the "Office/Commercial Note") in substantially the following form:

[Form of Note]

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF MINNEAPOLIS**

**TAX INCREMENT LIMITED REVENUE NOTE
(Midtown Exchange Project – Office/Commercial Component)**

The City of Minneapolis (the "City"), hereby acknowledges itself to be obligated and, for value received, promises to pay to the order of Ryan Companies US, Inc., a Minnesota corporation, or its successors and permitted assigns (the "Holder"), solely from the source, to the extent and in the manner hereinafter provided, the principal amount of this Note, being [TBD] or such lesser amount as may equal the certified Public Redevelopment Costs, with interest at the Note Rate, in the installments specified in this Note, on the Payment Dates.

Capitalized terms not defined elsewhere in this Note shall have the meanings below:

"Available Tax Increment" means the Tax Increment received by the City during the period preceding each Payment Date, less (i) the amount of Tax Increment, if any, which the City must pay to the school district, the county and the state pursuant to Minnesota Statutes, Sections 469.177, subds. 9, 10, and 11; 469.176, subd. 4h; and 469.175, subd. 1a, as the same may be amended from time to time; and (ii) actual administrative costs of the City in an amount not to exceed 5% of the Tax Increment.

“*Certificate of Approved Public Redevelopment Costs*” means a certificate in substantially the form attached to the Contract, by which the City certifies the Public Redevelopment Costs pursuant to the terms of the Contract.

“*Contract*” means that certain Redevelopment Contract by and among the Minneapolis Community Development Agency, the City and the Developer dated July ____, 2004.

“*Developer*” means Ryan Companies US, Inc; a Minnesota corporation.

“*District*” means the Lake Street Center Tax Increment Financing District within the Project.

“*Maturity Date*” means the earlier of (i) February 1 of the year following the final year of Tax Increment collection from the District; and (ii) the date when the principal and interest amount of this Note has been paid in full.

“*Note Rate*” means six and one-half percent (6.5%) annual interest, computed on the basis of a 30-day month, 360-day year.

“*Office/Commercial Component*” means approximately 434,000 square feet of the 1928 Building to be developed for office, commercial, retail, laboratory, medical office, education facilities, and/or fitness center and related common areas, parking and improvements as described in the Contract.

“*Payment Date*” means August 1 of the year of first increment collection from the District and each February 1 and August 1 thereafter until the Maturity Date.

“*Project*” means the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project.

“*Property*” means the real property legally described in the attached Exhibit A upon which the Office/Commercial Component is to be constructed.

“*Public Redevelopment Costs*” means actual Public Redevelopment Costs as defined in the Contract, not in excess of \$ [TBD] related to the Office/Commercial Component and which are approved by the City pursuant to the Contract.

“*Tax Increment*” means that portion of the property taxes generated by the up to 250,000 square foot part of the Property and the Office/Commercial Component leased to and occupied by Allina Health System, plus associated structured parking, that is actually remitted to the City as tax increment under the Tax Increment Act. The Developer must annually certify to the City Allina’s square footage of leased/occupied space and associated structured parking.

“*Tax Increment Act*” means Minnesota Statutes, Section 469.174-469.1791, as amended, or any successor statutes applicable to the District.

On each Payment Date, the City shall pay the Holder an installment equal to the lesser of (i) the Available Tax Increment or (ii) the amount necessary to pay the accrued unpaid interest and the unpaid principal amount of this Note in full. To the extent that on any Payment Date there is insufficient Available Tax Increment to make a scheduled payment, such failure to make a scheduled payment shall not constitute a default under this Note. If the Developer fails to pay all or a portion of the property taxes due and owing on the Office/Commercial Component, then upon such failure to pay, no interest as required by the Note shall accrue on an amount equal to the amount of the Available Tax Increment that would have been paid to the City had such property tax amounts been paid. Upon termination of that certain lease dated _____, 2004, between the Developer and Allina Health System, this Note shall immediately terminate.

Interest shall start to accrue on the initial principal amount of this Note from the date of issue of the Certificate of Approved Public Redevelopment Costs. Each payment under this Note, whether a scheduled payment or any other payment, shall be applied first to current interest, then to accrued unpaid interest and then to the unpaid principal amount of this Note.

On the Maturity Date, this Note shall be deemed paid in full and the City shall have no further obligation under this Note even if the aggregate of the Available Tax Increment that has actually been paid to the Holder on the Payment Dates is less than the full principal and interest amount of this Note. The obligation of the City to make any scheduled payment shall terminate if and to the extent that the full principal and interest amount of this Note has been paid in full. This Note may be prepaid in full or in part at any time without penalty.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by wire transfer, check or draft made payable to the Holder and mailed to the Holder at 50 South 10th Street, Suite 300,

Minneapolis, Minnesota 55403, or such other address as the Holder shall provide in writing to the City's notice address as set forth in the Contract.

The Note is a special and limited obligation and not a general obligation of the City, which has been issued by the City pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 469.178, subdivision 4, to aid in financing a "project", as therein defined, of the City consisting generally of defraying certain public redevelopment costs incurred by the Developer within and for the benefit of the Project.

THE NOTE IS NOT A DEBT OF THE STATE OF MINNESOTA (THE "STATE"), OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY OF MINNEAPOLIS, MINNESOTA, EXCEPT THAT THE CITY SHALL BE OBLIGATED TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE LIABLE ON THE NOTE, EXCEPT FOR THE CITY'S OBLIGATION TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, NOR SHALL THE NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN AVAILABLE TAX INCREMENT AS SET FORTH HEREIN.

This Note shall not be transferred to any person, unless the City has been provided with an opinion of counsel acceptable to the City that such transfer is exempt from registration and official statement delivery requirements of federal and applicable state securities law and an investment letter reasonably acceptable to the City.

This Note shall not be payable from or constitute a charge upon any funds of the City, and the City shall not be subject to any liability hereon or be deemed to have obligated itself to pay hereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified.

The Holder shall never have or be deemed to have the right to compel any exercise of any taxing power of the City or of any other public body, and neither the City nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance of registration thereof or otherwise.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and the laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; that this Note is issued pursuant to the Tax Increment Act; and that this Note together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the City of Minneapolis, by action of its City Council, has caused this Note to be executed by the manual signature of its Finance Officer, and has caused this Note to be dated _____, 2004.

CITY OF MINNEAPOLIS

By _____

Patrick Born
Its Finance Officer

Approved as to form:

Assistant City Attorney

EXHIBIT A TO NOTE

[Legal Description of the Property]

2. Be It Further Resolved that the form of the Note is hereby approved and shall be executed by the Finance Officer in substantially the form on file, with such changes therein not inconsistent with law as the Finance Officer may approve, which approval shall be conclusively evidenced by the execution thereof.

3. Be It Further Resolved that all actions of the members, employees and staff of the City and the Minneapolis Community Development Agency heretofore taken in furtherance of the issuance of the Note are hereby approved, ratified and confirmed.

4. Be It Further Resolved that the issuance of said Note to the Holder is hereby approved, and the Note is hereby directed to be issued to the Holder, upon the terms and conditions set forth in the Redevelopment Contract.

5. Be It Further Resolved that the Finance Officer is hereby authorized and directed to execute such other documents, agreements and certificates as may be required in connection with the Note.

6. Be It Further Resolved that no provision, covenant or agreement contained in the aforementioned documents, the Note or in any other document related to the Note, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of 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 City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the tax increment revenues which are to be applied to the payment of the Note, as provided therein and in the Redevelopment Contract. The Note shall not constitute a charge, lien or encumbrance, legal or equitable upon any property or funds of the City except that revenue and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Note shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal on the Note or the interest thereon, or to enforce payment hereon against any property of the City. The Note shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

7. Be It Further Resolved that the Note, when executed and delivered, shall contain a recital that it is issued pursuant to the Tax Increment Act, and such recital shall be conclusive evidence of the validity of the Note 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 Note and to the execution of the aforementioned documents to happen, exist and be performed precedent to and in the enactment of this resolution, and precedent to issuance of the Note and precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

8. Be It Further Resolved that this resolution shall be in full force and effect from and after its date of publication.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Resolution 2004R-264, authorizing the issuance of a subordinated tax increment limited revenue note in a principal amount not exceeding \$3,000,000 in connection with the Parking Ramp for the Midtown Exchange Project, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-264
By Goodman and Johnson

Authorizing the issuance of a subordinated tax increment limited revenue note in substantially the form recited herein in a principal amount not exceeding \$3,000,000 in connection with the Parking Ramp for the Midtown Exchange Project.

Whereas, pursuant to Laws of Minnesota 2003, Chapter 127, Article 12, Sections 31-34, and Minneapolis Code of Ordinances, Chapter 415, the City of Minneapolis (the "City"), acting by and through its Department of Community Planning and Economic Development, has been granted the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts, transact business and exercise powers under Minnesota Statutes,

Sections 469.001 through 469.134, and 469.174 through 469.179, as amended, and other laws enumerated therein (collectively, the "Project Laws"); and

Whereas, in furtherance of the objectives of the Project Laws, the City has undertaken a program for commercial revitalization, historic preservation, and the clearance and reconstruction or rehabilitation of blighted, deteriorated, deteriorating, vacant, unused, underused or inappropriately used, areas of the City, and in this connection the City has adopted the Lake Street Center Redevelopment Plan, as modified (the "Plan"), which describes the boundaries and objectives for redevelopment of the area generally bounded by Chicago Avenue, E. Lake Street, 11th Avenue South and E. 28th Street (the "Project Area"); and

Whereas, in furtherance of the Plan, the City is engaged in carrying out a redevelopment project known as the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project (hereinafter referred to as the "Project") through a redevelopment contract (the "Redevelopment Contract") to be entered into by and among the Minneapolis Community Development Agency, the City and Ryan Companies US, Inc. (the "Developer"); and

Whereas, pursuant to the Project Laws, the City has approved the Lake Street Center Tax Increment Finance Plan, as amended by Modification No. 1 to the Lake Street Center Tax Increment Finance Plan dated May 7, 2004, for the Project; and

Whereas, pursuant to Minnesota Statutes, Section 469.178, subd. 4, the City is authorized to issue its tax increment limited revenue notes to finance the public redevelopment costs of the Project; and

Whereas, the City proposes to issue a tax increment limited revenue note to the Developer pursuant to the Redevelopment Contract, which includes a development plan and commitment by the Developer to cause the development of certain real property located in the Project Area into tenant office and retail space, rental and for-sale housing, a global market, a structured parking facility, a hotel, a transit hub, greenway and pedestrian connections and related site and public improvements;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

1. That it is desirable that the City issue a tax increment limited revenue note (the "Parking Note") in substantially the following form:

[Form of Note]

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF MINNEAPOLIS**

**TAX INCREMENT LIMITED REVENUE NOTE
(Midtown Exchange Project – Parking Ramp)**

The City of Minneapolis (the "City"), hereby acknowledges itself to be obligated and, for value received, promises to pay to the order of Ryan Companies US, Inc., a Minnesota corporation, or its successors and permitted assigns (the "Holder"), solely from the source, to the extent and in the manner hereinafter provided, the principal amount of this Note, being [TBD] or such lesser amount as may equal the certified Public Redevelopment Costs, with interest at the Note Rate, in the installments specified in this Note, on the Payment Dates.

Capitalized terms not defined elsewhere in this Note shall have the meanings below:

"Available Tax Increment" means the Tax Increment received by the City during the period preceding each Payment Date, less (i) the amount of Tax Increment, if any, which the City must pay to the school district, the county and the state pursuant to Minnesota Statutes, Sections 469.177, subds. 9, 10, and 11; 469.176, subd. 4h; and 469.175, subd. 1a, as the same may be amended from time to time; and (ii) actual administrative costs of the City in an amount not to exceed 5% of the Tax Increment; and (iii) principal, interest and fee payments that are currently due on the Section 108 Loan.

"Certificate of Approved Public Redevelopment Costs" means a certificate in substantially the form attached to the Contract, by which the City certifies the Public Redevelopment Costs pursuant to the terms of the Contract.

“Contract” means that certain Redevelopment Contract by and among the Minneapolis Community Development Agency, the City and the Developer dated July ____, 2004.

“Developer” means Ryan Companies US, Inc., a Minnesota corporation.

“District” means the Lake Street Center Tax Increment Financing District within the Project.

“Maturity Date” means the earlier of (i) February 1 of the year following the final year of Tax Increment collection from the District; and (ii) the date when the principal and interest amount of this Note has been paid in full.

“Note Rate” means six and one-half percent (6.5%) annual interest, computed on the basis of a 30-day month/360-day year.

“Parking Ramp” means a structured parking facility containing approximately 1,234 parking spaces and related improvements as described in the Contract. [The Parking Ramp does not include any structured parking spaces acquired by individual homeowners or any structured parking spaces allocated to the Allina Health Systems lease.]

“Payment Date” means August 1 of the year of first increment collection from the District and each February 1 and August 1 thereafter until the Maturity Date.

“Project” means the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project.

“Property” means the real property legally described in the attached Exhibit A upon which the Parking Ramp, the Office/Commercial Component, the Global Marketplace Component, the Hotel Component, the For-Sale Liner Housing Component and the 1010 Building, as such terms are defined in the Contract, are or will be constructed.

“Public Redevelopment Costs” means actual Public Redevelopment Costs as defined in the Contract, not in excess of \$ [TBD], related to the Parking Ramp and which are approved by the City pursuant to the Contract.

“Section 108 Loan” means that certain loan in the principal amount of \$6,500,000 made by the United States Department of Housing and Urban Development to the City for the benefit of the project.

“Tax Increment” means that portion of the property taxes generated by the Developer-owned part of the Parking Ramp, the Office/Commercial Component (except such part thereof up to 250,000 square feet annually certified by the Developer to be leased to and occupied by Allina Health System), the Global Marketplace Component, the Hotel Component, the For-Sale Liner Housing Component, and the 1010 Building, together with the Property associated with such buildings and components, that is actually remitted to the City as tax increment under the Tax Increment Act.

“Tax Increment Act” means Minnesota Statutes, Section 469.174-469.1791, as amended, or any successor statutes applicable to the District.

On each Payment Date, the City shall pay the Holder an installment equal to the lesser of (i) the Available Tax Increment or (ii) the amount necessary to pay the accrued unpaid interest and the unpaid principal amount of this Note in full. In the event the Developer is in default with respect to the provisions of the Contract, the City may suspend payment on this Note until the default is cured or the Contract and the City’s obligations under this Note are terminated. To the extent that on any Payment Date there is insufficient Available Tax Increment to make a scheduled payment, such failure to make a scheduled payment shall not constitute a default under this Note. If the Developer fails to pay all or a portion of the property taxes due and owing on the Parking Ramp, then upon such failure to pay, no interest as required by the Note shall accrue on an amount equal to the amount of the Available Tax Increment that would have been paid to the City had such property tax amounts been paid.

Interest shall start to accrue on the initial principal amount of this Note from the date of issue of the Certificate of Approved Public Redevelopment Costs. Each payment under this Note, whether a scheduled payment or any other payment, shall be applied first to current interest, then to accrued unpaid interest and then to the unpaid principal amount of this Note. The Developer acknowledges that the pledge of Tax Increment under this Note is subordinated to the pledge of Tax Increment to the Section 108 Loan.

On the Maturity Date, this Note shall be deemed paid in full and the City shall have no further obligation under this Note even if the aggregate of the Available Tax Increment that has actually been paid to the Holder on the Payment Dates is less than the full principal and interest amount of this Note.

The obligation of the City to make any scheduled payment shall terminate if and to the extent that the full principal and interest amount of this Note has been paid in full. This Note may be prepaid in full or in part at any time without penalty.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by wire transfer, check or draft made payable to the Holder and mailed to the Holder at 50 South 10th Street, Suite 300, Minneapolis, Minnesota 55403, or such other address as the Holder shall provide in writing to the City's notice address as set forth in the Contract.

The Note is a special and limited obligation and not a general obligation of the City, which has been issued by the City pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 469.178, subdivision 4, to aid in financing a "project", as therein defined, of the City consisting generally of defraying certain public redevelopment costs incurred by the Developer within and for the benefit of the Project.

THE NOTE IS NOT A DEBT OF THE STATE OF MINNESOTA (THE "STATE"), OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY OF MINNEAPOLIS, MINNESOTA, EXCEPT THAT THE CITY SHALL BE OBLIGATED TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE LIABLE ON THE NOTE, EXCEPT FOR THE CITY'S OBLIGATION TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, NOR SHALL THE NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN AVAILABLE TAX INCREMENT AS SET FORTH HEREIN.

This Note shall not be transferred to any person, unless the City has been provided with an opinion of counsel acceptable to the City that such transfer is exempt from registration and official statement delivery requirements of federal and applicable state securities law and an investment letter reasonably acceptable to the City.

This Note shall not be payable from or constitute a charge upon any funds of the City, and the City shall not be subject to any liability hereon or be deemed to have obligated itself to pay hereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified.

The Holder shall never have or be deemed to have the right to compel any exercise of any taxing power of the City or of any other public body, and neither the City nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance of registration thereof or otherwise.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and the laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; that this Note is issued pursuant to the Tax Increment Act; and that this Note together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the City of Minneapolis, by action of its City Council, has caused this Note to be executed by the manual signature of its Finance Officer, and has caused this Note to be dated _____, 2004.

CITY OF MINNEAPOLIS

By _____
Patrick Born
Its Finance Officer

Approved as to form:

Assistant City Attorney

EXHIBIT A TO NOTE

[Legal Description of the Property]

2. Be It Further Resolved that the form of the Note is hereby approved and shall be executed by the Finance Officer in substantially the form on file, with such changes therein not inconsistent with law as the Finance Officer may approve, which approval shall be conclusively evidenced by the execution thereof.

3. Be It Further Resolved that all actions of the members, employees and staff of the City and the Minneapolis Community Development Agency heretofore taken in furtherance of the issuance of the Note are hereby approved, ratified and confirmed.

4. Be It Further Resolved that the issuance of said Note to the Holder is hereby approved, and the Note is hereby directed to be issued to the Holder, upon the terms and conditions set forth in the Redevelopment Contract.

5. Be It Further Resolved that the Finance Officer is hereby authorized and directed to execute such other documents, agreements and certificates as may be required in connection with the Note.

6. Be It Further Resolved that no provision, covenant or agreement contained in the aforementioned documents, the Note or in any other document related to the Note, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of 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 City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the tax increment revenues which are to be applied to the payment of the Note, as provided therein and in the Redevelopment Contract. The Note shall not constitute a charge, lien or encumbrance, legal or equitable upon any property or funds of the City except that revenue and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Note shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal on the Note or the interest thereon, or to enforce payment hereon against any property of the City. The Note shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

7. Be It Further Resolved that the Note, when executed and delivered, shall contain a recital that it is issued pursuant to the Tax Increment Act, and such recital shall be conclusive evidence of the validity of the Note 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 Note and to the execution of the aforementioned documents to happen, exist and be performed precedent to and in the enactment of this resolution, and precedent to issuance of the Note and precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

8. Be It Further Resolved that this resolution shall be in full force and effect from and after its date of publication.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Resolution 2004R-265, authorizing the issuance of a tax increment limited revenue note in a principal amount not exceeding \$3,500,000 in connection with the 1928 Building Rental Housing Component of the Midtown Exchange Project, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2004R-265
By Goodman and Johnson**

Authorizing the issuance of a tax increment limited revenue note in substantially the form recited herein in a principal amount not exceeding \$3,500,000 in connection with the 1928 Building Rental Housing Component of the Midtown Exchange Project.

Whereas, pursuant to Laws of Minnesota 2003, Chapter 127, Article 12, Sections 31-34, and Minneapolis Code of Ordinances, Chapter 415, the City of Minneapolis (the "City"), acting by and through

its Department of Community Planning and Economic Development, has been granted the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts, transact business and exercise powers under Minnesota Statutes, Sections 469.001 through 469.134, and 469.174 through 469.179, as amended, and other laws enumerated therein (collectively, the "Project Laws"); and

Whereas, in furtherance of the objectives of the Project Laws, the City has undertaken a program for commercial revitalization, historic preservation, and the clearance and reconstruction or rehabilitation of blighted, deteriorated, deteriorating, vacant, unused, underused or inappropriately used, areas of the City, and in this connection the City has adopted the Lake Street Center Redevelopment Plan, as modified (the "Plan"), which describes the boundaries and objectives for redevelopment of the area generally bounded by Chicago Avenue, E. Lake Street, 11th Avenue South and E. 28th Street (the "Project Area"); and

Whereas, in furtherance of the Plan, the City is engaged in carrying out a redevelopment project known as the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project (hereinafter referred to as the "Project") through a redevelopment contract (the "Redevelopment Contract") to be entered into by and among the Minneapolis Community Development Agency, the City and Ryan Companies US, Inc. (the "Developer"); and

Whereas, pursuant to the Project Laws, the City has approved the Lake Street Center Tax Increment Finance Plan, as amended by Modification No. 1 to the Lake Street Center Tax Increment Finance Plan dated May 7, 2004, for the Project; and

Whereas, pursuant to Minnesota Statutes, Section 469.178, subd. 4, the City is authorized to issue its tax increment limited revenue notes to finance the public redevelopment costs of the Project; and

Whereas, the City proposes to issue a tax increment limited revenue note to the Developer, or its successors or permitted assigns, pursuant to the Redevelopment Contract, which includes a development plan and commitment by the Developer to cause the development of certain real property located in the Project Area into multi-tenant office and retail space, rental and for-sale housing, a global market, a structured parking facility, a hotel, a transit hub, greenway and pedestrian connections, and related site and public improvements;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

1. That it is desirable that the City issue a tax increment limited revenue note (the "Rental Housing Note") in substantially the following form:

[Form of Note]

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF MINNEAPOLIS**

**TAX INCREMENT LIMITED REVENUE NOTE
(Midtown Exchange Project – 1928 Building Rental Housing Component)**

The City of Minneapolis (the "City"), hereby acknowledges itself to be obligated and, for value received, promises to pay to the order of [insert name of Housing Developer], or its successors and permitted assigns (the "Holder"), solely from the source, to the extent and in the manner hereinafter provided, the principal amount of this Note, being [TBD] or such lesser amount as may equal the certified Public Redevelopment Costs, with interest at the Note Rate, in the installments specified in this Note, on the Payment Dates.

Capitalized terms not defined elsewhere in this Note shall have the meanings below:

"*Available Tax Increment*" means the Tax Increment received by the City during the period preceding each Payment Date, less (i) the amount of Tax Increment, if any, which the City must pay to the school district, the county and the state pursuant to Minnesota Statutes, Sections 469.177, subds. 9, 10, and 11; 469.176, subd. 4h; and 469.175, subd. 1a, as the same may be amended from time to time; and (ii) actual administrative costs of the City in an amount not to exceed 5% of the Tax Increment.

“*Certificate of Approved Public Redevelopment Costs*” means a certificate in substantially the form attached to the Contract, by which the City certifies the Public Redevelopment Costs pursuant to the terms of the Contract.

“*Contract*” means that certain Redevelopment Contract by and among the Minneapolis Community Development Agency, the City and the Developer dated July ____, 2004.

“*Housing Developer*” means [insert name of the approved assignee of the 1928 Building Rental Housing Component development rights under the Contract].

“*District*” means the Lake Street Center Tax Increment Financing District within the Project.

“*Maturity Date*” means the earlier of (i) February 1 of the year following the final year of Tax Increment collection from the District; and (ii) the date when the principal and interest amount of this Note has been paid in full.

“*1928 Building Rental Housing Component*” means approximately _____ square feet of the 1928 Building to be developed for 203 - 221 rental housing units and related improvements as described in the Contract.

“*Note Rate*” means six and one-half percent (6.5%) annual interest, computed on the basis of a 30-day month/360-day year.

“*Payment Date*” means August 1 of the year of first increment collection from the District and each February 1 and August 1 thereafter until the Maturity Date.

“*Project*” means the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project.

“*Property*” means the real property legally described in the attached Exhibit A upon which the 1928 Building Rental Housing Component is to be constructed.

“*Public Redevelopment Costs*” means actual Public Redevelopment Costs as defined in the Contract, not in excess of \$ [TBD] related to the 1928 Building Rental Housing Component and which are approved by the City pursuant to the Contract.

“*Tax Increment*” means that portion of the property taxes generated by the Property and 1928 Building Rental Housing Component that is actually remitted to the City as tax increment under the Tax Increment Act.

“*Tax Increment Act*” means Minnesota Statutes, Section 469.174-469.179, as amended, or any successor statutes applicable to the District.

On each Payment Date, the City shall pay the Holder an installment equal to the lesser of (i) the Available Tax Increment or (ii) the amount necessary to pay the accrued unpaid interest and the unpaid principal amount of this Note in full. In the event the Housing Developer is in default with respect to the provisions of the Contract, the City may suspend payment on this Note until the default is cured or the Contract and the City’s obligations under this Note are terminated. To the extent that on any Payment Date there is insufficient Available Tax Increment to make a scheduled payment, such failure to make a scheduled payment shall not constitute a default under this Note. If the Housing Developer fails to pay all or a portion of the property taxes due and owing on the 1928 Building Rental Housing Component, then upon such failure to pay, no interest as required by the Note shall accrue on an amount equal to the amount of the Available Tax Increment that would have been paid to the City had such property tax amounts been paid.

Interest shall start to accrue on the initial principal amount of this Note from the date of issue of the Certificate of Approved Public Redevelopment Costs. Each payment under this Note, whether a scheduled payment or any other payment, shall be applied first to current interest, then to accrued unpaid interest and then to the unpaid principal amount of this Note.

On the Maturity Date, this Note shall be deemed paid in full and the City shall have no further obligation under this Note even if the aggregate of the Available Tax Increment that has actually been paid to the Holder on the Payment Dates is less than the full principal and interest amount of this Note. The obligation of the City to make any scheduled payment shall terminate if and to the extent that the full principal and interest amount of this Note has been paid in full. This Note may be prepaid in full or in part at any time without penalty.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by wire transfer, check or draft made payable to the Holder and mailed to the Holder at

_____, or such other address as the Holder shall provide in writing to the City's notice address as set forth in the Contract.

The Note is a special and limited obligation and not a general obligation of the City, which has been issued by the City pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 469.178, subdivision 4, to aid in financing a "project", as therein defined, of the City consisting generally of defraying certain public redevelopment costs incurred by the Developer within and for the benefit of the Project.

THE NOTE IS NOT A DEBT OF THE STATE OF MINNESOTA (THE "STATE"), OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY OF MINNEAPOLIS, MINNESOTA, EXCEPT THAT THE CITY SHALL BE OBLIGATED TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE LIABLE ON THE NOTE, EXCEPT FOR THE CITY'S OBLIGATION TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, NOR SHALL THE NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN AVAILABLE TAX INCREMENT AS SET FORTH HEREIN.

This Note shall not be transferred to any person, unless the City has been provided with an opinion of counsel acceptable to the City that such transfer is exempt from registration and official statement delivery requirements of federal and applicable state securities law and an investment letter reasonably acceptable to the City.

This Note shall not be payable from or constitute a charge upon any funds of the City, and the City shall not be subject to any liability hereon or be deemed to have obligated itself to pay hereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified.

The Holder shall never have or be deemed to have the right to compel any exercise of any taxing power of the City or of any other public body, and neither the City nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance of registration thereof or otherwise.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and the laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; that this Note is issued pursuant to the Tax Increment Act; and that this Note together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the City of Minneapolis, by action of its City Council, has caused this Note to be executed by the manual signature of its Finance Officer, and has caused this Note to be dated _____, 2004.

CITY OF MINNEAPOLIS

By _____

Patrick Born
Its Finance Officer

Approved as to form:

Assistant City Attorney

EXHIBIT A TO NOTE

[Legal Description of the Property]

2. Be It Further Resolved that the form of the Note is hereby approved and shall be executed by the Finance Officer in substantially the form on file, with such changes therein not inconsistent with law as

the Finance Officer may approve, which approval shall be conclusively evidenced by the execution thereof.

3. Be It Further Resolved that all actions of the members, employees and staff of the City and the Minneapolis Community Development Agency heretofore taken in furtherance of the issuance of the Note are hereby approved, ratified and confirmed.

4. Be It Further Resolved that the issuance of said Note to the Holder is hereby approved, and the Note is hereby directed to be issued to the Holder, upon the terms and conditions set forth in the Redevelopment Contract.

5. Be It Further Resolved that the Finance Officer is hereby authorized and directed to execute such other documents, agreements and certificates as may be required in connection with the Note.

6. Be It Further Resolved that no provision, covenant or agreement contained in the aforementioned documents, the Note or in any other document related to the Note, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of 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 City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the tax increment revenues which are to be applied to the payment of the Note, as provided therein and in the Redevelopment Contract. The Note shall not constitute a charge, lien or encumbrance, legal or equitable upon any property or funds of the City except that revenue and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Note shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal on the Note or the interest thereon, or to enforce payment hereon against any property of the City. The Note shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

7. Be It Further Resolved that the Note, when executed and delivered, shall contain a recital that it is issued pursuant to the Tax Increment Act, and such recital shall be conclusive evidence of the validity of the Note 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 Note and to the execution of the aforementioned documents to happen, exist and be performed precedent to and in the enactment of this resolution, and precedent to issuance of the Note and precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

8. Be It Further Resolved that this resolution shall be in full force and effect from and after its date of publication.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Resolution 2004R-266, relating to the tax increment financing of public improvements with respect to a multifamily housing development located in the Lake Street Center Tax Increment Financing District; authorizing the issuance of tax increment revenue obligations; providing the forms, terms, pledge of revenues, and findings, covenants, and directions relating to the issuance of such obligations, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-266
By Goodman and Johnson

Relating to the tax increment financing of public improvements with respect to a multifamily housing development located in the Lake Street Center Tax Increment Financing District; authorizing the issuance of tax increment revenue obligations; providing the forms, terms, pledge of revenues, and findings, covenants, and directions relating to the issuance of such obligations.

Resolved by The City Council of The City of Minneapolis:

Section 1. Background

1.01 Pursuant to Resolution No. 2002R-300, adopted by the City Council of the City of Minneapolis (the "City") on September 13, 2002, the City established the Lake Street Center Redevelopment Project (the "Project") and the Lake Street Center Redevelopment Tax Increment Finance District (the "District"). The Project and the District were established pursuant to authority granted by Minnesota Statutes, Sections 469.001 through 469.134, Sections 469.174 through 469.179, as amended, Laws of Minnesota 1971, Chapter 677, and Laws of Minnesota 1998, Chapter 389. Pursuant to Resolution No. 2002-2644M, adopted by the Board of Commissioners of the Minneapolis Community Development Agency (the "Agency") on September 13, 2002, the Agency approved the Lake Street Center Redevelopment Plan (the "Redevelopment Plan") with respect to the Project and the Lake Street Center Tax Increment Finance Plan (the "TIF Plan") with respect to the District. Pursuant to Resolution No. 2002R-300, the City Council of the City approved the Redevelopment Plan and the TIF Plan.

1.02 In order to provide for the redevelopment of the Project and the District and, specifically, to provide for the redevelopment of one of the existing buildings located in the District at the corner of Lake Street East and Tenth Avenue South, referred to generally as the 1928 Building, the City is proposing to enter into a redevelopment contract with Ryan Companies US, Inc., a portion of which is proposed to be assigned to one or more other sub-developers, including Sherman Associates (collectively, the "Developer"), to provide for the construction of approximately 88 ownership housing units within the 1928 Building (the "Development").

1.03 Pursuant to Minnesota Statutes, Sections 469.174 to 469.179, as amended (the "Tax Increment Act"), the City is authorized to issue and sell its bonds or notes for the purpose of financing public redevelopment costs in a redevelopment project and to pledge tax increment revenues derived from a tax increment financing district established within the redevelopment project to the payment of the principal of and interest on such obligations.

Section 2. Issuance Of The Bonds And The Notes

2.01 In order to finance the public redevelopment costs to be paid or incurred by the City with respect to the Development, there is hereby authorized to be issued by the City: (i) taxable tax increment revenue notes to be subsequently refunded with tax-exempt tax increment revenue bonds; or (ii) tax-exempt tax increment revenue bonds.

Section 3. Issuance Of The Notes

3.01 The City Council hereby authorizes the issuance of tax increment revenue notes to be designated as the "Taxable Tax Increment Revenue Notes (Midtown Exchange Project), Series 2004 (the "Notes"), in a principal amount not to exceed \$3,000,000. The Notes may be issued on such date and upon the terms and conditions determined by the Finance Officer. The Notes may be designated such other name or names as determined to be appropriate by the Finance Officer. The Notes may be issued in one or more series as the Finance Officer may determine, and may be assigned a separate series designation determined by the Finance Officer for each series issued by the City. The Notes may be issued as obligations the interest on which is includable in gross income for federal and State of Minnesota income tax purposes. This authorization to issue the Notes is effective without any additional action of the City Council and shall be undertaken by the Finance Officer on such date or dates and upon the terms and conditions deemed reasonable by the Finance Officer. The City Council hereby authorizes the sale of the Notes with the assistance of a placement agent hereinafter selected by the Finance Officer (the "Placement Agent"). The City shall sell the Notes to the purchasers to whom the Placement Agent has placed the Notes (the "Purchasers") in accordance with the terms of a Private Placement Agreement between the City and the Placement Agent and/or the Purchasers (the "Private Placement Agreement").

3.02 There shall be prepared, executed and delivered in conjunction with the issuance of the Notes, in the discretion of the Finance Officer, the following documents: (i) the Notes; (ii) a Guaranty Agreement (the "Guaranty") to be executed by the guarantor or guarantors approved by the Finance Officer (the "Guarantor"); (iii) an Assessment Agreement (the "Assessment Agreement"), to be executed by the City, the Developer and certain owners of the housing units comprising the Development; (iv) the Private Placement Agreement; and (v) such other instruments or documents deemed necessary or appropriate by the Finance Officer with respect to the issuance of, or security for, the Notes. The Notes, the Guaranty, the Assessment Agreement, the Private Placement Agreement, and such other instruments

or documents are hereby authorized to be approved by the Finance Officer, subject to such changes not inconsistent with this Resolution and applicable law.

3.03 The Notes shall have the maturities, interest rate provisions, shall be dated, numbered, and issued in such denominations, shall be subject to mandatory and optional redemptions and prepayment prior to maturity, shall be executed, sealed, and authenticated in such manner, shall be in such form, and shall have such other details and provisions as are prescribed in the form of the Notes and in the Private Placement Agreement. The Finance Officer is authorized to approve the original aggregate principal amount of each series of Notes to be issued under the terms of this Resolution (subject to the maximum aggregate principal amount for all series authorized by this Resolution), to establish the terms of redemption, the principal amounts subject to redemption, and the dates of redemption of the Notes, and to approve other changes to the other terms of the Notes which are deemed by the Finance Officer to be in the best interests of the City. The issuance and delivery of the Notes shall be conclusive evidence that the Finance Officer has approved the terms and provisions of the Notes in accordance with the authority granted by this Resolution. The proceeds derived from the sale of the Notes, and the earnings derived from the investment of such proceeds, shall be held, transferred, expended, and invested in accordance with determinations of the Finance Officer.

3.04 The Notes shall be secured by the terms of this Resolution, the Notes, the Assessment Agreement, and the Guaranty and shall be payable solely from Available Tax Increments (as defined in the Notes) that are expressly pledged to the payment of the Notes pursuant to the terms of the Notes, or from payments made by the Guarantor pursuant to the terms of the Guaranty.

3.05 It is hereby found, determined and declared that the issuance and sale of the Notes, the execution and delivery by the City of the Notes, Private Placement Agreement, and the Assessment Agreement (the "City Note Documents"), and the performance of all covenants and agreements of the City contained in the City Note Documents, and of all other acts required under the Constitution and laws of the State of Minnesota to make the Notes the valid and binding special obligations of the City enforceable in accordance with their terms, are authorized by applicable Minnesota law, including, without limitation, the Tax Increment Act and this Resolution.

3.06 Under the provisions of the Tax Increment Act, and as provided under the terms of the Notes, the Notes are not to be payable from or chargeable against any funds other than the revenues and assets pledged to the payment thereof; the City shall not be subject to any liability thereon other than from such revenues and assets pledged thereto; no holder of any Notes shall ever have the right to compel any exercise by the City of its taxing powers (other than as contemplated by the pledge of tax increment revenues under the terms of the Notes) to pay the principal of, premium, if any, and interest on the Notes, or to enforce payment thereof against any property of the City other than the property expressly pledged thereto; the Notes shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City other than the revenues or assets expressly pledged thereto; the Notes shall recite that the Notes are issued without a pledge of the general or moral obligation of the City, and that the Notes, including interest thereon, are payable solely from the revenues and assets pledged to the payment thereof; and the Notes shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation of indebtedness.

Section 4. Issuance Of The Bonds

4.01 The City Council hereby authorizes the issuance of tax increment revenue bonds to be designated as the "Tax Increment Revenue Bonds (Midtown Exchange Project), Series 2004 (the "Bonds"), in a principal amount not to exceed \$3,000,000. The proceeds of the Bonds may be applied to the redemption and prepayment of Notes, if Notes were issued to finance the public redevelopment costs of the Development, or the proceeds of the Bonds may be directly applied to pay or reimburse the public redevelopment costs of the Development. The Bonds shall be issued on such date and upon the terms and conditions determined by the Finance Officer of the City (the "Finance Officer"). The Bonds may be designated such other name or names as determined to be appropriate by the Finance Officer. The Bonds may be issued in one or more series as the Finance Officer may determine, and shall be assigned a separate series designation determined by the Finance Officer for each series issued by the City. The Bonds are authorized to be issued as obligations the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. This authorization to issue the Bonds is effective without any additional action of the City Council and shall be undertaken by the

Finance Officer on such date or dates and upon the terms and conditions deemed reasonable by the Finance Officer. The City Council hereby authorizes the sale of the Bonds to the underwriter hereinafter selected by the Finance Officer to purchase the Bonds (the "Underwriter") upon the offer of the Underwriter to purchase the Bonds in accordance with the terms of a Bond Purchase Agreement between the City and the Underwriter (the "Bond Purchase Agreement").

4.02 There shall be prepared, executed and delivered in conjunction with the issuance of the Bonds, in the discretion of the Finance Officer, the following documents: (i) an Indenture of Trust (the "Indenture"), between the City and a financial institution selected by the Finance Officer to act as trustee with respect to the Bonds (the "Trustee"); (ii) the Bond Purchase Agreement; and (iii) such other instruments or documents deemed necessary or appropriate by the Finance Officer with respect to the issuance of, or security for, the Bonds. The Indenture, the Bond Purchase Agreement and such other instruments or documents are hereby authorized to be approved by the Finance Officer, subject to such changes not inconsistent with this Resolution and applicable law.

4.03 The Bonds shall have the maturities, interest rate provisions, shall be dated, numbered, and issued in such denominations, shall be subject to mandatory and optional redemptions and prepayment prior to maturity, shall be executed, sealed, and authenticated in such manner, shall be in such form, and shall have such other details and provisions as are prescribed in the Indenture. The forms of the Bonds shall be included in the Indenture and shall be prepared in substantially such forms in the Indenture, subject to changes not inconsistent with this Resolution and applicable law, and subject to such changes that are approved by the Finance Officer. Without limiting the generality of the foregoing, the Finance Officer is authorized to approve the original aggregate principal amount of each series of Bonds to be issued under the terms of this resolution (subject to the maximum aggregate principal amount for all series authorized by this resolution), to establish the terms of redemption, the principal amounts subject to redemption, and the dates of redemption of the Bonds, and to approve other changes to the other terms of the Bonds which are deemed by the Finance Officer to be in the best interests of the City. The issuance and delivery of the Bonds shall be conclusive evidence that the Finance Officer has approved the terms and provisions of the Bonds in accordance with the authority granted by this resolution. The proceeds derived from the sale of the Bonds, and the earnings derived from the investment of such proceeds, shall be held, transferred, expended, and invested in accordance with determinations of the Finance Officer.

4.04 The Bonds shall be secured by the terms of the Indenture and shall be payable solely from Available Tax Increments (as defined in the Indenture) that are expressly pledged to the payment of the Bonds pursuant to the terms of the Indenture.

4.05 It is hereby found, determined and declared that the issuance and sale of the Bonds, the execution and delivery by the City of the Indenture and the Bond Purchase Agreement (the "City Bond Documents"), and the performance of all covenants and agreements of the City contained in the City Bond Documents, and of all other acts required under the Constitution and laws of the State of Minnesota to make the Bonds the valid and binding special obligations of the City enforceable in accordance with their terms, are authorized by applicable Minnesota law, including, without limitation, the Tax Increment Act and this Resolution.

4.06 Under the provisions of the Tax Increment Act, and as provided in the Indenture and under the terms of the Bonds, the Bonds are not to be payable from or chargeable against any funds other than the revenues and assets pledged to the payment thereof; the City shall not be subject to any liability thereon other than from such revenues and assets pledged thereto; no holder of any Bonds shall ever have the right to compel any exercise by the City of its taxing powers (other than as contemplated by the pledge of tax increment revenues under the terms of the Indenture) to pay the principal of, premium, if any, and interest on the Bonds, or to enforce payment thereof against any property of the City other than the property expressly pledged thereto; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City other than the revenues or assets expressly pledged thereto; the Bonds shall recite that the Bonds are issued without a pledge of the general or moral obligation of the City, and that the Bonds, including interest thereon, are payable solely from the revenues and assets pledged to the payment thereof; and the Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation of indebtedness.

Section 5. Disclosure Documents And Closing Certificates

5.01 The preparation of one or more official statements or other forms of disclosure documents (the "Bond Disclosure Documents") in conjunction with the offer and sale of the Bonds is hereby authorized. When approved by the Finance Officer of the City, the Bond Disclosure Documents are authorized to be distributed in conjunction with the offer and sale of the Bonds. In order to provide for continuing disclosure with respect to the Bonds, to the extent deemed necessary, required, or appropriate by the Finance Officer, the Finance Officer and the Trustee may execute and deliver an agreement or certificate providing for continuing disclosure with respect to the Bonds.

5.02 If the Notes are issued, the preparation of one or more official statements or other forms of disclosure documents (the "Note Disclosure Documents") in conjunction with the offer and sale of the Notes is hereby authorized. When approved by the Finance Officer of the City, the Note Disclosure Documents are authorized to be distributed in conjunction with the offer and sale of the Notes. In order to provide for continuing disclosure with respect to the Notes, to the extent deemed necessary, required, or appropriate by the Finance Officer, the Finance Officer may execute and deliver a certificate providing for continuing disclosure with respect to the Notes.

5.03 The Finance Officer is authorized to furnish to the purchasers of the Bonds, on the date of issuance and sale of the Bonds, a certificate that, to the best of the knowledge of such officer, each Bond Disclosure Document does not, as of the date of closing, and did not, as the time of sale of the Bonds, contain any untrue statement of a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. Unless litigation shall have been commenced and be pending questioning the Bonds, the proceedings for approval of the Bonds, tax increment revenues generated or collected for payment of the Bonds, revenues pledged for payment of the Bonds, or the organization of the City, or incumbency of its officers, at the respective closings, the Finance Officer shall also execute and deliver a suitable certificate as to absence of material litigation, and the Finance Officer shall also execute and deliver a certificate as to payment for and delivery of the Bonds, and the signed approving legal opinion of Kennedy & Graven, Chartered, as to the validity and enforceability of the Bonds and the tax-exempt status of interest on the Bonds.

5.04 If the Notes are issued, the Finance Officer is authorized to furnish to the purchasers of the Notes, on the date of issuance and sale of the Notes, a certificate that, to the best of the knowledge of such officer, each Note Disclosure Document does not, as of the date of closing, and did not, as the time of sale of the Notes, contain any untrue statement of a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. Unless litigation shall have been commenced and be pending questioning the Notes, the proceedings for approval of the Notes, tax increment revenues generated or collected for payment of the Notes, revenues pledged for payment of the Notes, or the organization of the City, or incumbency of its officers, at the respective closings, the Finance Officer shall also execute and deliver a suitable certificate as to absence of material litigation, and the Finance Officer shall also execute and deliver a certificate as to payment for and delivery of the Notes, and the signed approving legal opinion of Kennedy & Graven, Chartered, as to the validity and enforceability of the Notes.

5.05 The City Clerk, the Finance Officer, and other agents, officers, and employees of the City are hereby authorized and directed, individually and collectively, to furnish to the attorneys approving the Bonds, on behalf of the purchasers of the Bonds, certified copies of all proceedings and certifications as to facts as shown by the books and records of the City, and the right and authority of the City to issue the Bonds, and all such certified copies and certifications shall be deemed representations of fact on the part of the City. Such officers, employees, and agents of the City are hereby authorized to execute and deliver, on behalf of the City, all other certificates, instruments, and other written documents that may be requested by bond counsel, the Underwriter, the Purchasers, the Trustee, or other persons or entities in conjunction with the issuance of the Bonds and the expenditure of the proceeds of the Bonds. Without imposing any limitations on the scope of the preceding sentence, such officers and employees are specifically authorized to execute and deliver one or more UCC-1 financing statements, a certificate relating to federal tax matters including matters relating to arbitrage and arbitrage rebate, a receipt for the proceeds derived from the sale of the Bonds, an order to the Trustee, a general certificate of the City, and an Information Return for Tax-Exempt Governmental Obligations, Form 8038-G (Rev. November 2000).

5.06 If the Notes are issued, the City Clerk, the Finance Officer, and other agents, officers, and employees of the City are hereby authorized and directed, individually and collectively, to furnish to the attorneys approving the Notes, on behalf of the purchasers of the Notes, certified copies of all proceedings and certifications as to facts as shown by the books and records of the City, and the right and authority of the City to issue the Notes, and all such certified copies and certifications shall be deemed representations of fact on the part of the City. Such officers, employees, and agents of the City are hereby authorized to execute and deliver, on behalf of the City, all other certificates, instruments, and other written documents that may be requested by bond counsel, the Underwriter, the Purchasers, the Guarantor, or other persons or entities in conjunction with the issuance of the Notes and the expenditure of the proceeds of the Notes. Without imposing any limitations on the scope of the preceding sentence, such officers and employees are specifically authorized to execute and deliver one or more UCC-1 financing statements, a receipt for the proceeds derived from the sale of the Notes and a general certificate of the City.

5.07 The City Clerk is hereby authorized and directed to certify a copy of this Resolution and cause the same to be filed with the Hennepin County Director of Property Taxation, exercising the powers of the county auditor under Minnesota Statutes, Section 475.63, and to obtain the certificate of the Director of Property Taxation as the registration of the Bonds and the Notes. Copies of this Resolution shall also be delivered to the Finance Officer of the City.

Section 6. Miscellaneous

6.01 All agreements, covenants, and obligations of the City contained in this Resolution and in the above-referenced documents shall be deemed to be the agreements, covenants, and obligations of the City to the full extent authorized or permitted by law, and all such agreements, covenants, and obligations shall be binding on the City and enforceable in accordance with their terms. No agreement, covenant, or obligation contained in this Resolution or in the above-referenced documents shall be deemed to be an agreement, covenant, or obligation of any member of the City Council, or of any officer, employee, or agent of the City in that person's individual capacity. Neither the members of the City Council, nor any officer executing the Bonds or the Notes shall be liable personally on the Bonds or the Notes or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the Notes.

6.02 Nothing in this Resolution or in the above-referenced documents is intended or shall be constructed to confer upon any person (other than as provided in the Indenture, the Bonds, the Notes, and the other agreements, instruments, and documents hereby approved) any right, remedy, or claim, legal or equitable, under and by reason of this Resolution or any provision of this Resolution.

6.03 If for any reason the Finance Officer, or any other officers, employees, or agents of the City authorized to execute certificates, instruments, or other written documents on behalf of the City shall for any reason cease to be an officer, employee, or agent of the City after the execution by such person of any certificate, instrument, or other written document, such fact shall not affect the validity or enforceability of such certificate, instrument, or other written document. If for any reason the Finance Officer, or any other officers, employees, or agents of the City authorized to execute certificates, instruments, or other written documents on behalf of the City shall be unavailable to execute such certificates, instruments, or other written documents for any reason, such certificates, instruments, or other written documents may be executed by a deputy or assistant to such officer, or by such other officer of the City as in the opinion of the City Attorney is authorized to sign such document.

6.04 The City shall not take any action or authorize any action to be taken in connection with the application or investment of the proceeds of the Bonds or any related activity which would cause the Bonds to be deemed to be "private activity bonds", within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City shall not take any action or authorize any action to be taken in connection with the application or investment of the proceeds of the Bonds or any related activity which would cause the Bonds to be deemed to be "arbitrage bonds", within the meaning of Section 148 of the Code. Furthermore, the City shall take all such actions as may be required under the Code to ensure that interest on the Bonds is not and does not become includable in gross income for federal income tax purposes.

6.05 The authority to approve, execute and deliver future amendments to the documents executed and delivered by the City in connection with the transactions contemplated hereby is hereby delegated

to the Finance Officer, subject to the following conditions: (a) such amendments do not require the consent of the holders of the Bonds or the Notes or, if required, such consent has been obtained; (b) such amendments do not materially adversely affect the interests of the City as the issuer of the Bonds or the Notes; (c) such amendments do not contravene or violate any policy of the City; (d) such amendments are acceptable in form and substance to the City Attorney, bond counsel or other counsel retained by the City to review such amendments; and (e) the City has received, if necessary, an opinion of bond counsel to the effect that the amendments will not adversely affect the tax-exempt character or interest on the Bonds, if the Bonds are then tax-exempt obligations, and (f) such amendments do not materially prejudice the interests of the owners of the Bonds or the Notes. The authorization hereby given shall be further construed as authorization for the execution and delivery of such certificates and related items as may be required to demonstrate compliance with the agreements being amended and the terms of this Resolution. The execution of any instrument by the Finance Officer shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof. In the absence of the Finance Officer, any instrument authorized by this paragraph to be executed and delivered by the Finance Officer may be executed by such other officer of the City as in the opinion of the City Attorney is authorized to execute and deliver such document.

6.06 Effective Date. This Resolution shall take effect and be in force from and after its approval and publication.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Comm Dev & W&M/Budget - Your Committee, having under consideration the recommendation of the Neighborhood Revitalization Program (NRP) Policy Board for rollover of 2003 funds to 2004 to allow for the payment of outstanding 2003 obligations, now recommends:

a) Approval of the rollover of \$96,250.46 from the approved 2003 NRP Administrative Budget to the approved 2004 NRP Administrative Budget;

b) Passage of the accompanying resolution increasing the 2004 appropriation for the NRP to reflect the rollover of said funds;

c) That the proper City officers be authorized to execute any contracts or agreements needed to implement said action.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

**RESOLUTION 2004R-267
By Goodman and Johnson**

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the Community Planning and Economic Development Department Agency (CNR) in the NRP Program Fund (CNR0-890-3550) by \$96,250.46.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev & W&M/Budget - Your Committee, having under consideration the recommendation of the Neighborhood Revitalization Program (NRP) Policy Board to approve the request of Hennepin County and the Bryant Neighborhood for use of Hennepin County's "Second 7.5%" NRP funds, now recommends:

a) Approval to allow the Bryant Neighborhood to use up to \$12,500 to support the Bryant Village Initiative Expansion Project from May 1 through December 31, 2004;

b) Passage of the accompanying resolution increasing the 2004 appropriation for the NRP to provide the funds for Bryant Neighborhood;

c) That the proper City officers be authorized to execute any contracts or agreements needed to implement said action.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

**RESOLUTION 2004R-268
By Goodman and Johnson**

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the Community Planning and Economic Development Department Agency (CNR) in the NRP Program Fund (CNR0-890-3550) by \$12,500.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev & W&M/Budget - Your Committee, having under consideration the recommendation of the Neighborhood Revitalization Program (NRP) Policy Board to approve a sixth modification to the Victory Neighborhood Phase 1 NRP Plan to add a new environmental section to the plan, a goal, objective and two new strategies, now recommends:

a) Approval of said Modification #6 to the Victory Neighborhood NRP Action Plan (as included in Petn No 269684), specifically those part of the Plan Modification that fall under City jurisdiction; and

b) That the proper City officers be authorized to execute any contracts or agreements needed to implement said action.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev & W&M/Budget - Your Committee, having under consideration the recommendation of the Neighborhood Revitalization Program (NRP) Policy Board to approve the transfer of NRP funds for a final payment to the Youth Coordinating Board (YCB) to complete the 2003 obligation funding, now recommends:

a) Approval of said request to transfer \$65,000 of NRP funds to the YCB;

b) Passage of the accompanying resolution increasing the 2004 appropriation for the NRP for the transfer of funds; and

c) That the proper City officers be authorized to execute any contracts or agreements needed to implement said action.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

**RESOLUTION 2004R-269
By Goodman and Johnson**

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the Community Planning and Economic Development Department Agency (CNR) in the NRP Program Fund (CNR0-890-3550) by \$65,000.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Comm Dev & W&M/Budget - Your Committee recommends passage of the accompanying resolution endorsing grant applications to the Metropolitan Council for Livable Communities Demonstration Account (LCDA) Development Funds and directing staff to priority rank the applications using the process outlined in their report to the Committee (Petn No 269683).

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Resolution 2004R-270, endorsing grant applications to the Metropolitan Council for 2004 development funding through the Livable Communities Demonstration Account (LCDA) and directing the proper City officers to priority rank the applications, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2004R-270
By Goodman and Johnson**

Endorsing grant applications to the Metropolitan Council for 2004 development funding through the Livable Communities Demonstration Account (LCDA) and directing the proper City officers to priority rank the applications.

Resolved by The City Council of The City of Minneapolis:

That applications for the following projects are endorsed by the City and are to be submitted to the Metropolitan Council for 2004 LDCA funding:

Project (alphabetical)	Location	Applicant Amount	Application
Agape Affordable Housing	3018 Emerson Ave N	Agape Child Development Center; Agape Development LLC	\$400,000
Cecil Newman Apartments	701-729 Emerson Ave N.	Cecil Newman Apartments Limited Partnership	\$250,000
Community is Our Strength	1530 East Franklin Ave	Minneapolis American Indian Center; Crowley, White & Associates	\$500,000
Heritage Park	Near North Side	CPED	\$1,500,000
Lindquist Apartments	1927-1935 W. Broadway Ave	RS Eden	\$350,000
Midtown Exchange - 1928 Rental & For-sale Housing	Lake & Chicago	Sherman Associates	\$1,500,000
Midtown Exchange - Workforce Housing	11th Ave S. & 29th St. E.	Project for Pride in Living	\$350,000
Sarah's Place	Bloomington Av	Community Housing Development Corporation	\$325,000
Franklin-Portland Gateway, Phase III	Franklin & Portland Avs	Hope Community, Inc. & Central Community Housing Trust	\$1,500,000
Total			\$6,675,000

Be It Further Resolved that the proper City officers are directed to priority rank the applications using the process described in Petn No 269683.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

The **HEALTH & HUMAN SERVICES** Committee submitted the following reports:

H&HS - Your Committee, having under consideration the Mayor's appointments to the Minneapolis Private Industry/Workforce Council, now recommends that the residency requirement be waived to allow J. Kyle Makarios and Mary Lynn Elizondo to be appointed by the Mayor, pursuant to Section 14.180(m)(3) of the Minneapolis Code of Ordinances, which allows a waiver for persons providing a unique and special benefit to the City.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

H&HS - Your Committee recommends that the proper City Officers be authorized to execute Amendment #1 to the Hennepin County/City of Minneapolis Joint Powers Agreement to extend the period of operation from July 1, 2004 through December 31, 2004, and to increase the amount by \$211,175, for a new total of \$560,925, to allow for the continued operation of the Minnesota Family Investment Program under the Welfare-to-Work Joint Powers Agreement.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

The **HEALTH & HUMAN SERVICES** and **PUBLIC SAFETY & REGULATORY SERVICES** Committees submitted the following reports:

H&HS & PS&RS - Your Committee, to whom was referred an ordinance amending Title 11 of the Minneapolis Code of Ordinances relating to *Health and Sanitation* by adding a new Chapter 234 entitled "*Indoor Air Quality*", now recommends the following:

H&HS - that said ordinance be given its second reading for amendment and passage.

PS&RS - a) that said ordinance be sent forward without recommendation; and

b) that the accompanying Resolution favoring Protections for Employees and Patrons from Second Hand Smoke be sent forward without recommendation.

Johnson Lee moved to amend the report to approve the Health & Human Services Committee recommendation and to delete the Public Safety & Regulatory Services Committee recommendation. Seconded.

Adopted by unanimous consent.

Schiff moved to postpone the ordinance to the July 23rd Council Meeting. Seconded.

Benson moved a substitute to approve a Resolution regarding the implementation of a smoking ban for the City of Minneapolis. Seconded.

The Chair ruled that the Benson motion included the postponement of the ordinance to the July 23rd Council Meeting.

Schiff challenged the ruling of the Chair.

The ruling of the Chair was sustained upon a voice vote.

The Benson motion to substitute the resolution and postpone the ordinance was adopted by unanimous consent.

Zimmermann moved to amend the Resolution by adding "the Mayor, or his designee" to the task force list. Seconded.

Adopted upon a voice vote.

Zimmermann moved to amend the Resolution by adding "Dean Zimmermann, or his designee" to the task force list. Seconded.

Adopted upon a voice vote.

Zerby moved to amend the Resolution by deleting the language contained in the second Resolved Clause and inserting in lieu thereof the following:

"Be It Further Resolved that the task force is charged with developing recommendations regarding the attached proposed ordinance by July 19, prior to the City Council Meeting on July 23, 2004.

Lost. Yeas, 5; Nays, 6 as follows:

Yeas - Zimmermann, Schiff, Zerby, Johnson Lee, Niziolek.

Nays - Lilligren, Benson, Goodman, Lane, Johnson, Ostrow.

Absent - Samuels, Colvin Roy.

Goodman Called the Question.

Lost. Yeas, 7; Nays, 4 as follows:

Yeas - Lilligren, Niziolek, Benson, Goodman, Lane, Johnson, Ostrow.

Nays - Zimmermann, Schiff, Zerby, Johnson Lee.

Absent - Samuels, Colvin Roy.

Schiff moved to amend the Resolution by adding "two members representing health-based organizations" to the task force list. Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted 6/18/04. Yeas, 9; Nays, 2 as follows:

Yeas - Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Benson, Goodman, Johnson, Ostrow.

Nays - Niziolek, Lane.

Absent - Samuels, Colvin Roy.

Resolution 2004R-271, regarding the implementation of a smoking ban for the City of Minneapolis, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2004R-271
By Benson and Lilligren**

Regarding the implementation of a smoking ban for the City of Minneapolis.

Whereas, by July 23, 2004, we desire to bring forth an ordinance to create a smoke free environment;
and

Whereas, the goal of said ordinance is to eliminate unwanted customer and employee exposure to secondhand smoke; and

Whereas, the City of Minneapolis has a very unique character, climate, governing laws, and ordinances requiring careful consideration of all the factors involved; and

Whereas, our desire is to create an ordinance to serve as a model to be adopted by other cities or counties in the region;

Now, Therefore, Be It Resolved by The City Council of the City of Minneapolis:

That the City of Minneapolis creates a smoke free ordinance task force, chaired by Rocco Forté of Regulatory Services and staffed by technical and administrative employees of Regulatory Services. The other members of the task force will be:

- Council Member Robert Lilligren, Ward 8
- County Commissioner Gail Dorfman, District 3
- Megan Ellingson, Minneapolis Department of Health & Family Support
- Jack Davis, Executive Director of Hennepin Medical Society
- Mike Jennings, Minnesota Licensed Beverage Association
- Jeff Moritco, owner of Mayslacks Bar
- Kim Bartmen, owner of the Bryant Lake Bowl and Café Barbette
- Greg Ortale, President of the Greater Minneapolis Convention & Visitors Association (GMCVA)
- Designee from Community Prevention Coalition
- Designee from Hotel and Entertainment and Restaurant Employees
- Joe & Bonnie Hesla, residents living near a bar
- the Mayor, or his designee
- Dean Zimmermann, or his designee
- two members representing health-based organizations.

Specific representatives may be adjusted as the task force chair deems necessary.

Be It Further Resolved that the task force is charged with developing a workable model of a smoking ordinance for restaurants, nightclubs and coffee shops in Minneapolis, as defined in Section 520.160 or Amusements as defined in Section 267 of the Minneapolis Code of Ordinances. Regulatory Services staff is responsible for using the discussions and minutes from the task force to write the specific

recommended ordinance by July 19, prior to the City Council Meeting on July 23, 2004. The task force objectives include:

- Develop recommendations for an ordinance that would eliminate unwanted customer and employee exposure to secondhand smoke.
- Determine the regulatory obligation of the City and a means of implementation.
- Discuss an educational/outreach campaign for affected businesses.
- Discuss an educational/outreach campaign for the general public, specifically addressing what will be done to minimize impacts on residential neighborhoods surrounding affected businesses.
- Invite other municipalities and counties to participate in discussions to facilitate a common ordinance.
- Discuss a mechanism for providing feedback to the City Council and Mayor regarding community response and ordinance implementation.

Adopted 6/18/04. Yeas, 9; Nays, 2 as follows:

Yeas - Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Benson, Goodman, Johnson, Ostrow.

Nays - Niziolek, Lane.

Absent - Samuels, Colvin Roy.

H&HS & PS&RS - Your Committee, to whom was referred back by the City Council on May 28, 2004 an ordinance amending Title 9, Chapter 172 of the Minneapolis Code of Ordinances relating to *Fire and Police Protection: Civilian Police Review Authority*, increasing the CRA Board from 7 to 11 members; authorizing a case investigator, as well as the manager, to present a case at a panel hearing; authorizing the manager to employ unpaid volunteers to act as community outreach advocates on a temporary basis; authorizing the community outreach advocate to attend and assist the complainant at the hearing; extending the deadline for filing a request for reconsideration of the hearing panel's decision from 5 to 30 days; and modifying the hearing procedure to address a data practices issue, now recommends the following:

H&HS - that said ordinance be given its second reading for amendment and passage.

PS&RS - that said ordinance be sent forward without recommendation.

Johnson Lee moved to amend the report to approve the Health & Human Services Committee recommendation and to delete the Public Safety & Regulatory Services Committee recommendation. Seconded.

Adopted by unanimous consent.

Johnson Lee moved to amend Section 172.180 of the ordinance by deleting the proposed amendment. Seconded.

Johnson moved that the report be referred back to the Health & Human Services and Public Safety & Regulatory Services Committees. Seconded.

Johnson's motion lost. Yeas, 5; Nays, 6 as follows:

Yeas - Benson, Goodman, Lane, Johnson, Ostrow.

Nays - Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek.

Absent - Samuels, Colvin Roy.

Johnson Lee's motion was adopted upon a voice vote.

The report, with amended ordinance, was adopted 6/18/04. Yeas, 8; Nays, 3 as follows:

Yeas - Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek, Benson, Goodman.

Nays - Lane, Johnson, Ostrow.

Absent - Samuels, Colvin Roy.

Ordinance 2004-Or-068 amending Title 9, Chapter 172 of the Minneapolis Code of Ordinances relating to *Fire and Police Protection: Civilian Police Review Authority*, amending the following Sections as summarized below, was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

a. Section 172.30, increasing the CRA Board from 7 to 11 members.

b. Section 172.95, removing the requirement that the review authority manager seek input from the complainant advocate.

c. Section 172.100(b), authorizing a review authority investigator, as well as the manager, to attend the hearing and present the investigatory findings and recommendations.

d. Section 172.100(c), authorizing the community outreach advocate to attend and assist the complainant at the hearing, but not otherwise participate at the hearing.

e. Section 172.120, extending the deadline for filing a request for reconsideration of the hearing panel decision from 5 days to 30 days.

f. Section 172.140, relating to paid and volunteer members and contractors agreeing to comply with the provisions of the Minnesota Government Data Practices Act.

g. Section 172.170(a), authorizing the manager to employ unpaid volunteers to perform the duties of community outreach advocate on a temporary basis.

h. Section 172.170(c)(4) & (5), adding duties of the review authority community outreach advocate relating to attendance at hearings and other duties as assigned.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-068
By Johnson Lee
Intro & 1st Reading: 4/16/04
Ref to: H&HS
2nd Reading: 6/18/04

Amending Title 9, Chapter 172, of the Minneapolis Code of Ordinances relating to Fire and Police Protection: Civilian Police Review Authority.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Subsection 172.30(a) of the above-entitled ordinance be amended to read as follows:

172.30. Review authority membership. (a) Composition. The review authority shall be comprised of ~~seven (7)~~ eleven (11) members, ~~four (4)~~ six (6) of whom shall be appointed by the city council, and ~~three (3)~~ five (5) of whom shall be appointed by the mayor, subject to the approval of a majority of the city council. The members shall serve for terms of four (4) years. From the members, a chairperson of the review authority shall be appointed by the mayor, for a term of two (2) years, subject to the approval of a majority of the city council. All members shall continue to serve until their successors have been appointed. ~~Four (4)~~ A majority of the members shall constitute a quorum.

Section 2. That Section 172.95 of the above-entitled ordinance be amended to read as follows:

172.95. Investigation review. Within seven (7) days of the date the written summary is submitted, the review authority manager shall review the investigative file and written summary. ~~In conducting the review of the investigation, the review authority manager shall seek input from the complainant advocate.~~ The review authority manager may recommend further investigation that shall be completed within thirty (30) days. In all cases in which no further investigation is recommended, the review authority manager shall present the case at the next meeting of a hearing panel of the review authority allowing for proper notice to the complainant and the police officer.

Section 3. That Section 172.100 of the above-entitled ordinance be amended to read as follows:

172.100. Hearings related to complaints. (a) Upon the completion of the investigation of a complaint, a three (3) member panel of the review authority shall weigh and consider all reliable and credible evidence presented. The review authority shall make reasonable efforts to conduct hearings related to complaints within thirty (30) days of the completion of the investigation.

(b) ~~At Prior to~~ Prior to the hearing, ~~the a~~ a review authority investigator or the manager shall present the investigatory findings of fact and recommendations to the panel. No person other than ~~the a~~ a review authority investigator or the manager and the panel members shall be present during the presentation and discussion of the case.

(c) ~~At the close of the case presentation hearing,~~ At the hearing, the complainant and the police officer, or their representatives, shall each be permitted ten (10) minutes to address the review authority, in the presence of each other, regarding the complaint. Other paid or volunteer review authority staff may attend with and assist the complainant, but will not otherwise participate in the hearing.

~~(e)~~ (d) Within thirty (30) days of the completion of a hearing, the hearing panel shall either remand the complaint to review authority staff for further investigation or issue a written report containing findings of fact and a determination of whether the complaint is sustained. This report shall be made public when permitted by the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes.

~~(d)~~ (e) Notice.

(1) At least ten (10) days prior to the scheduled hearing, the review authority shall provide written notification to the complainant and the police officer of the date, time and place of the hearing.

(2) The review authority shall provide written notification of the hearing panel's decision to the complainant and officer.

Section 4. That Subsection 172.120 (a) of the above-entitled ordinance be amended to read as follows:

172.120. Request for reconsideration by complainant. (a) Within ~~five (5)~~ thirty (30) days of receipt of the hearing panel's decision to not sustain a complaint, a complainant may submit a written request for reconsideration to the review authority.

Section 5. That Section 172.40 of the above-entitled ordinance be amended to read as follows:

172.140. Confidentiality. The members, staff, and contractors of the review authority shall comply with all of the provisions of the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes. All members and contractors, paid and volunteer, of the review authority shall sign a contract agreeing to comply with the provisions of the Minnesota Government Data Practices Act, currently Chapter 13 of Minnesota Statutes. In return, the city will afford to such member or contractor the same legal protection that any other agent or employee of the city receives who performs duties within the scope of employment.

Section 6. That Section 172.170 of the above-entitled ordinance be amended to read as follows:

172.170. Staff. (a) The Minneapolis Department of Civil Rights shall provide staff to support the objectives of this chapter. Review authority staff shall consist of a manager and a community outreach advocate and other positions as necessary. The manager may employ unpaid volunteers to perform the duties of the community outreach advocate on a temporary basis.

(b) *General duties of the manager.* The manager of the review authority shall be an attorney and shall report to the director of the department of civil rights. The manager shall administer the day-to-day operation of the review authority and aid the review authority in carrying out its purpose, including the implementation of a community outreach program.

(c) *General duties of the review authority community outreach advocate.* The community outreach advocate shall report to the manager of the authority and shall perform administrative duties as assigned including:

(1) Timely and regular communications with complainant from complaint intake through final determination of case.

(2) Consultation with the manager regarding case review process prior to the manager's recommendation of sustained or not sustained.

(3) Implementation of community outreach program.

(4) Attendance at hearings when requested by the manager of the authority.

(5) Other duties as assigned by the manager of the authority.

(d) *Firewall.* Department of civil rights staff with access to review authority files shall not have access to civil rights investigation files. Department of civil rights staff with access to civil rights investigation files shall not have access to the review authority files. Information from civil rights investigations shall not be shared with staff assigned to the review authority. Information from review authority investigations shall be shared only with staff assigned to the review authority. The director of the department of civil rights shall have an administrative role with regards to the review authority and shall not have access to investigative files of the review authority.

Adopted 6/18/04. Yeas, 8; Nays, 3 as follows:

Yeas - Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek, Benson, Goodman.

Nays - Lane, Johnson, Ostrow.

Absent - Samuels, Colvin Roy.

The **PUBLIC SAFETY & REGULATORY SERVICES** Committee submitted the following reports:
PS&RS - Your Committee, to whom was referred an ordinance amending Appendix J of the Minneapolis Code of Ordinances relating to *License Fees*, adding the license fee for Off-Sale Malt Liquor (Growlers), now recommends that said ordinance be given its second reading for amendment and passage.

Adopted 6/18/04.
Absent - Samuels, Colvin Roy.

Ordinance 2004-Or-069 amending Appendix J of the Minneapolis Code of Ordinances relating to *License Fees*, adding the license fee for Off-Sale Malt Liquor (Growlers), was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-069
By Niziolek
Intro & 1st Reading: 5/14/04
Ref to: PS&RS
2nd Reading: 6/18/04

Amending Appendix J of the Minneapolis Code of Ordinances relating to License Fees.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Appendix J of the above-entitled ordinance be amended by adding the following fee schedules in alphabetical sequence to read as follows:

TABLE INSET:

<i>License</i>	<i>Ordinance</i>	<i>2003 Fee</i>	<i>2004 Fee</i>
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ALCOHOLIC BEVERAGES

Liquor - Off Sale	362.50	\$1,000.00	\$1,000.00
<u>Off-Sale Malt Liquor</u>	<u>362.45</u>	\$1,000.00	\$1,030.00

Adopted 6/18/04.
Absent - Samuels, Colvin Roy.

PS&RS - Your Committee, to whom was referred an ordinance amending Title 14, Chapter 362 of the Minneapolis Code of Ordinances relating to *Liquor and Beer: Liquor Licenses*, allowing the Municipal Building Commission and the Minneapolis Library Board to operate under a caterer's permit, now recommends that said ordinance be given its second reading for amendment and passage.

Adopted 6/18/04.
Absent - Samuels, Colvin Roy.

Ordinance 2004-Or-070 amending Title 14, Chapter 362 of the Minneapolis Code of Ordinances relating to *Liquor and Beer: Liquor Licenses*, amending Section 362.38 to allow the Municipal Building Commission and the Minneapolis Library Board to operate under a caterer's permit, was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-070
By Niziolek
Intro & 1st Reading: 5/14/04
Ref to: PS&RS
2nd Reading: 6/18/04

Amending Title 14, Chapter 362 of the Minneapolis Code of Ordinances relating to Liquor and Beer: Liquor Licenses.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 362.38 of the above-entitled ordinance be amended to read as follows:

362.38. State caterer's permit. No holder of a State of Minnesota caterer's permit issued under the provisions of Minnesota Statute 340A.404, Subd. 12, shall operate under such permit within the City of Minneapolis unless authorized herein. The holder of a ~~full-year on-sale liquor license issued by the City of Minneapolis who also~~ State of Minnesota caterer's permit issued under the provisions of Minnesota Statute 340A.404 Subd. 12 who is under contract with the Minneapolis Park and Recreation Board, ~~the Municipal Building Commission or the Minneapolis Library Board~~ to provide concession and banquet facility services at locations owned or controlled by the Minneapolis Park and Recreation Board, ~~the Municipal Building Commission or the Minneapolis Library Board~~ may operate under a State of Minnesota caterer's permit at such locations. The holder of a full-year on-sale liquor license shall apply for a Minneapolis caterer's liquor license using a form provided by the director of licenses and consumer services and shall furnish a copy of the contract to the director of licenses and consumer services for review prior to the beginning of such operations. The annual fee for a Minneapolis caterer's liquor license shall be five hundred dollars (\$500.00), and shall coincide with the term of the full-year on-sale liquor license. The holder of the on-sale liquor license for operations at property owned or controlled by the Minneapolis Park and Recreation Board, ~~the Municipal Building Commission or the Minneapolis Library Board~~ shall comply with all provisions of the statutes, ordinances, and regulations governing the retail sale of alcoholic beverages.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

PS&RS - Your Committee, having under consideration the application of Hamshari Inc, dba Rotisserie, 1409 W Lake St, for a Sidewalk Cafe License (new business) to expire April 1, 2005, and having held a public hearing thereon, now recommends that said license be sent forward without recommendation.

Niziolek moved that the report be amended by deleting the language "be sent forward without recommendation" and inserting in lieu thereof "be granted". Seconded

Adopted upon a voice vote.

The report, as amended, was adopted 6/18/04.

Declining to Vote - Benson.

Absent - Samuels, Colvin Roy.

PS&RS - Your Committee, having under consideration the application of MORE Inc, dba Blarneys Irish Pub & Grill, 412 14th Av SE, for an On-Sale Liquor Class C-2 with Sunday Sales License (change in ownership; upgrade from Class E) to expire April 1, 2005, now recommends that said license be sent forward without recommendation.

Niziolek moved that the report be amended by deleting the language "be sent forward without recommendation" and inserting in lieu thereof "be granted". Seconded

Adopted upon a voice vote.

The report, as amended, was adopted 6/18/04.

Declining to Vote - Benson.

Absent - Samuels, Colvin Roy.

PS&RS - Your Committee, having under consideration the application of Take One Enterprises Inc, dba Big 10 Restaurant & Bar, 606 Washington Av SE, for an On-Sale Liquor Class E with Sunday Sales License (upgrade from Wine & Strong Beer) to expire April 1, 2005, now recommends that said license be sent forward without recommendation.

Niziolek moved that the report be amended by deleting the language "be sent forward without recommendation" and inserting in lieu thereof "be granted". Seconded

Adopted upon a voice vote.

The report, as amended, was adopted 6/18/04.
Declining to Vote - Benson.
Absent - Samuels, Colvin Roy.

PS&RS - Your Committee, having under consideration the application of Cliché Inc, dba Cliché , 2403 Lyndale Av S, for a Secondhand Goods Class B License (new business) to expire July 1, 2004, now recommends that said license be granted, subject to the following conditions:

a. the licensee is restricted to consignment purchases and sales only. Consignment shall mean a written agreement between a dealer and a seller that enables the dealer to take temporary possession of secondhand property, owned by the seller, for the purpose of offering it for sale to the public. The agreement shall state the terms under which the seller will be compensated, and the amount of that compensation.

b. final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

PS&RS - Your Committee, having under consideration the application of Raising The Bar LLC, dba Zeno Coffee and Dessert Bar, 2919 Hennepin Av, for a Sidewalk Cafe License (new business) to expire April 1, 2005, now recommends that said license be granted, subject to the following conditions:

a. the sidewalk cafe area will be made vacant upon request of the City, or in the case of a City sponsored event, by the event's organizing committee chairperson or representative. The sidewalk cafe area can be used in conjunction with a City sponsored event with the approval of the event's chairperson or representative.

b. strict compliance with all City of Minneapolis, State of Minnesota and Federal laws.

c. a diagram of the approved sidewalk cafe shall be kept on site and readily accessible for review and inspection by City staff.

d. if there are any proposed changes to the approved layout of the sidewalk cafe area, the licensee shall send the Licensing Division a copy of the proposed changes in writing and show those changes on a drawing that is to scale. Any proposed change must be approved by the Licensing Division prior to any layout change taking place.

e. final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

PS&RS - Your Committee recommends passage of the accompanying Resolution granting applications for Liquor, Wine and Beer Licenses.

Adopted 6/18/04.

Declining to Vote - Benson.

Absent - Samuels, Colvin Roy.

Resolution 2004R-272, granting applications for Liquor, Wine and Beer Licenses, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-272
By Niziolek

Granting Liquor, Wine and Beer Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for liquor, wine and beer licenses be granted:

On-Sale Liquor Class A with Sunday Sales, to expire May 21, 2004

Graves Hospitality Corp, dba Le Meridien Hotel, 601 1st Av N (temporary expansion of premises, May 21, 2004, 9:00 a.m. to 10:00 p.m.);

On-Sale Liquor Class A with Sunday Sales, to expire January 1, 2005

Grandma's of Mpls Inc, dba Grandma's Saloon & Deli, 1810 Washington Av S;

On-Sale Liquor Class A with Sunday Sales, to expire April 1, 2005

Yendor Corp, dba Augies, 424 Hennepin Av;

Skyway Lounge Inc, dba Skyway Lounge, 723 Hennepin Av;

Wellbridge Licensing Inc, dba Calhoun Beach Club, 2730 W Lake St;

Dixies Smokehouse Foods Inc, dba Dixies Calhoun, 2730 W Lake St;

On-Sale Liquor Class A with Sunday Sales, to expire July 1, 2004

Screaming Triangle LLC, dba Minneapolis Eagle/Bolt, 515 Washington Av S (regular expansion of premises);

Screaming Triangle LLC, dba Minneapolis Eagle/Bolt, 515 Washington Av S (temporary expansion of premises with outdoor entertainment, June 25, 2004, 7:00 p.m. to 2:00 a.m.; June 26, 2004, 7:00 p.m. to 2:00 a.m.; and June 27, 2004, 5:00 p.m. to 1:00 a.m.);

On-Sale Liquor Class A with Sunday Sales, to expire June 13, 2004

Boutique Bars Inc, dba Urban Wildlife, 331 2nd Av N (temporary expansion of premises with entertainment, June 13, 2004, 3:00 p.m. to 10:00 p.m.);

On-Sale Liquor Class B with Sunday Sales, to expire May 30, 2004

J W M Investments Inc, dba Mayslack's, 1418 4th St NE (temporary expansion of premises with outdoor entertainment, May 22, 2004, 11:30 a.m. to 10:30 p.m.; May 28, 29 & 30, 2004, 11:00 a.m. to 10:30 p.m.);

On-Sale Liquor Class B with Sunday Sales, to expire January 1, 2005

La Nouvelle Paris Inc, dba Soul City Supper Club, 1835 Nicollet Av (new shareholder/partner; new corporate officer);

On-Sale Liquor Class B with Sunday Sales, to expire January 1, 2005

Haze 3 Corp, dba Grumpy's Bar & Grill, 1107 Washington Av S;

On-Sale Liquor Class B with Sunday Sales, to expire April 1, 2005

D'Amico Cucina Inc, dba D'Amico Cucina, 100 6th St N;

Fourth Street Saloon Inc, dba 4th Street Saloon, 328 W Broadway;

Toonen Inc, dba Uptown Bar & Cafe, 3016 Hennepin Av;

On-Sale Liquor Class B with Sunday Sales, to expire October 1, 2004

Percic Enterprises Inc, dba Bridgewood, 3001 Broadway St NE (downgrade from Class A);

On-Sale Liquor Class C-1 with Sunday Sales, to expire October 1, 2004

Brit's Ltd, dba Brit's Pub & Eating Establishment, 1110 Nicollet Mall;

On-Sale Liquor Class E with Sunday Sales, to expire April 1, 2005

Marissa's Inc, dba El Mariachi Restaurant, 2750 Nicollet Av #185 (temporary expansion of premises with outdoor entertainment, May 8, 2004, 2:00 p.m. to 10:00 p.m.);

On-Sale Liquor Class E with Sunday Sales, to expire April 1, 2005

Haza Charters Inc, dba 19 Bar, 19 W 15th St;

Rainbow Chinese Restaurant Inc, dba Rainbow Chinese Restaurant, 2739 Nicollet Av;

Win-Vee Inc, dba Country Bar & Grill, 3006 Lyndale Av S;

Pomodoro Inc, dba Three Fish, 3070 Excelsior Blvd;

On-Sale Liquor Class E with Sunday Sales, to expire May 26, 2004

Restaurants Unlimited Inc, dba Palomino, 825 E Hennepin Av (temporary expansion of premises, May 26, 2004, 6:00 p.m. to 8:00 p.m. in upper atrium of LaSalle Plaza);

On-Sale Liquor Class E with Sunday Sales, to expire October 1, 2004

Chez Inc, dba Tracy's Saloon, 2205 E Franklin Av;

Temporary On-Sale Liquor

St. Stephens Human Services, dba St. Stephens Human Services, 2211 Clinton Av (May 26, 2004, 4:00 p.m. to 8:00 p.m. at Movement Arts Center, 2211 E Franklin Av; Licensed Facilitator: Pizza Luce Inc);

Minneapolis Downtown Council, dba Alive After 5, 81 S 9th St (June 1, 2, 3 & 4, 2004, 5:00 p.m. to 9:00 p.m. at Peavey Plaza);

Minneapolis Downtown Council, dba Alive After 5, 81 S 9th St (June 11, 2004, 5:00 p.m. to 10:00 p.m. at Peavey Plaza);

Minneapolis Downtown Council, dba Alive After 5, 81 S 9th St (June 14, 15, 16 & 17, 2004, 5:00 p.m. to 9:00 p.m. at Peavey Plaza);

Minneapolis Downtown Council, dba Alive After 5, 81 S 9th St (June 18, 2004, 5:00 p.m. to 9:00 p.m. at Peavey Plaza);

Minneapolis Downtown Council, dba Alive After 5, 81 S 9th St (June 21, 22, & 23, 2004, 5:00 p.m. to 9:00 p.m.; and June 24, 2004, Noon to 11:00 p.m. at Peavey Plaza);

GLBT Pride Twin Cities, dba GLBT Pride Twin Cities, 3947 Minnehaha Av (June 27, 2004, 5:00 p.m. to 11:30 p.m. at 315 Nicollet Mall);

Minneapolis Downtown Council, dba Alive After 5, 81 S 9th St (June 25 & 26, 2004, Noon to 11:00 p.m.; and June 27, 2004, Noon to 8:00 p.m. at Peavey Plaza);

On-Sale Wine Class A with Strong Beer, to expire April 1, 2005

Illusion Theater & School Inc, dba Illusion Theater, 528 Hennepin Av;

On-Sale Wine Class D with Strong Beer, to expire April 1, 2005

Ecua-Mex Inc, dba Angel's Pizza, 805 E 38th St;

Johnnie Entertainment LLC, dba Sportsmans Pub, 2124 Como Av SE;

Chatterbox Enterprises Inc, dba Chatterbox Pub, 2229 E 35th St;

El Norteno Market & Deli, dba El Norteno Market & Deli, 4000 E Lake St;

On-Sale Wine Class E with Strong Beer, to expire April 1, 2005

Clear Plate LLC, dba Corner Table, 4257 Nicollet Av (new business);

AIMM Restaurant Inc, dba The Art Institutes Intl Minnesota, 15 S 9th St;

Boughatsa Inc, dba Gardens of Salonica New Greek CA, 19 5th St NE;

Eagle Shores Hospitality Inc, dba Signature Café & Catering, 130 Warwick St SE;

Noodle Shop Company - Minnesota Inc, dba Noodles & Company, 233 Cedar Av S;

St. Paul Bagelry Inc, dba Pizza Nea, 306 E Hennepin Av;

Ruiz-Flores Pedro, dba Cafeteria Las Tapatias, 349 E Lake St;

Take One Enterprises Inc, dba Big Ten Restaurant & Bar, 606 Washington Av SE;

Pane Vino Dolce Inc, dba Pane Vino Dolce, 819 W 50th St;

Natraj Enterprises LLC, dba Natraj India Kitchen, 1123 W Lake St;

Yellow Lantern LLC, dba The Steak Knife, 1327 4th St SE;

Hop Lee Inc, dba Peking Garden Restaurant, 2324 University Av SE;

Sabor Latino Inc, dba Sabor Latino Restaurant, 2505 Central Av NE;

True Thai Restaurant Ltd, dba True Thai Restaurant, 2627 E Franklin Av;

Cafe Twenty Eight LLC, dba Cafe Twenty Eight, 2724 W 43rd St;

Lotus Restaurant Inc, dba Lotus Restaurant Uptown, 3037 Hennepin Av;

Little Tel-Aviv Inc, dba Little Tel Aviv, 3238 W Lake St;

Birchwood Cafe Inc, dba Birchwood Cafe, 3311 E 25th St;

RAS Brothers Corporation, dba Lake Street Garage, 3508 E Lake St;

American Groovo LLC, dba Bakery on Grand, 3804 Grand Av S;

Great Wall Incorporated, dba Great Wall Chinese Restaurant, 4515 France Av S;

The Turtle Bread Company, dba Restaurant Levain-Pizza Biga, 4762 Chicago Av;

Atrium Restaurant Group Corp, dba Arezzo, 5057 France Av S;

Pomodoro Inc, dba Prima Pasta Salads Panini, 5325 Lyndale Av S;

Food Forward Inc, dba Cave Vin, 5555 Xerxes Av S;

Temporary On-Sale Wine

Minneapolis Downtown Council, dba Alive After 5, 81 S 9th St (with beer, June 7, 8, 9 & 10, 2004, 5:00 p.m. to 9:00 p.m. at Peavey Plaza);

Off-Sale Beer, to expire April 1, 2005

Laurel B Enterprises Inc, dba House of Hanson, 433 14th Av SE;

On-Sale Beer Class E, to expire April 1, 2005

Lili-Nick, Inc, dba Tooties on Lowry, 2706 Lowry Av N;

Temporary On-Sale Beer

Minneapolis Downtown Council, dba Timberwolves Rally, 81 S 9th St (May 23, 2004, 4:30 p.m. to 7:30 p.m. at N 6th St between 1st & Hennepin Aves);

Minneapolis Downtown Council, dba Timberwolves Rally, 81 S 9th St (May 29, 2004, 4:00 p.m. to 7:30 p.m. at N 6th St between 1st & Hennepin Aves);

St. Hedwigs Festival Committee, dba St. Hedwigs Festival Committee, 123 29th Av NE (June 13, 2004, 11:00 a.m. to 5:00 p.m.);

St. Cyril & Methodous Catholic Church, dba Church Festival, 2847 Randolph St NE (June 27 and August 15, 2004, Noon to 5:00 p.m.).

Adopted 6/18/04.

Declining to Vote - Benson.

Absent - Samuels, Colvin Roy.

PS&RS - Your Committee recommends passage of the accompanying Resolution granting applications for Business Licenses.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-273, granting applications for Business Licenses, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-273

By Niziolek

Granting applications for Business Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for business licenses (including provisional licenses) as per list on file and of record in the Office of the City Clerk under date of June 18, 2004 be granted, subject to final inspection and compliance with all provisions of the applicable codes and ordinances (Petn No 269692):

Amusement Devices; Carnival; Car Wash; Laundry; Place of Entertainment; Caterers; Confectionery; Food Distributor; Farm Produce Permit Nonprofit; Grocery; Food Manufacturer; Mobile Food Vendor; Restaurant; Food Shelf; Short-Term Food Permit; Seasonal Short Term Food; Sidewalk Cafe; Vending Machine; Gasfitter Class A; Heating, Air Conditioning & Ventilating Class A; Lodging House; Motor Vehicle Immobilization Service; Motor Vehicle Dealer - New & Used; Motor Vehicle Repair Garage; Commercial Parking Lot Class A; Towing Class B; Oil Burner Installed; Peddler - Special Religious; Pet Shop; Plumber; Recycling/Salvage Yard; Refrigeration Systems Installer; Residential Specialty Contractor; Secondhand Goods Class B; Solicitor - Company; Solicitor - Individual; Solid Waste Hauler; Steam & Hot Water Systems Installer; Swimming Pool - Public; Tattooist/Body Piercer; Tattooist/Body Piercer Establishment; Taxicab Vehicle; Combined Trades; Tobacco Dealer; Tree Servicing.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

PS&RS - Your Committee recommends passage of the accompanying Resolution granting applications for Gambling Licenses.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-274, granting applications for Gambling Licenses, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-274

By Niziolek

Granting applications for Gambling Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for gambling licenses be granted, subject to final inspection and compliance with all provisions of the applicable codes and ordinances:

Gambling Lawful Exempt

Church of St. Anthony of Padua, dba Church of St. Anthony of Padua, 804 2nd St NE (Bingo, raffle, paddlewheel, pulltabs & tipboards August 1, 2004);

Childrens Cancer Research Fund, dba Childrens Cancer Research Fund, 4930 W 77th St (Raffle August 6, 2004 at Marshall Fields, 700 Nicollet Mall);

Church of the Ascension, dba Church of the Ascension, 1723 Bryant Av N (Bingo, raffle & pulltabs September 18, 2004).

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

The **PUBLIC SAFETY & REGULATORY SERVICES** and **WAYS & MEANS/BUDGET** Committees submitted the following reports:

PS&RS & W&M/Budget - Your Committee recommends that the proper City Officers be authorized to accept donated exercise equipment for the Police Department's new Third Precinct exercise/workout room, valued at \$34,014, from Lifetime Fitness, Iron Grip Barbell Company, Infinity Systems, Cybex, and Nautilus.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

PS&RS & W&M/Budget - Your Committee recommends that the Police Department's non-sworn personnel be increased by 1.0 Full-Time Equivalent (FTE) position to provide a civilian position working toward the development, marketing and directing of the Department's intellectual properties initiatives (Automated Pawn System and BERTHA timekeeping system). Further, passage of the accompanying Resolution appropriating \$75,000 to the Police Special Revenue Fund.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

RESOLUTION 2004R-275

By Niziolek and Johnson

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Police Department Agency in the Police Special Revenue Fund (210-400-C201) by \$75,000.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

The **TRANSPORTATION & PUBLIC WORKS** Committee submitted the following reports:

T&PW - Your Committee recommends that the proper City Officers be directed to execute a change order increasing the current contract with Rochon Corporation in the amount of \$49,161 for a revised

contract amount of \$3,562,158.40 to provide for unforeseen condition items and project enhancements at the Minneapolis Animal Care and Control Facility. No additional appropriation is required.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

T&PW - Your Committee recommends approval of the accompanying Resolution appointing a City of Minneapolis Elected Official, a City of Minneapolis technical staff member, and two Citizen Representatives to serve on the Minnehaha Creek Watershed District's Visioning Partnership.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-276 appointing representatives to the Minnehaha Creek Watershed District's (MCWD) Visioning Partnership was passed on 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-276
By Colvin Roy

To appoint representatives to the Minnehaha Creek Watershed District's Visioning Partnership.

Whereas, the Minnehaha Creek Watershed District (MCWD), in order to address water quantity and quality issues within the watershed, is embarking upon a process for input on the development of the Minnehaha Creek Watershed District 509 Plan Revisions and the long term management plan of the Creek; and

Whereas, the Minnehaha Creek Watershed District is seeking partners in this process that are expected to include Minnehaha Creek Watershed District cities, Hennepin County, Minneapolis Park and Recreation Board, and the MCWD;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the following elected official, City staff, and citizens be appointed to represent the City of Minneapolis during the Minnehaha Creek Watershed District's Visioning Partnership:

Council Member Scott Benson	City Elected Official
Patrick Wrase or his designee	Minneapolis Technical Staff
David Oltmans 5831 Clinton Ave S (Ward 11)	Citizen Representative
Jim Thill 2 3rd Ave SE (Ward 12)	Citizen Representative

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

The **TRANSPORTATION & PUBLIC WORKS** and **WAYS & MEANS/BUDGET** Committees submitted the following reports:

T&PW & W&M/Budget - Your Committee recommends reallocation of \$228,372.44 of the remaining appropriation funds in the Roof Repair Project (Water 7400/950/9505/M7161070) to the Fridley Reservoir Rehabilitation Project (7400/950/9515/D5298040) to pay for expenses encountered during construction.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Approved by Mayor Rybak 6/18/04.

(Published 6/22/04)

T&PW & W&M/Budget - Your Committee recommends that the proper City officers be directed to execute an agreement with Qwest Corporation for the installation of telephone conduits under the new

Cedar Lake Parkway Bridge. Qwest Corporation will reimburse the City's contract construction cost related to the installation of the conduits in the amount of \$20,700.

Your Committee further recommends passage of the accompanying Resolution affirming funding the construction of the Cedar Lake Parkway Bridge in excess of State Bridge Bonds of \$381,685.66 (Fund 29). Any excess authorized State Bridge Bonds will be returned to the State.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-277 affirming funding of the Cedar Lake Parkway Bridge (S.P. 141-808-25) in excess of State Bridge Bonds was passed on 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-277
By Colvin Roy and Johnson

Affirming funding of the Cedar Lake Parkway Bridge (S.P. 141-080-25) in excess of State Bridge Bonds.

Whereas, the City of Minneapolis has applied to the Commissioner of Transportation for a Grant from the Minnesota State Transportation Fund (Fund 29) for the construction of Cedar Lake Parkway bridge (State Bridge No 27A70) over the Burlington Northern Santa Fe Railroad Track; and

Whereas, the amount of the grant has been determined to be \$381,685.66 in State Bridge Bonds by reason of the lowest responsible bid;

Now, Therefore, Be It Resolved by The City Council of The City Minneapolis:

That the City of Minneapolis does hereby affirm that the City will provide funds in excess of the State Bridge Bonds if required to complete the bridge project. Any excess authorized State Bridge Bonds will be returned to the State.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

T&PW & W&M/Budget - Your Committee, having under consideration the 15th Avenue SE Street Reconstruction Project, now recommends that \$288,000 in Municipal State Aid (MSA) funds be reallocated from the Central Avenue NE Project (T24) to the 15th Avenue SE Street Reconstruction Project (PV013). The reallocated funds are not needed for the Central Avenue NE Project and are required for items that have been added to the scope of the 15th Avenue SE Street Reconstruction Project.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

T&PW & W&M/Budget - Your Committee, having under consideration the Richfield Road Reconstruction Project, now recommends the passage of the accompanying Resolutions:

a) Closing out the 2002 Street Renovation Program, reallocating portions of the unused funding to the Richfield Road - Sheridan Ave S to W 36th St Project, and adjusting appropriations as necessary; and

b) Requesting the Board of Estimate and Taxation to redesignate bonding requests and bond proceeds from the 2002 Street Renovation Program to the Richfield Road - Sheridan Ave S to W 36th St Project in the amount of \$550,000 and \$29,423.87 respectively.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-278 amending the 2004 Capital Improvement Appropriation Resolution was passed on 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-278
By Colvin Roy and Johnson

Amending the 2004 Capital Improvement Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the 2002 Street Renovation Program be closed out by reducing the following capital appropriations: Public Works Paving Construction Capital (4100-937-9372 project 02REN) decreased by \$1,132,337.75, Public Works Traffic Field Operations Capital (4100-943-9440 project B1682) decreased by \$29,423.87 and Public Works Sewer Construction Capital (7300-932-9322 project 02REN) decreased by \$617,831.62.

Be It Further Resolved that the above-entitled resolution, as amended, be further amended by increasing the appropriations for the Richfield Road Project by the following amounts and funding sources:

- a) Public Works Paving Construction (4100-937-9372-PV016) by \$400,000 with a corresponding increase to the net debt bonds revenue source (4100-937-9372-3910) by \$400,000 to reflect redesignated bond requests from the 2002 Street Renovation Program.
- b) Public Works Traffic Field Operations Capital (4100-943-9440-PV016) by \$150,000 with a corresponding increase to the net debt bonds revenue source (4100-943-9440-3910) by \$150,000 to reflect redesignated bond requests from the 2002 Street Renovation Program.
- c) Public Works Traffic Field Operations Capital (4100-943-9440-PV016) by \$29,423.87 with a corresponding increase to the net debt bonds revenue source (4100-943-9440-3910) by \$29,423.87 to reflect redesignated bond proceeds from the 2002 Street Renovation Program.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-279 requesting that the Board of Estimate and Taxation redesignate a portion of the bonds authorized for the 2002 Street Renovation Program to the Richfield Road Project was passed on 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-279
By Colvin Roy and Johnson

Requesting that the Board Of Estimate and Taxation redesignate a portion of the bonds authorized for the 2002 Street Renovation Program (T03) to the Richfield Road – Sheridan Ave S to W 36th St. Project.

Resolved by The City Council of The City of Minneapolis:

That the Engineering Services Division of the City of Minneapolis hereby requests that net debt bond allocations in the amount of \$550,000 be redesignated from the 2002 Street Renovation Program to the Richfield Road – Sheridan Ave S to W 36th St Project and that the balance of the 2002 Street Renovation bonding requests of \$950,000 be formally abandoned.

Be It Further Resolved that the Engineering Services Division of the City of Minneapolis hereby requests that unused net debt bond proceeds in the amount of \$29,423.87 be redesignated from the 2002 Street Renovation Program (Traffic portion B1682) to the Richfield Road – Sheridan Ave S to W 36th St Project. (Traffic portion PV016).

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

T&PW & W&M/Budget - Your Committee recommends passage of the accompanying Resolution approving the bids submitted to the Public Works Department, in accordance with City specifications. (Petr. No. 269698)

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-280 granting approval of the bids to furnish rental of skid steer loaders with operator was passed on 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2004R-280
By Colvin Roy and Johnson**

Granting approval of the bids for projects and/or services for the City of Minneapolis.

Resolved by The City Council of The City of Minneapolis:

That the following be accepted and that the proper City officers be authorized to execute contracts for the projects and/or services in accordance with City specifications and contingent upon approval of the Civil Rights Department. (Petr. No. 269698)

OP # 6256, Accept low responsive bids as indicated below, to furnish rental of skid steer loaders with operator for a total estimated expenditure of \$199,600.00 as needed and called for through December 31, 2004:

Hugstad-Vaa Contracting	per hour rate	\$35.00
Robert Innes, Jr.	per hour rate	\$35.00
Scott Innes	per hour rate	\$35.75
Ron L. Gunderson Concrete	per hour rate	\$44.75

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

T&PW & W&M/Budget - Your Committee recommends passage of the accompanying Resolution designating the improvement of the alleys in the 2004 Alley Resurfacing Program, Special Improvement of Existing Alleys No. FS04#1.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Resolution 2004R-281 designating the improvement of 10 alleys in the City under the 2004 Alley Resurfacing Program was passed on 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2004R-281
By Colvin Roy and Johnson**

**2004 Alley Resurfacing Program
Special Improvement of Existing Alleys No. FS04#1**

Designating the improvement of the 2004 Alley Resurfacing Program (10 alleys located throughout the City of Minneapolis).

Resolved by The City Council of The City of Minneapolis:

That the following existing alleys within the City of Minneapolis are hereby designated to be improved, pursuant to the provisions of Chapter 10, Section 6 of the Minneapolis City Charter, by overlaying with bituminous material and including other related improvements and work as needed:

1. 33rd Ave. to 34th Ave. NE between Central Ave and Tyler St NE
2. 33rd Ave. to 34th Ave. NE between Tyler St and Polk St. NE
3. Franklin Ave. to 22nd Ave S between Harriet Ave & Grand Ave S
4. East 25th St south to Dead End between Clinton Ave & 4th Ave S
5. Oliver Ave to Penn Ave N between 33rd Ave & 34th Ave N
6. Oliver Ave to Penn Ave N between 42nd Ave & 43rd Ave N
7. 13th Ave to 14th Ave S between E 31st St & Powderhorn Terrace
8. 40th Ave to 41st Ave S between E 33rd St & E 34th St
9. 27th Ave S to 28th Ave S between E 40th St & E 41st St
10. Long View Terrace between High View Pl & Gladstone Ave

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

T&PW & W&M/Budget - Your Committee, having received a cost estimate of \$165,000 for alley resurfacing improvements and a list of benefited properties for the 2004 Alley Resurfacing Program (Petn No 269698), Special Improvement of Existing Alleys No FSO4#1, as designated by Resolution 2004R-281 passed June 18, 2004, now recommends that the City Clerk be directed to give notice of a public hearing to be held by the Transportation and Public Works Committee on July 27, 2004, in accordance with Chapter 10, Section 6 of the Minneapolis City Charter and Section 24.180 of the Minneapolis Code of Ordinances, to consider approving the construction of the above designated alley resurfacing project.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

T&PW & W&M/Budget - Your Committee, having under consideration the Parking Fund Financial Workout Plan (Petn No 269698), now recommends:

T&PW - that the accompanying Resolution approving strategies to resolve the deficits within the Parking Fund be sent forward without recommendation;

W&M/Budget - passage of the accompanying Resolution approving strategies to resolve the deficits within the Parking Fund and providing additional staff direction for implementing the Workout Plan.

Lilligren moved to amend the report to approve the Ways & Means/Budget recommendation and to delete the Transportation & Public Works recommendation.

Seconded.

Adopted by unanimous consent.

The report, as amended, lost (7 affirmative votes required). Yeas, 6; Nays 4 as follows:

Yeas - Zimmermann, Schiff, Zerby, Lilligren, Johnson, Ostrow.

Nays - Niziolek, Benson, Goodman, Lane.

Schiff moved to reconsider the vote on the above report. Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted 6/18/04. Yeas, 8; Nays, 3 as follows:

Yeas - Zimmermann, Zerby, Lilligren, Johnson Lee, Benson, Goodman, Johnson, Ostrow.

Nays - Schiff, Niziolek, Lane.

Absent - Samuels, Colvin Roy.

Resolution 2004R-282 approving a financial workout plan to improve the financial condition of the Parking Fund and providing additional staff direction for implementing the plan was passed on 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-282

By Johnson

Approving a financial workout plan to improve the financial condition of the Parking Fund and providing additional staff direction for implementing the Workout Plan.

Resolved by The City Council of The City of Minneapolis:

That the following short-term and long-term strategies are approved to resolve the deficits within the Parking Fund (as further detailed in Petn No 269698):

1) Public Works Parking Initiatives

a) Approve the parking initiatives in the workout plan developed by Public Works from their annual business plan. The initiatives are detailed in the attached report;

b) Direct the Public Works and Finance Department to prepare a 2005—2009 Capital Budget Request and financing plan that addresses the Parking Fund's need for a Major Repair and Replacement program;

c) Add a new Workout Plan parking initiative regarding the Sale of Parking Ramps. Public Works, Finance and CPED have begun and will continue to evaluate the possible sale of off-street parking ramp(s) and recommend sale of ramps if the result improves the long-term financial condition of fund and meets the City's transportation needs; and

d) Add a new Workout Plan parking initiative regarding Traffic Control Revenue and Expenses. Public Works, Finance and Regulatory Services will develop recommendations on the Traffic Control revenue and expenses impacting the Parking Fund.

2) Parking Fund Debt

Increase the amount of variable rate debt to 20% of the Parking fund's total debt. (This will take advantage of current market conditions and allow long-term debt structure to fit within estimated cash flows. City Council approved the current restructuring on April 30, 2004. No additional Council action needed in 2004.)

3) General Fund Transfer

a) Reduce the planned current and future transfers from the Parking Fund to the General Fund. Any reduction from the current level of transfer (2004 transfer is planned to be \$9.8 million) is temporary until the Parking Fund cash balance returns to positive financial performance. Reductions in the transfer may take the following forms:

i) One-time reductions in the transfer if the General Fund's financial performance is positive and there are no adverse credit rating implications in the opinion of the Finance Officer. (The City Council has adopted a policy to use General Fund balance in excess of the Council's minimum (10% of General Fund Revenues) to reduce deficits in the Internal Service Funds. The estimated reduction in 2004 is \$5-6 million. The Finance Officer will recommend a specific amount when the final 2003 financial results are known); and

ii) Planned reductions in the transfer according to the City's adopted 5-year financial direction. The workout plan recommends a planned reduction from 2005 to 2009.

4) Monitoring and Benchmarking

The above items do not completely resolve the problem. Public Works and Finance believe a turnaround in the economy and subsequent increase in employment, office occupancy and higher use in the City's parking facilities can fill the gap in the workout plan. Therefore, Public Works and Finance will regularly monitor the financial performance of the Parking Fund and meet with other city departments about taking further steps to improve the financial condition of the fund. Regular updates and further recommendations to the workout plan will be presented to the City Council when appropriate. Those potential future steps, in order of priority, are listed below:

- a) Convention Center Sales Tax Transfers;
- b) Target Center Entertainment Tax Transfers; and
- c) Further General Fund Transfer Reductions.

Be It Further Resolved that the following directions to staff be approved:

- 1) Staff are directed to set annual financial goals for each Technology-Based Initiative and each Staffing-Based Initiative in the plan from 2004 through 2010;
- 2) The annual financial goals must establish annual progress toward meeting the “cumulative financial impact” indicated in the workout plan for each initiative. The goals shall be established and adopted through the budget process for the 2005 budget; and
- 3) Staff shall produce a “receive and file” quarterly report to Ways and Means/Budget and Transportation and Public Works committees on progress. The first quarterly report shall be due for the second quarter of 2005.

Adopted 6/18/04. Yeas, 8; Nays, 3 as follows:

Yeas - Zimmermann, Zerby, Lilligren, Johnson Lee, Benson, Goodman, Johnson, Ostrow.

Nays - Schiff, Niziolek, Lane.

Absent - Samuels, Colvin Roy.

The **WAYS & MEANS/BUDGET** Committee submitted the following reports:

W&M/Budget - Your Committee recommends that the City Attorney’s Office be authorized to issue a Request for Proposals seeking victim/witness liaison services.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

W&M/Budget - Your Committee recommends passage of the accompanying resolution approving legal settlements, as recommended by the City Attorney.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Resolution 2004R-283, approving legal settlements with Robert Hayhurst, Richard Weltzin, State Farm Insurance Company, Siegel et al and Johnson, Loni Ansel (Chicago-Lake Properties LLC, John Wolf Enterprises and Keith Anderson, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004R-283

By Johnson

Approving legal settlements.

Resolved by The City Council of The City of Minneapolis:

That the recommendation of the City Attorney to settle the following legal matters be approved and payments authorized as indicated:

- a) Robert Hayhurst, by payment of \$25,000 to Mr. Hayhurst and his attorney Michael K. Johnson;
- b) Richard Weltzin, by payment of \$30,000 to Mr. Weltzin and his attorney Paul Godlewski and payment of the subrogation claim of State Farm Insurance Company and its attorney, Nicole M. Kusterman in the amount of \$1000;
- c) Payment of \$10,000 for attorney’s fees to Mahoney & Emerson, Ltd Trust Account in the matter of *Siegel et.al. & Johnson v. City and MCDA*;
- d) Loni Ansel, Chicago-Lake Liquor Store, Inc., Chicago-Lake Properties, LLC and John Wolf Enterprises, Inc., by payment in the amount of \$100,000 to Rosen & Rosen LLC;
- e) Keith Anderson, by payment of \$1,826 to Mr. Anderson and his attorney, Mansfield, Tanick, Cohen P.A. for appellate costs in the matter of the appeal of the selection process for the position of Electrician.

Be It Further Resolved that the City Attorney is authorized to execute any documents necessary to effectuate the settlements.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

W&M/Budget - Your Committee recommends concurrence with the recommendation of the City Attorney that, based on the results of request for proposals process, the proper City officers be authorized to enter into a three-year legal agreement with each of the following firms to provide bond counsel services to the City, at a cost for each agreement not to exceed \$300,000:

Kennedy & Graven;
Briggs and Morgan;
Gray, Plant and Moody.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

W&M/Budget - Your Committee, having been informed that the Minneapolis Empowerment Zone (EZ) will participate in a nationwide collaborative lobbying effort to secure legislation changes governing use of EZ economic development incentives, now recommends that the proper City officers be authorized to accept \$3,500 from the Minneapolis Foundation to fund participation.

Your Committee further recommends passage of the accompanying resolution increasing the Community Planning and Economic Development (CPED) Department appropriation to reflect the receipt of said funds.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

RESOLUTION 2004-284
By Johnson

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the CPED Agency in the Grants - Other Fund (0600-890-8942) by \$3,500 and increasing the revenue source (0600-890-8942 - Source 3720) by \$3,500.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

W&M/Budget - Your Committee recommends that the proper City officers be authorized to amend the City's contract with Unisys (C-18881) to provide for additional managed services for a project to improve computer connectivity for the Solid Waste facility at 2710 Pacific St, at a cost of \$57,572.

Your Committee further recommends passage of the accompanying resolution increasing the Business Information Services Department appropriation to reflect the transfer of revenue from Solid Waste for said services.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

RESOLUTION 2004-285
By Johnson

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing appropriation for the Information and Technology Services Agency in the Intergovernmental Service Fund (6400-880-8870) by \$29,700, to reflect the transfer of Solid Waste and Recycling revenue (7700-664-66606A10) for services under the City's Unisys contract.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

W&M/Budget - Your Committee recommends that the proper City officers be authorized to execute the necessary documents to enroll the City in the State of Minnesota's Microsoft contract in order to allow the City to purchase Microsoft desktop products and support at a savings to the City. The period of enrollment shall be six years at an estimated annual cost of \$525,000 (\$3,150,000 total).

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.
Approved by Mayor Rybak 6/18/04.
(Published 6/22/04).

W&M/Budget - Your Committee, having under consideration the recommendations of the Human Resource Department regarding establishment of a MetroPass bus pass program for City employees, now recommends:

1. Adoption of the City of Minneapolis Voluntary Employees' MetroPass Program (as outlined in Petn No 269705);
2. That the proper City officers be authorized to enter into a two-year contract in an amount not to exceed \$176,640.00 (for 115 Metropasses) with MetroTransit and to establish the City of Minneapolis Voluntary Employees' Metropass Program for the period of August 1, 2004 through July 31, 2006;
3. That the proper City officers be authorized to discontinue the use of the Metro Transit TransitWorks! Stored Value Card program effective July 31, 2004;
4. Passage of the accompanying resolution increasing the 2004 appropriation and revenue estimate for the Self-Insurance Fund by \$37,000;
5. That the City Finance Officer be authorized to adjust expense appropriations in funds that have eligible riders in order for these funds to reimburse the Self-Insurance Fund; and
6. That the Human Resources and Finance Departments be directed to establish a reserve account in the Self-Insurance Fund that will account for any surplus or deficit in the program on an annual basis.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.
Approved by Mayor Rybak 6/18/04.
(Published 6/22/04)

RESOLUTION 2004-286
By Johnson

Amending The 2004 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:
That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the Health and Welfare Agency in the Self Insurance Fund (6900-129-1304) by \$37,000 and increasing the revenue source (6900-129-1304 - Source 3755/04) by \$37,000.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.
Approved by Mayor Rybak 6/18/04.
(Published 6/22/04)

The **ZONING & PLANNING** Committee submitted the following reports:

Z&P - Your Committee, to whom was referred an ordinance amending Title 21 of the Minneapolis Code of Ordinances relating to *Interim Ordinances*, adding a new Chapter 578, providing for a moratorium on the construction of new single-family dwellings, two-family dwellings, and multiple-family dwellings of three or four units in the area of North Minneapolis bounded by W Broadway Ave and the Mississippi River to the City limits, except housing being developed in conjunction with the Community Planning and

Economic Development Department, now recommends that said ordinance be given its second reading for amendment and passage.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Ordinance 2004-Or-071 amending Title 21 of the Minneapolis Code of Ordinances relating to *Interim Ordinances*, adding a new Chapter 578, providing for a moratorium on the construction of new single-family dwellings, two-family dwellings, and multiple-family dwellings of three or four units in the area of North Minneapolis bounded by W Broadway Ave and the Mississippi River to the City limits, except housing being developed in conjunction with the Community Planning and Economic Development Department, was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-071
By Johnson, Johnson Lee, Samuels and Schiff
Intro & 1st Reading: 4/30/04
Ref to: Z&P
2nd Reading: 6/18/04

Amending Title 21 of the Minneapolis Code of Ordinances relating to *Interim Ordinances* by adding a new Chapter 578, providing for a moratorium on the construction of new single-family dwellings, two-family dwellings, and multiple-family dwellings of three or four units in the area of North Minneapolis bounded by West Broadway Avenue and the Mississippi River to the City limits, except housing being developed in conjunction with the Community Planning and Economic Development Department.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 578 to read as follows:

CHAPTER 578. PROVIDING FOR A MORATORIUM ON THE CONSTRUCTION OF NEW SINGLE-FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, AND MULTIPLE-FAMILY DWELLINGS OF THREE OR FOUR UNITS IN THE AREA OF NORTH MINNEAPOLIS BOUNDED BY WEST BROADWAY AVENUE AND THE MISSISSIPPI RIVER TO THE CITY LIMITS, EXCEPT HOUSING BEING DEVELOPED IN CONJUNCTION WITH THE COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT.

578.10. Authority. Pursuant to Minnesota Statutes Section 462.355, Subd. 4, the city is authorized to establish interim ordinances to regulate, restrict or prohibit any use or development in all or a part of the city while the city or its planning department is conducting studies, or has authorized a study to be conducted, or has scheduled a hearing to consider adoption or amendment of the comprehensive plan or official zoning controls. In furtherance of this statutory authority, the city has enacted Chapter 529 of the zoning code which governs the establishment of interim ordinances. The city declares that this interim ordinance is established pursuant to the aforementioned statute and city ordinance.

578.20. Findings and purpose. The city council is concerned about the effects of the design of new single and two-family dwellings, and multiple-family dwellings of three and four units, especially in and near older neighborhoods with low and moderate priced housing. The city council is concerned that the design of some newly constructed housing in these neighborhoods is incompatible with the traditional design of surrounding properties and may detract from the desirability of these areas as places to live. The city council also is concerned that the design of some newly constructed housing in these neighborhoods may negatively affect neighborhood livability and discourage homeownership, maintenance and investment in surrounding properties.

The city council is interested in protecting the livability of the study area by preserving the existing character of its traditional residential neighborhoods. Approximately one-third of the city's total vacant

residential lots are located within the study area. Many of these lots are available for residential development at low cost. The city council is concerned about future residential development in the study area without additional design standards for single and two-family dwellings, and multiple-family dwellings of three and four units. The city council is concerned that further development without such design standards could negatively affect existing and future residential development and contribute to neighborhood instability.

As a result of the important land use and zoning issues cited above, the city, through its planning division, will conduct studies to consider possible amendments to the comprehensive plan or official zoning controls to address the issues of design standards for these residential uses. (Residential developments of five units or more are governed by the standards for conditional use permit and site plan review.) The city council finds that this interim ordinance should be adopted to protect the planning process and the public health, safety, aesthetics, economic viability and general welfare of the city.

578.30. Zoning study. The Residence Districts, Office Residence Districts, and Commercial Districts within the area of North Minneapolis bounded by West Broadway Avenue and the Mississippi River to the city limits, as shown on the attached map, is hereby declared to be an interim zoning study area with respect to the construction of any new single-family dwelling, two-family dwelling, or multiple-family dwelling of three or four units. The planning division of the Community Planning and Economic Development Department (CPED) is directed to commence a planning study of the effects of these uses and to propose such amendments to the comprehensive plan or zoning controls related to the design of these uses that the planning division deems advisable.

578.40. Restrictions. For a period of one year from the date of introduction of this ordinance on April 30, 2004, no zoning approval, building permit, license or other approval for the construction of any new single-family dwelling, two-family dwelling, or multiple-family dwelling of three or four units shall be granted for any property located within the zoning study area by any city department. For the purpose of this interim ordinance, construction includes moving a new structure onto a lot. These restrictions shall not apply to housing being developed in conjunction with CPED where design review has occurred, including housing receiving CPED development funding and CPED land sales. The city council specifically reserves the right to extend this ordinance for such additional periods as are necessary to complete the planning study as provided by state law.

578.50. Hardship. In cases of hardship, any person having a legal or equitable interest in land and aggrieved by the requirements of this interim ordinance may apply to the city council for a waiver of all or a portion of the applicable restrictions as provided in Chapter 529 of the zoning code. A waiver may be granted where the city council finds substantial hardship caused by the restrictions and finds that the waiver will not unduly affect the integrity of the planning process or the purposes for which the interim ordinance is enacted.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Z&P - Your Committee, having under consideration the appeal filed by Barbara Knox from the decision of the Board of Adjustment which denied an application for variance to allow for the construction of a detached garage not entirely located to the rear of a principal residential structure at 1507 – 3rd St NE, now recommends that said appeal be granted, and the variance approved.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Z&P - Your Committee, having under consideration the appeal filed by Ross Fefercorn from the decision of the Board of Adjustment upholding the Zoning Administrator's decision regarding a parking variance approved on November 24, 1999 for 1221 W Lake St, now recommends that said appeal be denied, and that the findings prepared by the Planning Department staff be adopted.

Schiff moved that the report be postponed. Seconded.

Adopted upon a voice vote on 6/18/04.

Z&P - Your Committee, having under consideration the appeal filed by Carol and Thomas Stuart from the decision of the Planning Commission denying an application for variance to increase the maximum

permitted floor area of an attached accessory garage from 676 square feet to 1,611 square feet for a new construction duplex with tuck-under garage at 4436 Thomas Ave S, in the R2B and Shoreland Overlay District, now recommends that the appeal be granted, and the variance be approved from 676 square feet to 936 square feet, as per their revised plan, subject to the condition that the applicants work with the Planning Department staff to undertake additional measures to redirect the runoff from the roof of the building and from the drive towards the pervious space on the property, away from the street where it is presently directed.

Your Committee further recommends that the Findings of Fact prepared by the City Attorney and on file in the Office of the City Clerk be made a part of this report by reference.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Z&P – Your Committee concurs in the recommendations of the Planning Commission relating to the applications of Velmeir Companies to develop property at 938 – 37th Ave NE, 3654 Tyler St NE, 3651, 3655 and 3665 Central Ave NE into a neighborhood pharmacy and general retail store with drive-through facility, and adopting the related findings prepared by the Planning Department, as follows:

a) Granting the petition to rezone properties at 3651 and 3655 Central Ave NE, 3654 Tyler St NE and 938 – 37th Ave NE from C1, OR1 and R1 to the C2 District, by passage of the accompanying ordinance amending the Zoning Code;

b) Approving the application (#1432) to vacate part of a 14 foot wide alley in Block 4, Hilo Park Addition, subject to retention of easement rights, by passage of the accompanying resolution.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Ordinance 2004-Or-072, amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to *Zoning Code: Zoning Districts and Maps Generally*, rezoning the properties at 3651 and 3655 Central Ave NE, 3654 Tyler St NE and 938 – 37th Ave NE to the C2 District, was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-072
By Schiff
1st & 2nd Readings: 6/18/04

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 521.30 of the above-entitled ordinance be amended by changing the zoning districts for the following parcels of land, pursuant to MS 462.357:

A. That part of Lots 1-5, Block 4, Hilo Park; Lot 6, Block 4, Hilo Park; Lots 27-29, Block 4, Hilo Park; Lots 30-33, Block 4, Hilo Park (3651 and 3655 Central Ave NE, 3654 Tyler St NE and 938 – 37th Ave NE – Plate 6) to the C2 District.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Resolution 2004R-287, vacating that part of the alley dedicated in Block 4, Hilo Park Addition to Minneapolis, lying 239.88 feet north of the westerly extension of the south line of Lot 6, in said block, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004-287

By Schiff

Vacating that part of the alley dedicated in Block 4, Hilo Park Addition to Minneapolis, lying 239.88 feet north of the westerly extension of the south line of Lot 6, in said block.

Resolved by The City Council of The City of Minneapolis:

That part of the alley dedicated in Block 4, Hilo Park Addition to Minneapolis lying 239.88 feet north of the westerly extension of the south line of Lot 6, in said block is hereby vacated except that such vacation shall not affect the existing easement right and authority of Xcel, Qwest, and CenterPoint Energy, their successors and assigns, to enter upon that portion of the aforescribed alley which is described in regard to each of said corporation(s) as follows, to wit:

As to Xcel, Qwest, and CenterPoint Energy: The easterly 10.00 feet of that part of a 40 foot wide north-south alley lying within Block 4, Hilo Park Addition;

to operate, maintain, repair, alter, inspect or remove its above-described utility facilities and said easement right and authority is hereby expressly reserved to each of the above-named corporations, and no other person or corporation shall have the right to fill, excavate, erect buildings or other structures, plant trees or perform any act which would interfere with or obstruct access to said alley upon or within the above-described areas without first obtaining the written approval of the corporation(s) having utility facilities located within the area involved authorizing them to do so.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Z&P – Your Committee concurs in the recommendation of the Planning Commission granting the petition of City-County Federal Credit Union (BZZ-1724) to rezone the properties at 3643-3651 Central Ave NE from C1 to the C2 District to permit a financial institution with drive-through, and adopting the related findings prepared by the Planning Department.

Your Committee further recommends passage of the accompanying ordinance amending the Zoning Code.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Ordinance 2004-Or-073, amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to *Zoning Code: Zoning Districts and Maps Generally*, rezoning the property at 3643-3651 Central Ave NE to the C2 District, was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-073

By Schiff

1st & 2nd Readings: 6/18/04

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 521.30 of the above-entitled ordinance be amended by changing the zoning district for the following parcel of land, pursuant to MS 462.357:

A. Lots 21-26, Block 4, Hilo Park (3643-3651 Central Av NE - Plate 6) to the C2 District.

Adopted 6/18/04.

Absent – Samuels, Colvin Roy.

Z&P – Your Committee concurs in the recommendations of the Planning Commission relating to the applications of Ryan Companies US, Inc to develop property at 826 and 1010 E Lake St, 2901 – 10th Ave S and 2843 Elliot Ave S into a planned commercial development, and adopting the related findings prepared by the Planning Department, as follows:

a) Granting the petition to rezone properties from I1 and C2 to the C3A District and eliminating the Industrial Living Overlay District, by passage of the accompanying ordinance amending the Zoning Code;

b) Approving an application to vacate (#1435) that part of the north-south alley, Block 4, as dedicated in the plat of Allen and Anderson's 2nd Addition to Minneapolis, lying northerly of the easterly extension of the south line of Lot 19, said Block 4, subject to retention of easement rights, by passage of the accompanying resolution.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Ordinance 2004-Or-074, amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to *Zoning Code: Zoning Districts and Maps Generally*, rezoning properties at 826 and 1010 E Lake St, 2901 – 10th Ave S and 2843 Elliot Ave S to the C3A District and eliminating the Industrial Living Overlay District, was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-074
By Schiff
1st & 2nd Readings: 6/18/04

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 521.30 of the above-entitled ordinance be amended by changing the zoning districts for the following parcels of land (826 and 1010 E Lake St, 2901 – 10th Ave S and 2843 Elliot Ave S – Plate 26) to the C3A District, pursuant to MS 462.357:

A. Lots 12 through 19, Block 2, Allan & Anderson's 2nd Addition to Minneapolis, including adjacent 1/2 of vacated alleys.

B. Lots 1 through 11 and Lots 20 to 28, Block 2, Allan & Anderson's 2nd Addition to Minneapolis, including adjacent 1/2 of vacated alleys.

C. Lots 1 through 28, Block 3, Allan & Anderson's 2nd Addition to Minneapolis, including adjacent 1/2 of vacated alley and that part of vacated 29th Street East lying east between the extensions across if of the east line of said Lot 1 and the west line of said Lot 28 and that part of the East 1/2 of vacated Elliot Avenue.

D. South 20 feet of Lot 8 and Lots 9 through 13, Block 4, Allen & Anderson's 2nd Addition and Lot 19 and 20 and the South 20 feet of Lot 21, Allen & Anderson's 2nd Addition, including vacated Elliot Avenue.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Resolution 2004R-288, vacating a portion of the North-South alley, as dedicated, in Block 4 of Allen and Anderson's Addition lying North of the Easterly extension of the South line of Lot 19 also that part of the alley conveyed to the City of Minneapolis by Sears, Roebuck & Co, was passed 6/18/04 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2004-288

By Schiff

Vacating a portion of the North-South alley, as dedicated, in Block 4 of Allen and Anderson's Addition lying North of the Easterly extension of the South line of Lot 19 also that part of the alley conveyed to the City of Minneapolis by Sears, Roebuck & Co.

Resolved by The City Council of The City of Minneapolis:

That part of the North-South alley, as dedicated, in Block 4 of Allen and Anderson's Addition lying North of the Easterly extension of the South line of Lot 19.

Also that part of the alley conveyed to the City of Minneapolis by Sears, Roebuck & Co. in Document 3760965 as follows: Beginning at a point on the Westerly line of Lot 21, Block 4, Allen and Anderson's Addition, nine feet Southerly of the Northwest corner of said Lot 21, thence East along a line distant nine feet from and parallel with the North line of said Lot 21 to the Easterly Line of said lot, thence south along the Easterly line of said lot a distance of 20 feet, thence West along a line 29 feet south of and parallel with the North line of said Lot 21 to the West line of said Lot 21, thence North along the West line of said Lot 21 to the point of beginning, and there terminating; and Beginning at the West line of the North-South alley in Block 4, said addition, where such line intersects with a line 29 feet Southerly of and parallel with the North line of said Lot 21, thence West along said parallel line a distance of 18 feet, thence Southeasterly to a point on the Westerly line of said North South alley 45 feet South from the point of beginning, thence North along said Westerly line to the point of beginning, and there terminating, subject to retention of an easement by Xcel Energy is hereby vacated except that such vacation shall not affect the existing authority of Xcel Energy, their successors and assigns, to enter upon that portion of the aforescribed utilities which is described in regard to each of said corporations as follows, to wit:

An easement in favor of Xcel Energy: That part of the North-South alley, as dedicated, in Block 4 of Allen and Anderson's Addition lying North of the Easterly extension of the South line of Lot 19.

Also that part of the alley conveyed to the City of Minneapolis by Sears, Roebuck & Co. in Document 3760965 as follows: Beginning at a point on the Westerly line of Lot 21, Block 4, Allen and Anderson's Addition, nine feet Southerly of the Northwest corner of said Lot 21, thence East along a line distant nine feet from and parallel with the North line of said Lot 21 to the Easterly Line of said lot, thence south along the Easterly line of said lot a distance of 20 feet, thence West along a line 29 feet south of and parallel with the North line of said Lot 21 to the West line of said Lot 21, thence North along the West line of said Lot 21 to the point of beginning, and there terminating; and

Beginning at the West line of the North-South alley in Block 4, said addition, where such line intersects with a line 29 feet Southerly of and parallel with the North line of said Lot 21, thence West along said parallel line a distance of 18 feet, thence Southeasterly to a point on the Westerly line of said North South alley 45 feet South from the point of beginning, thence North along said Westerly line to the point of beginning, and there terminating, to operate, maintain, repair, alter, inspect or remove its above-described utility facilities and said easement right and authority is hereby expressly reserved to each of the above-named corporations, and no other person or corporation shall have the right to fill, excavate, erect buildings or other structures, plant trees or perform any act which would interfere with or obstruct access to said public alley upon or within the above-described areas without first obtaining the written approval of the corporation(s) having utility facilities located within the area involved authorizing them to do so.

Adopted 6/18/04.

Declining to vote – Zerby.

Absent – Samuels, Colvin Roy.

Z&P – Your Committee concurs in the recommendation of the Planning Commission in denying the petition of Pat Mulroy (BZZ-1699) to rezone the property at 3900-3920 Nicollet Ave S from R2B to the C4 District to permit a major automobile repair facility, and adopting the related findings prepared by the Planning Department.

Adopted 6/18/04.
Absent – Samuels, Colvin Roy.

MOTIONS

Johnson, Chair of the Ways & Means/Budget Committee, moved that the regular payrolls for all City employees under City Council jurisdiction for the month of July, 2004, be approved and ordered paid subject to audit by the Finance Officer. Seconded.

Adopted 6/18/04.
Absent - Samuels, Colvin Roy.

Niziolek introduced the subject matter of an ordinance amending Appendix J, of the Minneapolis Code of Ordinances relating to License Fees Schedule, which was given its first reading and referred to the Public Safety & Regulatory Services Committee (Increasing license fees by 3%).

UNFINISHED BUSINESS

Spincycle Coin Laundry (2937 Dupont Av S): Sent forward without recommendation application for Laundry License (Postponed 2/13/04, PS&RS)

By unanimous consent, the above report continued to be postponed.

NEW BUSINESS

Johnson Lee moved that unanimous consent be granted to introduce the subject matter of an Ordinance amending Title 16, Chapter 423 of the Minneapolis Code of Ordinances relating to *Planning and Development: Small and Underutilized Business Enterprise Program*, extending the expiration date of the Small and Underutilized Business Enterprise Program to December 31, 2005, for first reading.

Johnson Lee further moved that unanimous consent be granted that said ordinance be given its second reading for amendment and passage.

Seconded.

Unanimous consent was granted.
Adopted 6/18/04.
Absent - Samuels, Colvin Roy.

Ordinance 2004-Or-075 amending Title 16, Chapter 423 of the Minneapolis Code of Ordinances relating to *Planning and Development: Small and Underutilized Business Enterprise Program*, extending the expiration date of the Small and Underutilized Business Enterprise Program to December 31, 2005, was passed 6/18/04 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2004-Or-075 **By Johnson Lee**

Amending Title 16, Chapter 423 of the Minneapolis Code of Ordinances relating to Planning and Development: Small and Underutilized Business Enterprise Program.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 423.80 of the above-entitled ordinance be amended to read as follows:

423.80. Expiration of Chapter 423. This chapter of the Minneapolis Code of Ordinances, Chapter 423, shall expire and, absent other action by the city council based on a analysis of the continuing need for the Small and Underutilized Business Enterprise Program, the Small and Underutilized Business

Enterprise Program shall cease all operations five (5) years from the date this ordinance is officially enacted on December 31, 2005.

Adopted 6/18/04.

Absent - Samuels, Colvin Roy.

Niziolek introduced an Ordinance amending Title 12, Chapter 244 of the Minneapolis Code of Ordinances relating to *Housing: Maintenance Code*, amending Section 244.190 relating to reinspection fees to coincide with State Statutes, Section 429.101, which was given its first reading and referred to the Public Safety & Regulatory Services Committee.

Lilligren moved to adjourn to Room 315 City Hall immediately following the Minneapolis Community Development Agency Board of Commissioners meeting to consider the following lawsuits:

- a) Polley vs. Hobbs and Meili; and
- b) Kellington vs. City of Minneapolis.

Seconded.

Adopted upon a voice vote.

Room 315 City Hall

Minneapolis, Minnesota

June 18, 2004 - 12:25 p.m.

The Council met pursuant to adjournment.

President Ostrow in the Chair.

Present - Johnson, Zimmermann, Schiff, Zerby, Lilligren (Out at 1:06; In at 1:11), Johnson Lee (Out at 1:26), Niziolek, Goodman, Lane (Out at 12:48; In at 12:55), Ostrow.

Absent - Benson, Samuels, Colvin Roy.

Ginder stated that the meeting may be closed, upon a proper motion, for the purpose of discussing attorney-client privileged matters involving the following lawsuits:

- a) Polley vs. Hobbs and Meili; and
- b) Kellington vs. City of Minneapolis.

At 12:26 p.m., Lilligren moved that the meeting be closed. Seconded.

Adopted upon a voice vote.

LaFevre summarized the *Kellington vs. City of Minneapolis* lawsuit from 12:26 p.m. to 12:55 p.m.

Also present - Peter Ginder, Acting Deputy City Attorney; John M. LaFevre, Jr., Kennedy & Graven, Outside Counsel; Lucy Gerold, Deputy Police Chief; Peter Wagenius, Steven Ristuben, Assistant City Clerk; Jan Hrnrcir, City Clerk's Office.

Ginder summarized the *Polley vs. Hobbs and Meili* lawsuit from 12:55 p.m. to 1:31 p.m.

Also present - Peter Ginder, Acting Deputy City Attorney; Lucy Gerold, Deputy Police Chief; Peter Wagenius, Steven Ristuben, Assistant City Clerk; Jan Hrnrcir, City Clerk's Office.

Lilligren moved that the meeting be opened. Seconded.

Adopted upon a voice vote.

Zimmermann moved to approve settlement in the matter of Polley vs. Meili & Hobbs, Civil No. 03-3518 (RHK/JSM) by the payment of \$995,000.00 to Michael Polley and his attorney, Robert Bennett, and that the City Attorney's office be authorized to execute any documents necessary to effectuate this settlement. Seconded.

Adopted 6/18/04. Yeas, 7; Nays, 2 as follows:

Yeas - Zimmermann, Schiff, Zerby, Lilligren, Lane, Johnson, Ostrow.

Nays - Niziolek, Goodman.

Absent - Johnson Lee, Benson, Samuels, Colvin Roy.

JUNE 18, 2004

The adjourned session of the City Council meeting was tape recorded with the tape on file in the office of the City Clerk.

By unanimous consent, the meeting was adjourned.

Steven J. Ristuben,
Assistant City Clerk.

Unofficial Posting: 6/22/2004
Official Posting: 6/25/2004
Correction: 6/30/2004
7/08/2004
7/27/2004