

# Request for City Council Action

Date: September 19th, 2002

To: Council Member Lisa Goodman, Community Development Committee  
Refer To: MCDA Board of Commissioners

Prepared by Cherre' Palenius, Phone 612-673-5241

Approved by Chuck Lutz, MCDA Interim Executive Director \_\_\_\_\_

**Subject:** A Public Hearing and Request for Final Approval of up to \$20,000,000 of 501(c)(3) Tax Exempt Multi-family Housing Revenue Bonds for Seward Towers Corporation; Approval of MCDA Loan Restructuring.

**Previous Directives:** In April 1990, the City Council granted Bond approval to the Bor-Son Towers Project. In August 1990, the Council approved an enlargement of the Common Project Area to include the Project and reserved up to \$3,025,000 of Common Project Funds. In 1991 the City Council approved Housing Revenue Bonds issued through the Minneapolis Common Bond Fund. In May 1994, the Council approved a restructuring of existing MCDA mortgages. In May 1995, the MCDA Board of Commissioners approved an expenditure of \$100,000 from the CDBG Year 21 Stabilization Set Aside and authorized amending the existing repayment provisions.

**Ward:** Second

**Neighborhood Group Notification:** Seward Neighborhood Group was notified of this proposal on June 6, 2002 and August 20, 2002.

**Consistency with *Building a City That Works*:** Provide a diversity of housing choices within each community by providing financial assistance to help maintain and construct new rental housing opportunities.

**Comprehensive Plan Compliance:** Project will comply.

**Zoning Code Compliance:** Complies.

**Impact on MCDA Budget:** (Check those that apply)

- No financial impact
- Action requires an appropriation increase to the MCDA Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- XX** Other financial impact (Explain): Annual bond fees will be collected when the bonds are issued.

**Living Wage / Business Subsidy:** Not applicable.

**Job Linkage:** Not applicable.

**Affirmative Action Compliance:** Will comply.

**RECOMMENDATION:**

**City Council Recommendation:**

The Interim Executive Director recommends that the City Council adopt the attached resolution giving final approval of up to \$20,000,000 in 501(c)(3) tax-exempt Multi-family Housing Development Bonds for the East Franklin Tower and the South Ninth Tower project. Summary publication of the resolution is recommended.

**MCDA Board Recommendation:**

The Interim Executive Director recommends that the MCDA Board of Commissioners approve restructuring of the repayment terms of the MCDA Common Project loans for the East Franklin Tower and the South Ninth Tower project as follows:

- subordinate existing MCDA mortgages to the new bond debt;
- extend the term of existing MCDA mortgages to 2037;
- reduce the current interest rate of existing MCDA mortgages to the same interest rate of the new bond issue;
- amend and restate MCDA notes and establish new repayment terms for the new notes as permitted by HUD;
- authorize the Interim Executive Director or other appropriate official to execute the necessary documents.

**Dear Council Member Goodman:**

Historical Information:

Seward Towers (formerly Bor-Son Towers) is a 640-unit rental housing project, built in 1969 and 1970 respectively, located in two towers on separate sites in the Seward neighborhood. The East Franklin Tower (Seward Towers East) is located at 2910 East Franklin Avenue and the South Ninth Tower (Seward Towers West) is located at 2515 9<sup>th</sup> Street South, combined these towers contain 112 efficiency units, 416 one bedroom units and 112 two bedroom units. In 1990 Seward Housing Corporation (SHC) acquired these buildings to stabilize the properties and prevent the owner from prepaying the

221(d)(3) mortgage, which could have resulted in substantial rent increases for the tenants as well as the potential loss of Section 8 contracts. The City issued \$10,865,000 in HUD insured Housing Revenue Bonds and loaned \$2,610,000 in Common Project funds to Seward Towers project. As part of this financing package, HUD renewed the existing Section 8 contracts; provided funding for another 210 units of Section 8 authority for 5 years; and provided credit enhancement for the 501(c)(3) City Bonds.

In 1994 the project received stabilization funding from HUD, MHFA, FHF and MCDA, primarily for plumbing and siding replacement. The MHFA, FHF and MCDA loans have since been fully repaid. Also at that time the MCDA Common Project loans were restructured and amended.

#### Project Description:

The Seward Towers Corporation, a 501(c)(3) non-profit organization, based in Minneapolis, is the owner of the two 21-story, 320-unit apartment towers. Seward Redesign, Inc. is the Asset Manager for these two buildings. CommonBond Communities Minnesota, the Management Agent, is a 501(c)(3) non-profit organization, whose mission is to build communities by creating affordable housing as a stepping stone to success. Since 1990, the demographic profile of the residents has changed from approximately 75% seniors (over 62) to about 25% seniors. There are presently over 150 children in the buildings, which is a marked increase, and families from East Africa make up about 50% of the resident population. CommonBond provides services to the residents of both Towers such as career assistance, study buddies for youth, English language classes, computer labs, and other services on an individual basis.

Seward Towers Corporation (STC) is requesting \$20 million in Housing Revenue bonds to redeem and prepay the outstanding principal and accrued interest of the Series 1990 bonds at 7.55%. With the interest savings captured by restructuring these bonds, STC is proposing to establish a \$1.9 million capital improvement fund, which will be combined with existing reserves to pay for the following needed repairs: window replacement, parking ramp repairs, and balance the heating distribution, along with constructing a 8,000 square foot addition to each Tower. These additions will connect to the northeast corner of the East Franklin Tower building and the southeast corner of the South Ninth Tower building. The proposed additions will reduce the available parking spaces, (6-10) at each tower and take a small percentage, (4-6%) of the landscaped area. Historically the existing parking spaces for each tower have never been fully utilized. Currently there are 50 spaces at the East Franklin Tower and 83 spaces at the South Ninth Tower that are leased to outside organizations, with another 50 unused parking spaces at each tower. The current office and recreational space that CommonBond Communities has in both buildings is over-programmed. The proposed additions, named Advantage Centers, will provide additional space for children recreational activities and free up over-programmed community rooms allowing for more resident social interaction.

#### Financial Information:

On December 20, 1990 the City of Minneapolis issued HUD insured Multifamily Mortgage Revenue Bonds in the aggregate principal of \$10,865,000 to pay for the acquisition, construction and equipment of the Seward Towers. The City also authorized \$2,610,000 in Common Project funds assistance to Seward Towers at 7.55%, on a 40-year term, non-amortizing, with repayment to come from residual receipts. With this refinancing/refunding, STC is requesting the MCDA agree to the following terms:

- a). MCDA subordinate existing debts (\$4,103,770 with accrued interest) to the new first mortgage debt;
- b). the existing 7.55% interest rate be reduced to match the rate of the new bond issue;
- c). the term of the MCDA debts be extended to 2037;
- d). existing annual payments in the amount of \$86,000 remain the same and all accrued interest will remain payable;

In addition, the MCDA will receive additional annual payments of 50% of any surplus cash once there are sufficient replacement reserves (in excess of \$1 million), subject to HUD approval. HUD reserves the right to approve the release of any surplus cash on an annual basis.

**HRB Bond Financing:**

Seward Towers Corporation is requesting up to \$20,000,000 in tax-exempt housing development bonds for refinancing and construction expenses with this development. Payment of principal and interest on the bonds is guaranteed by GNMA Securities. The bonds will be privately placed and will carry a new 35-year term.

**Sources of Funds:**

Revenue Bonds	<u>\$20,000,000</u>
Total Sources	\$20,000,000

**Uses of Funds:**

Prepay Series 1990 Bonds & Repayment of HUD mortgage	\$13,000,000
Construction (includes contingency)	2,500,000
Fees (Architect, Title, Appraisal, etc.)	2,600,000
Capital Improvement Fund	<u>1,900,000</u>
	\$20,000,000

**HRB Entitlement**

The Bond issue is a 501(c)(3); therefore no Entitlement authority is needed.

**Bond Counsel** : Kennedy & Graven

**Underwriter** Wells Fargo Brokerage Services, LLC

Council Member Informed - Ward 2,

**Recommendation:**

**City Council recommendation:**

The Interim Executive Director recommends that the City Council adopt the attached resolution granting final approval of up to \$20,000,000 in 501(c)(3) tax exempt Multifamily Housing Development Bonds for the East Franklin Tower and South Ninth Tower project. Summary publication of the Resolution is recommended.

**MCDA Board Recommendation:**

The Interim Executive Director recommends that the MCDA Board of Commissioners approve restructuring of the repayment terms of the MCDA Common Project loans for the East Franklin Tower and the South Ninth Tower project as follows:

- subordinate existing MCDA mortgages to the new bond debt;
- extend the term of existing MCDA mortgages to 2037;
- reduce the current interest rate of existing MCDA mortgages to the same interest rate of the new bond issue;
- amend and restate MCDA notes and establish new repayment terms for the new notes as permitted by HUD.
- authorize the interim Executive Director or other appropriate official to execute the necessary documents.

This report was prepared by Cherre' Palenius. For further information, please call 612-673-5241.

**AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF ITS MULTIFAMILY HOUSING REVENUE BONDS (GNMA COLLATERALIZED MORTGAGE LOANS — SEWARD TOWERS PROJECT), SERIES 2002, PAYABLE SOLELY FROM REVENUES PLEDGED PURSUANT TO AN INDENTURE AND FINANCING AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE BONDS AND RELATED DOCUMENTS; PROVIDING FOR THE SECURITY, RIGHTS, AND REMEDIES WITH RESPECT TO THE BONDS; APPROVING THE FORM OF A HOUSING PROGRAM; AND ESTABLISHING COMPLIANCE WITH CERTAIN REIMBURSEMENT REGULATIONS UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; AND GRANTING APPROVAL FOR CERTAIN OTHER ACTIONS WITH RESPECT THERETO**

WHEREAS, the City of Minneapolis, Minnesota (the “City”), is a municipal corporation and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Minnesota; and

WHEREAS, pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Act”), the City is authorized to carry out the public purposes described in the Act by issuing revenue bonds to finance or refinance multifamily housing developments located within the City, and as a condition to the issuance of such revenue bonds, adopt a housing program providing the information required by Section 462C.03, subdivision 1a, of the Act; and

WHEREAS, in the issuance of the City’s revenue bonds and in the making of a loan to finance a multifamily housing development the City may exercise, within its corporate limits, any of the powers that the Minnesota Housing Finance Agency may exercise under Minnesota Statutes, Chapter 462A, as amended, without limitation under the provisions of Minnesota Statutes, Chapter 475, as amended; and

WHEREAS, Seward Towers Corporation, a Minnesota nonprofit corporation (the “Borrower”), has requested that the City issue its revenue bonds under the Act and lend the proceeds thereof to the Borrower to finance the following: (i) redemption and prepayment of the outstanding principal of the Series 1990 Bonds, as hereinafter defined; (ii) construction of an approximately 8,000 square foot addition to the East Franklin Tower, as hereinafter defined, and an approximately 8,000 square foot addition to the South Ninth Tower, as hereinafter defined, each addition which will house various community programs; (iii) construction of various capital improvements to the East Franklin Tower and the South Ninth Tower (collectively, (i)-(iii) shall

be referred to as the “Project”); and (iv) the payment of certain costs related to the issuance of the Bonds; and

WHEREAS, on December 20, 1990, the City issued its Multifamily Mortgage Revenue Bonds (GNMA Collateralized Mortgage Loans-Seward Towers Project), Series 1990 (the “Series 1990 Bonds”), in the original aggregate principal amount of \$10,865,000, and the proceeds of the Series 1990 Bonds were applied to finance the acquisition and equipping of (i) a 320-unit multifamily rental housing development located at 2910 East Franklin Avenue (the “East Franklin Tower”) in the City and (ii) a 320-unit multifamily rental housing development located at 2515 South Ninth Street (the “South Ninth Tower”) in the City; and

WHEREAS, the Project is designed and intended to be used primarily for rental to and occupancy by persons and families of low and moderate income; and

WHEREAS, the City has prepared a housing program (the “Housing Program” or “Program”), a copy of which is on file with the City, to authorize the issuance by the City of up to \$20,000,000 in revenue bonds to refinance and finance the acquisition, construction, and equipping by the Borrower of the Project; and

WHEREAS, the Housing Program was prepared and submitted to the Metropolitan Council for its review; and

WHEREAS, notice of public hearing (the “Public Notice”) was published in *Finance and Commerce*, the official newspaper and a newspaper of general circulation in the City, with respect to: (i) the required public hearing under Section 147(f) of the Code; (ii) the Housing Program; and (iii) approval of the issuance of the Bonds, as hereinafter defined; and

WHEREAS, the Public Notice was published at least fifteen (15) days before the regularly-scheduled meeting of the Community Development Committee of the City Council of the City and on September 19, 2002, the Community Development Committee of the City Council conducted a public hearing at which a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing, on (i) the Housing Program, (ii) the proposed issuance of the Bonds, and (iii) the location and nature of the Project; and

WHEREAS, the Borrower has requested that the City issue, sell and deliver its Multifamily Housing Revenue Bonds (GNMA Collateralized Mortgage Loans — Seward Towers Project), Series 2002 (the “Bonds”), in the original aggregate principal amount not to exceed \$20,000,000; and

WHEREAS, the proceeds derived from the sale of the Bonds to finance the Project will be loaned from the City to the Borrower pursuant to the terms of a loan agreement or financing agreement (the “Financing Agreement”), whereby the City will apply the proceeds derived from the sale of the Bonds to fund two loans (the “Mortgage Loans”) by the Lender to the Borrower, to be evidenced by promissory notes (the “Mortgage Notes”) of the Borrower, secured by mortgage liens (the “Mortgages”) on the Project and to be insured by the Federal Housing

Administration (“FHA”), and upon endorsement of the Mortgage Loans by the FHA, the Lender is to issue and deliver to the Trustee, as security for the Bonds, two securities (the “GNMA Securities”) issued by the Lender and guaranteed as to timely payment of principal and interest by the Government National Mortgage Association (“GNMA”); and

WHEREAS, the Bonds will be issued under an Indenture of Trust, (the “Indenture”), between the City and the trustee named therein (the “Trustee”), and the Bonds and the interest on the Bonds: (i) shall be payable solely from the revenues pledged therefor; (ii) shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City’s interest in the Project and the Financing Agreement; and (v) shall not constitute a general or moral obligation of the City; and

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

1. The City acknowledges, finds, determines, and declares that the issuance of the Bonds is authorized by the Act and is consistent with the purposes of the Act and that the issuance of the Bonds and the other actions of the City under the Indenture, the Financing Agreement, and this resolution constitute a public purpose and are in the best interests of the City. In authorizing the issuance of the Bonds for the financing of the Project and the related costs, the City’s purpose is and the effect thereof will be to promote the public welfare of the City and its residents by providing multifamily housing developments for low income residents of the City and otherwise furthering the purposes and policies of the Act.

2. The City understands that the Borrower will pay directly or through the City any and all costs (including attorneys’ fees) incurred by the City in connection with the Program, whether or not the Project is completed, and whether or not the Bonds are issued.

3. For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the Bonds in one or more series in the maximum aggregate principal amount not to exceed \$20,000,000. The Bonds shall bear interest at the rates, shall be designated, shall be numbered, shall be dated, shall mature, shall be subject to redemption prior to maturity, shall be in such form, and shall have such other terms, details, and provisions as are prescribed in the Indenture, in the form now on file with the City, with the amendments referenced herein. The City hereby authorizes the Bonds to be issued, in whole or in part, as “tax-exempt bonds” the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes.

All of the provisions of the Bonds, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Bonds shall be substantially in the forms in the Indenture on file with the City, which forms are hereby approved, with such necessary and appropriate variations, omissions and insertions (including changes to the aggregate principal amount of the Bonds, the stated maturities of the Bonds, the

interest rates on the Bonds, the terms of redemption of the Bonds, and variation from City policies regarding methods of offering conduit bonds) as the Mayor and the Finance Office (the “Mayor” and “Finance Officer”), in their discretion, shall determine. The execution of the Bonds with the manual or facsimile signatures of the Mayor and the Finance Officer and the delivery of the Bonds by the City shall be conclusive evidence of such determination.

4. The Bonds shall be special, limited obligations of the City payable solely from the revenues provided by the Borrower pursuant to the Financing Agreement, and other funds pledged pursuant to the Indenture. The City Council of the City hereby authorizes and directs the Mayor and Finance Officer to execute the Indenture, and to deliver the Indenture to said Trustee, and hereby authorizes and directs the execution of the Bonds in accordance with the terms of the Indenture, and hereby provides that the Indenture shall provide the terms and conditions, covenants, rights, obligations, duties and agreements of the owners of the Bonds, the City and the Trustee as set forth therein.

All of the provisions of the Indenture, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Indenture shall be substantially in the form on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions and insertions as do not materially change the substance thereof, and as the Mayor and Finance Officer, in their discretion, shall determine, and the execution thereof by the Mayor and Finance Officer shall be conclusive evidence of such determination.

5. The Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Financing Agreement and the Bond Purchase Agreement, between the City, Wells Fargo Brokerage Services, LLC (the “Underwriter”), and the Borrower (the “Bond Purchase Agreement”). All of the provisions of the Financing Agreement and Bond Purchase Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Financing Agreement and Bond Purchase Agreement shall be substantially in the forms on file with the City which are hereby approved, with such omissions and insertions as do not materially change the substance thereof, and as the Mayor and Finance Officer, in their discretion, shall determine, and the execution thereof by the Mayor and Finance Officer shall be conclusive evidence of such determination.

To ensure compliance with certain occupancy restrictions, the City (or the Minneapolis Community Development Agency) and the Borrower shall enter into a Regulatory Agreement (the “Regulatory Agreement”). All of the provisions of the Regulatory Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Regulatory Agreement shall be substantially in the form on file with the City which is hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the Mayor and the Finance Officer, in their discretion, shall determine, and the execution thereof by the Mayor and the Finance Officer shall be conclusive evidence of such determination.

6. The Housing Program, in the form on file with the City and as submitted to the Metropolitan Council, is hereby confirmed and approved.

7. The Bonds shall be special, limited revenue obligations of the City the proceeds of which shall be disbursed pursuant to the terms of the Indenture and the Financing Agreement, and the principal, premium, and interest on the Bonds shall be payable solely from the proceeds of the Bonds, the revenues derived from the Financing Agreement, and the other sources set forth in the Indenture.

8. The United States Department of the Treasury has promulgated Treasury Regulations, Section 1.150-2 (the "Regulation") governing the use of the proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City or a borrower from the City for project expenditures paid prior to the date of issuance of such bonds. The Regulation requires that the City adopt a statement of official intent to reimburse an original expenditure not later than sixty (60) days after payment of the original expenditure. The Regulation also generally requires that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within eighteen (18) months after the later of: (i) the date the expenditure is paid; or (ii) the date the project is placed in service or abandoned, but in no event more than three (3) years after the date the expenditure is paid. The Regulation generally permits reimbursement of capital expenditures and costs of issuance of the bonds.

The City expects that a portion of the costs of the Project will be expended prior to the date of issuance of the Bonds. The City reasonably expects to reimburse the Borrower for such expenditures from the proceeds of the Bonds after the date of issuance of the Bonds. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations and also qualifying expenditures under the Act.

Based on representations by the Borrower, other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under prior regulations pursuant to the transitional provision contained in Section 1.150-2(j)(2)(i)(B) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures with respect to the Project to be reimbursed from the proceeds of the Bonds have been made by the Borrower more than sixty (60) days before the date of adoption of this resolution.

Based on representations by the Borrower, as of the date hereof, there are no funds of the Borrower reserved, allocated on a long term-basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing or the expenditures related to the Project to be financed from proceeds of the Bonds, other than pursuant to the issuance of the Bonds. This resolution, therefore, is determined to be consistent with the budgetary and financial circumstances of the Borrower as they exist or are reasonably foreseeable on the date hereof.

9. The Trustee is hereby appointed as Paying Agent and Bond Registrar for the Bonds.

10. The Mayor and Finance Officer of the City are hereby authorized to execute and deliver, on behalf of the City, such other documents as are necessary or appropriate in connection with the issuance, sale, and delivery of the Bonds, including a City Tax Certificate, a Tax Exemption Agreement, an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, and all other documents and certificates as shall be necessary and appropriate in connection with the issuance, sale, and delivery of the Bonds. The City hereby approves the execution and delivery by the Trustee of the Indenture and all other instruments, certificates, and documents prepared in conjunction with the issuance of the Bonds that require execution by the Trustee. The City hereby authorizes Kennedy & Graven, Chartered, as bond counsel of the City, to prepare, execute, and deliver its approving legal opinions with respect to the Bonds.

11. The City has not participated in the preparation of the Preliminary Official Statement, the Official Statement or other offering material relating to the offer and sale of the Bonds (collectively, the "Official Statement"), and has made no independent investigation with respect to the information contained therein, including the appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy, or completeness of such information. Subject to the foregoing, the City hereby consents to the distribution and the use by the Underwriter in connection with the sale of the Bonds of the Official Statement, in the form on file with the City, and deems such Official Statement to be a "near final official statement" as of its date, as defined in Securities and Exchange Commission Rule 15c2-12. The Official Statement is the sole material consented to by the City for use in connection with the offer and sale of the Bonds. The City hereby approves the Continuing Disclosure Agreement (the "Continuing Disclosure Agreement"), between the Borrower and the Trustee, in the form now on file with the City, and hereby authorizes the Trustee to execute and deliver the Continuing Disclosure Agreement.

12. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the City or the City Council by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City Council, or such officers, board, body or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City Council of the City, or any officer, agent or employee of the City in that person's individual capacity, and neither the City Council of the City nor any officer or employee executing the Bonds shall be personally liable on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

No provision, covenant or agreement contained in the aforementioned documents, the Bonds, or in any other document relating to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to a general or moral obligation of the City or 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 Financing Agreement which are to be applied to the payment of the Bonds, as provided therein and in the Indenture, as provided therein.

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

14. In case any one or more of the provisions of this resolution, other than the provisions contained in the first sentence of Section 4 hereof, or of the aforementioned documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bonds, but this resolution, the aforementioned documents, and the Bonds shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

15. The Bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Bonds 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 Bonds, and to the execution of the aforementioned documents to happen, exist, and be performed precedent to the execution of the aforementioned documents have happened, exist, and have been performed as so required by law.

16. The officers of the City, bond counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Bonds for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Bonds, the aforementioned documents, and this resolution. In the event that for any reason the Mayor of the City is unable to carry out the execution of any of the documents or other acts provided herein, any other member of the City Council of the City shall be authorized to act in his capacity and undertake such execution or acts on behalf of the City with full force and effect, which execution or acts shall be valid and binding on the City. If for any reason the Finance Officer or City Clerk of the City is unable to execute and deliver the documents referred to in this Resolution, such documents may be executed by any member of the City Council or any officer of the City delegated the duties of the Finance Officer or City Clerk, with the same force and effect as if such documents were executed and delivered by the Finance Officer or City Clerk of the City.

17. The Borrower will pay the administrative fees of the City and pay, or, upon demand, reimburse the City for payment of, any and all costs incurred by the City in connection with the Project and the issuance of the Bonds, whether or not the Bonds are issued, including any costs for attorneys' fees.

18. This Resolution shall be in full force and effect from and after its approval and publication.

NR185-086 (JU)  
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