RESOLUTION OF THE
CITY OF MINNEAPOLIS
By _____

Resolution denying municipal approval of the April 16, 2004 Municipal Consent Package submitted by the Minnesota Department of Transportation pertaining to the reconstruction of Interstate I-35W from 66th Street to 42nd Street and Trunk Highway 62 from Penn Avenue to Portland Avenue, referred to as the "I-35W & HWY62 Crosstown Commons Reconstruction" Project:

Whereas, the Minnesota Department of Transportation submitted a Municipal Consent Package to the City of Minneapolis for approval on April 16, 2004 pertaining to the above-described "I-35W & Highway 62 Crosstown Commons Reconstruction" (the "project"), which Package included the layout for the proposed expansion dated April 16, 2004, which layout is on file with the City Engineer as S.P. 2782-281 (I35W/T.H.62) and a Municipal Consent Report, and attached the first section of the legislatively mandated Bus Rapid Transit (BRT) report, the Study Task I Report; and

Whereas the City Council held a public hearing pursuant to state statute on June 14, 2004 and now has the authority to approve or disapprove this project based on these submissions, public testimony, information contained in environmental review documents and comments and other evidence of record; and

Whereas, the proposed I-35W and TH62 project has evolved and changed over recent years, beginning with a "Preferred Alternative" for expansion of I-35W in 1995 that included Light Rail Transit, which failed due to lack of funding; then developing into a "Deferred Project" expanding I-35W from I-494 to 42nd Street in 1996, which was approved by the City Council (97R-109) on April 25, 1997 and was blocked by the Minnesota Legislature in 2001 due to concerns about capacity, extended closure of major movements and lack of transit planning; and then changing into the current proposal which was presented to the Legislature in January 28, 2002; and

Whereas, the Preferred Alternative for reconstruction of I-35W and TH62 was subject to an Environmental Impact Statement completed in 1995 and the Deferred Alternative was evaluated in a Final EIS Addendum in 1996; and

Whereas, the Minnesota Legislature, imposed a moratorium on the I-35W expansion and TH 62 "Deferred Project" in 2001 requiring that Mn/DOT limit construction to the right-of-way proposed for the prior project and include a transit component in the project (Minn. Sess. Laws 2001, Ch. 8, Art. 7, Sec. 2), and further required in the 2003 Special Session that Mn/DOT conduct a study on the feasibility of implementing a Bus Rapid Transit (BRT) system in the I-35W corridor including components such as exclusive right-of-way, accessible stations, traffic management on local streets and frequent bus operations, which study is not due to be completed until December 10, 2004 (Minn. Sess. Laws 2003, Ch.19, Art. 2, Sec. 71); and

Whereas, the City of Minneapolis unanimously adopted a Resolution on January 30, 2004 opposing any expansion or accommodation of future expansion of I-35W to more than four lanes in either direction at any point from downtown through Crosstown Trunk Highway 62, except in the case that a fifth lane in either or both directions would be dedicated to Bus Rapid Transit (BRT), or other mass transit, excluding all vehicles other than transit buses and high occupancy vehicles carrying three or more people (HOV 3) to the extent that HOV(3) vehicles do not reduce the speed of bus transit and that such dedication would be entered into a written agreement

between Mn/DOT and the City to effectively guarantee that the fifth lane will not be converted or modified to allow other uses without the agreement of the City of Minneapolis (Minneapolis Resolution 2004R-035); and

Whereas the Mayor of Minneapolis and a majority of the City Council Members sent a letter to Mn/DOT Commissioner Carol Molnau on April 15, 2004 expressing the City's interest in explicit dedication of any fifth lane of I-35W to BRT/HOV(3) use, the need for funding stations and other facilities and operations for transit on I-35W and concerns about the need for analysis of air quality impacts of the project, to which the Commissioner responded expressing shared interest in "dedicating additional capacity in the I-35W corridor to bus transit and HOV(3) use," noting that the Bus Rapid Transit study was yet incomplete and suggesting that additional discussions take place, and

Whereas Mn/DOT and the Federal Highway Administration (FHWA) prepared a Draft Environmental Assessment, to which the Minneapolis City Attorney responded with a letter expressing staff concerns about its adequacy, and prepared an Environmental Assessment for the Crosstown Commons dated June 24, 2004, to which the City of Minneapolis responded with Comments dated August 19, 2004 requesting an Environmental Impact Statement due to the inadequacy of the Environmental Assessment and further requesting mitigation of environmental harms caused by the project; and

Whereas Mn/DOT, in collaboration with community representatives developed standards for design of the I-35W and TH62 expansion project, as reflected in the April 2001 I-35W Corridor Aesthetic Design Guide ("Design Guide") and Hennepin County and the City of Minneapolis developed regional and city standards pertaining to I-35W design, as reflected in the November 2002 Mitigation and Enhancements I-35W Access Project report ("Access Project Report"); and

Whereas, Mn/DOT has elected to view the project as a continuing project for purposes of environmental review but to view the project as a "new" project for purposes of the municipal consent process, which procedural claims are inconsistent; and

Whereas the Minneapolis City Council has reviewed and considered appropriate factual, legal and other background materials and makes the following findings and determinations, based on the evidence of record to date:

1. Since the Minnesota Department of Transportation has claimed that the project is a continuing project for purposes of environmental review requiring only a "supplemental" environmental impact statement if there is a finding of significant impact, Mn/DOT should have submitted the project for review as a continuing project under the applicable municipal consent law which was in effect prior to 2001.

2. Under the applicable municipal consent law, this project is not ripe for approval, since Mn/DOT did not submit more than one alternative layout plan as required pursuant to Minn. Stat. 2000, Section 161.174 and has not provided a final plan in response to issues raised in the public hearing on June 14, 2004 as required under Minn. Stat. 2000, Section 161.17, Subd. 2(b).

3. The project, as it pertains to construction of sections of Trunk Highway 62 that will be physically separate from Interstate 35W, is a project for construction of a trunk highway that "is not an interstate highway" for the purposes of Minnesota Statutes, 2003, Sections 161.165, 161.166 and Minnesota Statutes 2000, Sections 161.17 and 161.172.

4. Even under the municipal consent law that Mn/DOT suggests be applied in this case, municipal consent would be premature since Mn./DOT has failed to provide a "final layout" as required by Minn. Stat. 161.162, Subd. 1, which requires as part of the "final layout"

"supplemental drawings" that show "character," "dimensions" "access" and "explanatory information" about the work being proposed and includes, among other elements in the "final layout," bridges, sidewalks, noise walls, estimated cost and transit considerations.

5. Granting municipal consent would be premature since the layout and municipal consent report submitted by Mn/DOT are incomplete in that they fail to address design, layout or funding for continuation of the fifth lane, the BRT/HOV(3) lane, through to Downtown.

6. Granting municipal consent would be premature since Mn/DOT and the FHWA have not completed an adequate analysis of the health and environmental justice impacts, including costs to individuals and taxpayers, of increased corridor vehicle traffic and air emissions, including mobile source air toxics and fine particle pollution, especially on people who live, worship or go to school near the expanding roadway.

7. Granting municipal consent would be premature since Mn/DOT, the FHWA and the City have not completed the analysis of the impacts of storm water runoff on receiving waters that are already classified as "impaired waters" and have not completed review of alternatives to mitigate flooding due to increased impermeable surface, particularly at the St. Mary's Tunnel, where flooding of I-35W and neighborhoods already occurs, even without additional runoff.

8. Granting municipal consent would be premature since the Bus Rapid Transit study required by the Legislature has not been completed and the proposed project may be inconsistent with or fail to fully consider its recommendations.

9. Granting municipal consent would be premature since the municipal consent report submitted by Mn/DOT is incomplete; it provides insufficient information to determine which mitigation and design elements are unfunded so that the level of budgetary impact on the City and other governmental entities cannot be reasonably estimated.

10. Even based on incomplete submission provided, the City of Minneapolis has determined that the project submission, including the proposed operating plan, is inconsistent with City policy and will create an unreasonable risk of impairing the health, safety and welfare of Minneapolis residents as set forth herein and in the documents attached and made part of this record.

11. The project is inconsistent with policy of the City as reflected in the City's January 30, 2004 resolution on Bus Rapid Transit (BRT) in that there is no provision for completion of the BRT station at 46th Street, no dedication of a lane exclusively for bus rapid transit and high occupancy vehicle use (BRT/HOV(3) lane), no continuation of a designated BRT/HOV(3) lane north of 50th Street and no provision for additional buses or increased transit service.

12. The project layout would appear to result in increased traffic and air emissions that will impair the health and welfare of Minneapolis residents, particularly those who live, go to school or worship adjacent to the expanded roadway, which impacts, including costs to individuals and taxpayers, are inadequately mitigated by providing transit facilities and operations.

13. The project layout would appear to result in congestion on I-35W (LOS E at 46th St, EA Table 14) due to the reduction from five to four lanes north of 46th Street (LOS E and F at 46th Street in 2030, EA Table 15), thus impairing the health, safety and welfare of Minneapolis residents.

14. The project layout would result in more than a 58-acre increase in impervious surface and additional storm water runoff that would appear to further impair water quality of receiving waters, including the Mississippi River and Diamond Lake which are already designated by the State as "impaired waters," requiring further mitigation to remove pollutants.

15. The project would appear to increase traffic on local streets, including 46th Street, Diamond Lake Road, 60th Street and Lyndale and to change local street traffic patterns throughout the corridor, but provides no analysis, plan or funding for traffic calming or traffic management on these local streets.

16. The project layout would appear to eliminate access from Lyndale Avenue to northbound I-35W and access from Portland to westbound Highway 62 and southbound I-35W, potentially impairing the vitality of Minneapolis neighborhoods.

17. The project layout would appear to maintain and create barriers to bicycle and pedestrian movement across I-35W, while not providing for sufficient sidewalk widths and shoulders to provide access and mitigate this impact.

18. The project layout appears to increase noise to levels that violate state standards adopted for the preservation of public health and welfare and to fall short of providing all reasonably available mitigation measures to abate noise as is required under state law.

19. The project layout is inconsistent with Hennepin County regional and City standards of design and mitigation reflected in the Design Guide and Access Project Report, including mitigation of traffic impacts on local streets, mitigation of impairments to pedestrian and bicycle access, mitigation of noise as well as aesthetic mitigation.

20. The project layout doesn't plan for or construct additional BRT stations that may be needed to provide full transit service to Minneapolis residents.

21. The project would appear to result in unnecessary takings of homes on 62nd Street between 3rd Avenue and 4th Avenue and the unnecessary taking of a business at 6150 Lyndale Avenue South, which takings are inconsistent with legislative requirements, pursuant to Minn. Sess. Laws 2001, Ch. 8, Art. 2, Sec. 1, Subd. 2(3).

NOW, THEREFORE, BE IT RESOLVED based on these findings the Minneapolis City Council disapproves the layout provided by Mn/DOT and denies municipal approval of the project to reconstruct Interstate 35W from 66th Street to 42nd Street and to reconstruct Trunk Highway 62 from Penn Avenue to Portland Avenue. The denial applies to both the interstate highway and trunk highway sections of the project. This project is identified as State Project 2782-281, Minnesota Project IM 0353(287) and referred to in the Municipal Consent Report submitted by the Minnesota Department of Transportation on April 16, 2004 as the "I-35W& HWY 62 Crosstown Commons Reconstruction" Project.

BE IT FURTHER RESOLVED that the City of Minneapolis, while reserving the right to assert procedural and environmental review objections, including but not limited to those set forth herein and making such request only in the alternative so as not to waive rights to object to the project and in furtherance of prior Council action, requests that the Minnesota Department of Transportation make the following modifications in the I-35W and Highway 62 project and design layout:

1. Design, obtain funding for and build I-35W highway improvements incorporating BRT/HOV(3) capital and operations including, but not limited to:

A. Bus Rapid Transit from Lakeville to downtown Minneapolis, additional capacity on I-35W in the form of a fifth BRT/HOV(3) lane in each direction up to the 94 Commons, and through the Crosstown and proposed Lake Street area "access improvements" as a combined single project, known as the I-35W Corridor

Improvement Project, whereby each of these elements is linked in concept, design, and construction.

B. Dedicating the fifth through lane in each direction described in the project layout for BRT/HOV(3) operation.

C. Agreeing that any future "through lane" capacity in the I-35W corridor north of 46th St. into downtown Minneapolis as well as the fifth lane described in paragraph B above, shall be reserved for BRT/HOV(3).

D. Designing the I-35W Corridor Improvement Project (fifth lane BRT/HOV(3) capacity through Downtown, BRT system capital and operational costs, Lake Street area access improvements, environmental and aesthetic mitigation) to involve the Access Project Advisory Committee, Hennepin County and the City of Minneapolis in any design activity beyond the 30 percent level and, in particular, context design review. Designate Hennepin County as the agency responsible for design of the context sensitive design elements outside of the main line freeway, including, but not limited to, the Lake Street bridge, 38th Street bridge, and the measures set forth in Access Project Report.

E. Immediately releasing the next $1 million of state design funds so that Mn/DOT can complete design activity related to elements of the Lake Street area access improvements.

F. Constructing the I-35W Corridor Improvement Project including highway improvements, BRT/HOV(3) lanes, access improvements, environmental and aesthetic mitigation and enhancements, and BRT system capital and operating costs including associated local bus service operations as a single project, with appropriate staging, so that highway improvements do not begin until the entire package is funded.

G. Constructing a BRT station at 46th Street and as many other stations in Minneapolis as are needed to provide full transit services to Minneapolis residents -- in no event fewer than two additional Minneapolis stations -- in coordination with the Metropolitan Council, such that all stations and the BRT lanes serving them will be fully functional when the corresponding I-35W roadway work is complete.

H. Including the I-35W Corridor Improvement Project in the Metropolitan Council "Transportation Policy Plan" (TPP) and the Minnesota Department of Transportation "Metro Transportation System Plan" (TSP) and in Mn/DOT's "State Transportation Improvement Plan" (STIP) and Mn/DOT's "10-Year Highway Work Plan."

I. Obtaining full funding for the I-35W Corridor Improvement Project that includes full costs for mitigation of environmental impacts and BRT/HOV(3) capital and operations, including:

a) Costs for transit service and capital improvements to achieve at least a 40 percent increase by 2015 (19,600 riders) and at least at doubling by 2020 (28,000 riders) of annual average transit ridership levels throughout the I-35W corridor and so as to achieve a minimum peak level of service of D throughout the I-35W Corridor Improvement Project.

b) Costs of transit infrastructure improvements – transit priority lanes, and transit stations and park/ride lots, including stations and adequate park-and-ride facilities consistent with the state-of-the-art requirements for a comparable corridor and transit facilities, eligible for state and federal highway funds.

c) Bus acquisition, passenger-waiting facilities and access to those facilities, which shall be included in the Metropolitan Council's 10-year capital improvement program.

d) Operating costs of enhanced transit services in the I-35W corridor, which shall be included in the Metropolitan Council's 10-year bus service expansion (2005-2014) cost estimates developed for the Transportation Policy Plan.

J. Committing to operate the new BRT/HOV(3) according to the following principles:

a) The additional fifth "through lane" capacity north of 46th St. and into downtown Minneapolis, combined with the proposed HOV capacity south of 46th St. to the terminus of existing HOV lanes in Burnsville, will be reserved for "priority transit/HOV(3)" use within the City of Minneapolis.

b) In determining operation of the new "priority transit/HOV(3)" capacity, first priority will be given to maintaining high quality service for bus transit operation, including, but not limited to, Bus Rapid Transit (BRT) service. This should result in the provision of enough transit capacity (a minimum of 160-180 buses or more as necessary to meet the performance goals set for herein) per hour traveling at posted speeds. Second priority will be given to accommodating HOV(3)'s without diminishing the quality of service for bus transit operation.

c) Future consideration of High Occupancy Toll ("HOT") Lane operation in the new "priority transit/HOV(3)" capacity shall only be considered to the extent authorized by State and Federal law, after FHWA approval, demonstration that such operation would not diminish speed or quality of bus transit or HOV(3) service and that all proceeds from HOT would be committed to Transit operations. The City opposes privatization of building or operation of HOT lanes, which creates a conflict of interest in promoting and providing proceeds for transit.

d) Operational details of the new "priority transit/HOV(3)" lanes will be determined through cooperative agreement with the Federal Highway Administration, the City of Minneapolis and Hennepin County. The agreement shall address and define, but not be limited to, the following issues: priority usage of the new "transit/HOV(3)" capacity (in accordance with principles outlined above); number of vehicle passengers defining an HOV in the corridor; quantitative parameters that describe "quality service" for bus

transit and HOV(3) operation; goals/targets for successful transit/HOV(3) use; types and locations of transit stations in corridor; and types and amount of transit "rolling stock" necessary to successfully operate the new transit service.

2. Specify BRT/HOV(3) capital and operational commitments as mitigative measures in a revised Environmental Assessment or Environmental Impact Statement document.

3. Develop in cooperation with City Public Works and community representatives and funding of a traffic management plan for local streets as part of project mitigation.

4. Study and construct, if requested by the City, of a turnback loop east of Portland to provide for lost connections to westbound Highway 62 and southbound I-35W.

5. Develop an alternative layout configuration to preserve homes on 62nd Street between 3rd and 4th Avenues and to permit redevelopment and preservation of the business at 6150 Lyndale Avenue South.

6. Design and fund as part of the project storm water treatment facilities to ensure access for maintenance of grit chambers, a maintenance agreement to assure efficacy, and disposal of material containing pollutants in coordination with City Public Works and Environmental Services and the NPDES process.

7. Develop and fund as part of the project a plan to further minimize negative water quality impacts through best management practices and regular monitoring, in coordination with City Public Works and Environmental Services.

8. Develop alternatives in cooperation with City Public Works and Environmental Services and fund as part of the project the means to eliminate flooding in the I-35W corridor, including possible reconstruction of St. Mary's Tunnel.

9. Revise the project layout to provide sidewalks of sufficient widths and on-street shoulders for bridges over and under I-35W, applying the Design Guide and Access Project Report standards for sidewalk widths and, where applicable, recommendations of the Bicycle Advisory Committee, including but not limited to the following:

- Diamond Lake Road Overpass: provide a 6' shoulder on each side for bicycle traffic;
- 60th Street Underpass: provide a 6' shoulder on each side for bicycle traffic
- Nicollet Avenue Underpass: provide a 6' shoulder on each side for bicycle traffic

10. Mitigate environmental and aesthetic impacts applying the standards in the Design Guide and Access Project Report with respect to noise walls and retaining walls, neighborhood gateways, bridges, landscaping, lighting, railings, paving and signage

11. Replace trees throughout corridor to prevent net loss in carbon sequestration as well as to meet the standards of the Design Guide.

12. Design and construct Minnehaha Creek Bridge to mitigate impacts on park land, noise, water quality and aesthetics in cooperation with Minneapolis Park and Recreation Board and community representatives.

13. Identify measures to mitigate traffic, water quality, flooding, noise and aesthetic impacts of the project described above as mitigation in a revised Environmental Assessment or Environmental Impact Statement document.

14. Design mitigation and enhancement measures, including consideration of the I-35W Corridor Aesthetic Design Guide and measures identified as mitigation in the Environmental Assessment, committing no less than $46 million (in 2004 dollars), to be fully funded and integrated in the project's costs.

15. The City expressly reserves the right to identify other needed modifications based upon the completion of the inadequate environmental review provided to date, completion of the BRT Study and other analysis yet to be completed by Mn/DOT and FHWA as described herein.