

**RESOLUTION 2009R-\_\_\_\_\_**  
**By Ostrow**

**Authorizing the sale and issuance of General Obligation Tax Increment Refunding Bonds, Series 2009B in the original aggregate principal amount of up to \$13,675,000; and providing the forms, terms, pledge of tax increment 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. The Development District and Tax Increment Districts.** The Minneapolis Community Development Agency (the “Agency”) and the City of Minneapolis (the “City”) established the South Nicollet Mall Development District, Development District No. 57 (the “Development District”), and developed the South Nicollet Mall Development Program to provide for the development and redevelopment of the Development District pursuant to Minnesota Statutes, Sections 469.124 - 469.134, as amended (the “Development District Act”). The Agency and the City also established Tax Increment Financing District No. 62 (“TIF District 62”) and Tax Increment Financing District No. 63 (“TIF District 63,” and collectively with TIF District 62, the “TIF Districts”) pursuant to the provisions of Minnesota Statutes, Section 469.174-469.1799, as amended (the “TIF Act”).

**1.02. Planned Development.** In order to provide for the redevelopment of the Development District and the TIF Districts, the Agency entered into a Contract for Private Redevelopment, dated April 24, 1997 with Ryan Properties (the “Developer”). The Agency entered into an Amended and Restated Contract for Private Redevelopment, dated December 28, 1998 (the “Redevelopment Contract”) with the Developer, which was subsequently amended by the First Amendment to the Amended and Restated Contract for Private Redevelopment, dated November 18, 1999. The Redevelopment Contract provided a phased redevelopment of the Development District. The first phase included a two-level retail center, additional retail shops along the Nicollet Mall frontage and skyway corridor, a below-grade municipal parking garage and related skyway connections and streetscape improvements. The second phase included an office building constructed above the public parking garage and retail center.

**1.03. The Finance Plan.** The initial finance plan, with respect to the estimated capital and administration costs and public redevelopment costs for the development and redevelopment of Block 34 in the Development District, also known as the “900 Block,” provided for the issuance by the City of the following obligations: (i) the Limited Revenue Tax Increment Note, Series 1999 (the “Note”), in the original aggregate principal amount of \$20,000,000, dated December 28, 1998; and (ii) the General Obligation Tax Increment Bonds, Series 1999A (the “Series 1999A Bonds”), in the original aggregate principal amount of \$27,000,000, issued on February 25, 1999. An amended finance plan provided for the issuance by the City of its Taxable General Obligation Tax increment Bonds, Series 2000D in the amount of \$15,000,000 (the “Series 2000D Bonds”) and its General Obligation Tax Increment Bonds, Series 2000E in the amount of \$46,225,000 (the “Series 2000E Bonds”). The proceeds derived from the sale of the Series 2000D Bonds and the Series 2000E Bonds were applied to: (i) the redemption and prepayment of a substantial portion of the Variable Rate Bonds; (ii) the redemption and prepayment of the Revenue Note; (iii) the payment of accrued and unpaid interest on the Variable Rate Bonds and the Revenue Note; (iv) the payment of remaining capital and

administration costs and public redevelopment costs for the development and redevelopment of Block 34 in the Development District; and (v) the payment of the costs of issuing the Series 2000D Bonds and the Series 2000E Bonds. In 2005, the City issued its General Obligation Various Purpose Refunding Bonds, Series 2005B in the original principal amount of \$30,290,000 and \$15,355,000 of this bond issue was used to advance refund the 2012 through 2021 maturities of the Series 2000E Bonds on March 1, 2009. The City now intends to refund the remaining Series 2000E Bonds.

**1.04. Transfer of Control to City.** Pursuant to Resolution No. 2003R-625, adopted by the City Council of the City on December 29, 2003, and Resolution No. 2003-2863M, adopted by the Board of Commissioners of the Agency on December 29, 2003, the duties of administering all programs, projects, and districts administered by the Agency, including the Development District and the TIF Districts were transferred to the City, effective January 1, 2004.

**1.05. Redemption of Series 2000E Bonds.** The Series 2000E Bonds maturing on or after March 1, 2010, are subject to redemption and prepayment, in whole or in part, on March 1, 2009, and on any date thereafter at a redemption price equal to the par amount of the Series 2000E Bonds to be redeemed and prepaid plus accrued interest to the date of redemption. To provide for the redemption and prepayment of all of the outstanding Series 2000E Bonds, the City is proposing to issue its General Obligation Tax Increment Refunding Bonds, Series 2009B (the "Bonds"), in an aggregate principal amount not to exceed \$13,675,000, and apply the net proceeds derived from the sale of the Bonds to the current refunding of the Series 2000E Bonds within ninety (90) days of the date of issuance of the Bonds. Payment of the principal of, premium, if any, and interest on the Bonds is expected to be paid from: (i) a portion of the net public parking revenues derived from the municipal parking garage constructed within the Development District; and (ii) tax increment revenues derived from certain parcels within the TIF Districts (collectively, the "Tax Increment Revenues"). Payment of the principal of, premium, if any, and interest on the Bonds will also be secured by the full faith and credit of the City and, to the extent necessary for this purpose, the City will levy taxes on all taxable property in the City without limitation as to rate or amount to pay the principal of, premium, if any, and interest on the Bonds when due.

**1.06. Authority.** The City is authorized to issue the Bonds to redeem and prepay the Series 2000E Bonds pursuant to the terms of the Municipal Debt Act and, in particular, Section 475.67 of the Municipal Debt Act. The City is authorized to apply the Tax Increment Revenues and other revenues to the payment of the Bonds under Section 469.178 of the TIF Act and the terms of the Municipal Debt Act. Pursuant to the terms of Minnesota Statutes, Section 475.58, subdivision 1, as amended, no election is required for refunding bonds.

**1.07. Definitions.** Unless the context otherwise requires, the terms defined in Section 1.01-1.04 of this Resolution and in this Section 1.05 shall, for all purposes of this Resolution and any resolution supplemental hereto, have the meanings herein specified, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined:

"Act" means Minnesota Statutes, Chapter 475, as amended.

"Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations promulgated thereunder.

“Holder,” “Bondholder” or “owner” means the person in whose name a Bond is registered.

“Letter of Representations” means the Blanket Letter of Representations from the City to Depository Trust Company, New York, New York.

“Resolution” means this resolution authorizing the issuance of obligations, as this resolution may be amended or supplemented from time to time.

**SECTION 2. ISSUANCE OF REFUNDING BONDS.** In order to refund the Series 2000E Bonds, there is hereby authorized to be issued by the City its General Obligation Tax Increment Refunding Bonds, Series 2009B. The maximum aggregate principal amount of the Bonds that may be outstanding at any time is limited to \$13,675,000.

**SECTION 3. TERMS AND FORM OF REFUNDING BONDS.**

**3.01. Bond Terms.** Subject to the limitations set forth in Section 2 of this Resolution, the Bonds are authorized to be issued in accordance with the terms of this Resolution. The Bonds shall be designated “General Obligation Tax Increment Refunding Bonds,” shall 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. Any series of Bonds may be designated such other name or names as determined to be appropriate by the Finance Officer. The Bonds shall be dated October 1, 2009, or such other date as the Finance Officer may determine, shall be issued in denominations of \$5,000 or any integral multiple thereof, and each series shall be numbered from R-1 upwards in order of issuance, or with such other numbering and in such other order as the Bond Registrar may determine. The Bonds shall be issued in the original aggregate principal amount of \$13,675,000, or such lesser amount as the Finance Officer shall determine to be necessary and appropriate to redeem and prepay the Series 2000E Bonds. The Bonds shall bear interest at the rates per annum approved by the Finance Officer in connection with the sale thereof, payable semiannually on March 1 and September 1 of each year, or such other dates determined by the Finance Officer, commencing on March 1, 2010, or such other date determined by the Finance Officer, from the date of the Bonds or the most recent interest payment date to which interest has been paid or duly provided for, computed on the basis of a 360-day year of twelve thirty-day months. The principal of the Bonds shall mature on such dates and in such principal amounts as shall be determined by the Finance Officer, consistent with the requirements of Section 475.54, subdivisions 1 and 17, of the Municipal Debt Act (determined, if necessary, by combining such maturities with those of other obligations of the City). The Finance Officer may determine to designate any portion of the principal of the Bonds to be combined into one or more term Bonds subject to mandatory sinking fund redemptions in the years and amounts determined by the Finance Officer. The authorization to issue the Bonds is effective without any additional action by 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 Finance Officer shall establish a date on and after which all Bonds shall be subject to redemption and prior payment in whole or in part at the option of the City. The redemption price of the Bonds shall be at such redemption prices, with or without premium, as the Finance Officer shall determine necessary to obtain the lowest interest rates for the Bonds consistent with the finance plan pursuant to which the Bonds are to be issued.

Thirty (30) days prior to any redemption date, notice of any such redemption shall be given by mail to the banks where the Bonds are payable and to the registered owners, in accordance with the terms of the Municipal Debt Act. In the event of a partial redemption by lot of the Bonds, the Bond Registrar shall assign to each Bond then outstanding a distinctive number for each \$5,000 of the principal amount of such Bonds and shall select by lot in the manner it determines the order of numbers, at \$5,000 for each number, for all outstanding Bonds of the maturity to be redeemed. The order of selection of 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 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. Upon partial redemption of any Bond, the same shall be surrendered in exchange for one or more new Bonds in authorized form for the unredeemed portion of principal. The method of selecting Bonds for optional redemption may be altered in such manner as the Finance Officer shall determine to be necessary and appropriate in the interests of the City and the owners of the Bonds.

**3.02. Method of Payment; Bond Registrar and Paying Agent.** The Bonds shall be payable as to principal upon presentation and surrender thereof at the office of the Finance Officer, in Minneapolis, Minnesota, as the initial Bond Registrar and Paying Agent, or at the offices of such other successor agents as the City may hereafter designate upon sixty (60) days mailed notice to the registered owners at their respective registered addresses. At the written request of the registered owner thereof, or at the direction of the Finance Officer, the payment of at least \$100,000 in principal amount of Bonds shall be made by wire transfer of immediately available funds to any bank in the continental United States upon presentation and surrender of such Bonds at the office of the Paying Agent. Interest shall be paid by check or draft mailed to the registered owners of record as of the fifteenth day (whether or not a business day) of the month next preceding the applicable interest payment date at their addresses shown on the registration books or, at the written request of a registered owner of at least \$1,000,000 in aggregate principal amount of Bonds or at the direction of the Finance Officer, by wire transfer of immediately available funds to any bank in the continental United States as the registered owner may specify.

**3.03. Bond Form.** The Bonds shall be in substantially the following form with the necessary variations as to name, series designation, number, CUSIP Number, denomination, rate of interest, and date of maturity, the blanks therein to be properly filled in, and with such other additions, deletions, or other changes as the Finance Officer may determine:

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(Form of Bonds)

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF HENNEPIN

No. R-\_\_\_\_\_

\$\_\_\_\_\_

CITY OF MINNEAPOLIS  
GENERAL OBLIGATION TAX INCREMENT REFUNDING BOND  
SERIES 2009B

<u>Interest Rate</u>	<u>Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
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Registered Owner:

Principal Amount:

The City of Minneapolis (the "City"), in the County of Hennepin and State of Minnesota, for value received, hereby certifies that it is indebted and hereby promises to pay to the registered owner named above or registered assigns, the principal amount specified above on the maturity date specified above, upon the presentation and surrender hereof, and to pay to the registered owner hereof interest on such principal sum at the interest rate specified above from \_\_\_\_\_, or the most recent interest payment date to which interest has been paid or duly provided for as specified below, on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing \_\_\_\_\_, until said principal sum is paid. Interest shall be computed on the basis of a 360-day year consisting of twelve thirty-day months. Principal and the redemption price is payable in lawful money of the United States of America at the office of the Finance Officer in Minneapolis, Minnesota, as Bond Registrar and Paying Agent, or at the office of such successor agents as the City may designate upon sixty days' notice to the respective registered owners at their registered addresses. At the written request of the registered owner thereof, payment of at least \$100,000 in principal amount of Bonds of this series shall be made by wire transfer of immediately available funds to any bank in the continental United States upon presentation and surrender thereof. Interest shall be paid on each interest payment date by check or draft mailed to the person in whose name this Bond is registered at the close of business on the fifteenth day of the month preceding each interest payment date (whether or not a business day) at the registered owner's address set forth on the registration books maintained by the Bond Registrar or, at the written request of a registered owner of at least \$1,000,000 in aggregate principal amount of the Bonds of this series, by wire transfer of immediately available funds to any bank in the continental United States. Any such interest not punctually paid or provided for will cease to be payable to the person in whose name this Bond is registered on such regular record dates and such defaulted interest may be paid to the person in whose name this Bond shall be registered at the close of business on a special record date for the payment of such defaulted interest established by the Bond Registrar.

This Bond is one of a series of Bonds all of like date and tenor except for number, interest rate, denomination, date of maturity, and redemption privilege, and is issued pursuant to a resolution adopted by the City Council of the City on \_\_\_\_\_, 2009, for the purpose of providing money to refund the outstanding principal amount of certain general obligation bonds of the City, pursuant to and in full conformity with the home rule charter of the City and the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 475.67, Subdivisions 4 through 12, and Minnesota Statutes, Sections 469.174 to 469.1799, as amended (collectively, the "Act").

The Bonds of this series are expected to be paid primarily from collections of tax increment revenues from the Tax Increment Financing District No. 62 and Tax Increment Financing District No. 63 (collectively, the "TIF Districts") and certain other revenues which may be deposited in the Debt Service Account for the Bonds pursuant to the terms of the resolution authorizing the issuance of the Bonds (the "Bond Resolution"). Such use of tax increment revenues is subordinate to any prior obligations of the City to which such tax increment revenues have been pledged (and which pledge does not recognize or permit parity claims or uses of such tax increment revenues) and such deposit shall be made only to the extent such tax increment revenues are available for such purposes. In addition to such pledge of tax increment revenues, the full faith and credit of the City has been and is hereby pledged to the full and prompt payment of the principal of and interest on the Bonds and the City Council is obligated to levy ad valorem taxes on all taxable property in the City without limitation as to rate or amount, if necessary, to pay the principal of and interest on the Bonds when due. The City may pledge or apply such tax increment revenues to existing or future obligations of the City on a parity or priority basis with the Bonds.

Reference is hereby made to the Act and to the Bond Resolution for a description of the tax increment revenues and the other revenues that are expected to pay the debt service on the Bonds of this series. Reference is hereby made to the Act and to the Bond Resolution for a description of the nature of the security thereby created, the rights and limitation of the rights of the City and bondholders with respect thereto, and covenants of the City as to the application of the proceeds of the Bonds of this series and the security for the Bonds and interest thereon.

All Bonds maturing on or after \_\_\_\_\_, are subject to redemption at the option of the City, in whole or in part in such order as the City may determine, on \_\_\_\_\_, and any date thereafter at a redemption price equal to par plus accrued interest to the redemption date [plus the redemption premium set forth in the following table].

[Redemption Premium Table, if applicable]

Thirty (30) days notice of prior redemption will be given by mail to registered owners in the manner provided by applicable provisions of the Act.

This Bond is transferable, as provided in the Bond Resolution, only upon books of the City kept at the office of the Bond Registrar by the registered owner hereof in person or by the registered owner's duly authorized attorney, upon surrender of this Bond for transfer at the office of the Bond Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar duly executed by, the registered owner hereof or the registered owner's duly authorized attorney, and, upon payment of any tax, fee or other governmental charge required to be paid with respect to such transfer, one or more fully registered Bonds of the series of the same principal amount, maturity and interest rate will be issued to the designated transferee or transferees.

The Bonds of this series are issued only as fully registered bonds without coupons in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount maturing in any one year. As provided in the Bond Resolution and subject to certain limitations therein set forth, the Bonds of this series are exchangeable for a like aggregate principal amount of Bonds of this series of different authorized denominations, as requested by the registered owner or the registered owner's duly authorized attorney, upon surrender thereof to the Bond Registrar.

It is hereby certified, recited, and declared that all acts, conditions, and things required to exist, happen, and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in regular and due time, form, and manner as required by law; and that this Bond, and the series of which it is a part, is within every applicable debt and other limit prescribed by the Constitution and laws of the State of Minnesota and the Charter of the City.

This Bond shall not be valid or become obligatory for any purpose until the Registration and Authentication Certificate hereon shall have been signed by the Bond Registrar.

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In witness whereof, the City, acting by and through its City Council, has caused this Bond to be executed with the manual or facsimile signature of its Finance Officer and a facsimile of the corporate seal of said City to be imprinted hereon, all as of the Date of Original Issue specified above.

Dated: \_\_\_\_\_

CITY OF MINNEAPOLIS, MINNESOTA

(SEAL)

By \_\_\_\_\_  
Finance Officer

Bond Registrar's Registration and Authentication Certificate

This is one of the Bonds described in the within mentioned Bond Resolution and has been registered as to principal and interest in the name of the Registered Owner identified above on the registration books of the Finance Officer of the City of Minneapolis.

\_\_\_\_\_  
Finance Officer, as Bond Registrar

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ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_

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(Please Print or Typewrite Name and Address of Transferee)  
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

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Please Insert Social Security Number or Other Identifying Number of Assignee.

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Notice: The signature to this assignment must correspond with the name as it appears on the face of this Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

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Signatures must be guaranteed by a national bank or trust company, or by a brokerage firm which is a member of a major stock exchange.

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**3.04. Registration.** As long as any of the Bonds issued hereunder shall remain outstanding, the City shall maintain and keep at the office of the Bond Registrar an office or agency for the payment of the principal of and interest on such Bonds, as in this Resolution provided, and for the registration and transfer of such Bonds, and shall also keep at said office of the Bond Registrar books for such registration and transfer. Upon surrender for transfer of any Bond at the office of a Bond Registrar with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or the registered owner's duly authorized attorney, and upon payment of any tax, fee or other governmental charge required to be paid with respect to such transfer, the City shall execute and the Bond Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more fully registered Bonds of the same series, of any authorized denominations and of a like aggregate principal amount, interest rate and maturity. Any Bonds, upon surrender thereof at the office of the Bond Registrar may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity and interest rate of any authorized denominations. In all cases in which the privilege of exchanging Bonds or transferring fully registered Bonds is exercised, the City shall execute and the Bond Registrar shall deliver Bonds in accordance with the provisions of this Resolution. For every such exchange or transfer of Bonds, whether temporary or definitive, the City or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. Notwithstanding any other provision of this Resolution, the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the City or the Bond Registrar incurred in connection therewith (except any applicable tax, fee or other governmental charge) shall be paid by the City. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption, nor be obligated to make any such exchange or transfer of Bonds during the fifteen (15) days next preceding the date of the first publication or the mailing (if there is no publication) of notice of redemption in the case of a proposed redemption of Bonds.

**3.05. Record Dates.** Interest on any Bond which is payable, and is punctually paid or duly provided for, on any interest payment date shall be paid to the person in whose name that Bond (or one or more Bonds for which such bond was exchanged) is registered at the close of business on the fifteenth day of the preceding month. Any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any interest payment date shall cease to be payable to the registered holder on the relevant regular record date solely by virtue of such holder having been such holder; and such defaulted interest may be paid by the City in any lawful manner, if, after notice given by the City to the Bond Registrar of the proposed payment pursuant to this paragraph, such payment shall be deemed practicable by the Bond Registrar. Such payments shall then be made to the persons in whose names the Bonds are registered at the close of business on a special record date established by the Bond Registrar. Subject to the foregoing provisions of this paragraph, each Bond delivered under this Resolution upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond and each such Bond shall bear interest from such date that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

**3.06. Bonds Mutilated, Destroyed, Stolen or Lost.** In case any Bond shall become mutilated or be destroyed, stolen or lost, the City shall execute and the Bond Registrar shall authenticate and deliver a new Bond of like maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, upon filing with the City evidence satisfactory to the City and the Bond Registrar that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the City and the Bond Registrar with indemnity satisfactory to them and complying with such other reasonable regulations as the City and the Bond Registrar may prescribe and paying such expenses as the City and the Bond Registrar may incur in connection therewith. All Bonds so surrendered to the Bond Registrar shall be cancelled by it and evidence of such cancellation shall be given to the City.

**3.07. Owners.** As to any Bond, the City and the Bond Registrar and their respective successors, each in its discretion, may deem and treat the person in whose name such Bond for the time being shall be registered as the absolute owner thereof for all purposes and neither the City nor the Bond Registrar nor their respective successors shall be affected by any notice to the contrary. Payment of or on account of the principal of any such Bond shall be made only to or upon the order of the registered owner thereof, but such registration may be changed as above provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

**3.08. Use of Securities Depository; Book-Entry Only System.** The provisions of this Section shall take precedence over the provisions of Sections 3.01 through 3.07 hereof to the extent they are inconsistent therewith.

(a) The Depository Trust Company (“DTC”) has agreed to act as securities depository for the Bonds, and to provide a Book-Entry Only System for registering the ownership interests of the financial institutions for which it holds the Bonds (the “DTC Participants”), and for distributing to such DTC Participants such amount of the principal and interest payments on the Bonds as they are entitled to receive, for redistribution to the beneficial owners of the Bonds as reflected in their records (the “Beneficial Owners”).

(b) Initially, and so long as DTC or another qualified entity continues to act as securities depository, the Bonds shall be issued in typewritten form, one for each maturity in a principal amount equal to the aggregate principal amount of each maturity, shall be registered in the name of the securities depository or its nominee, and shall be subject to the provisions of this Section. While DTC is acting as the securities depository, the Bonds shall be registered in the name of DTC’s nominee, CEDE & CO; provided that upon delivery by DTC to the City and the Bond Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & CO., the words “CEDE & CO.” in this Resolution shall refer to such new nominee of DTC.

With respect to Bonds registered in the name of DTC or its nominee, the City and the Bond Registrar shall have no responsibility or obligation to any DTC Participant or other person with respect to the following: (i) the accuracy of the records of any securities depository or its nominee with respect to any ownership interest in the Bonds; (ii) the delivery to any DTC Participant or other person or any other person, other than DTC, of any notice with respect to the Bonds, including any notice of redemption; or (iii) the payment to any DTC Participant or any other person, other than DTC, of any amount with respect to the principal of or interest on the Bonds. The Bond Registrar shall pay all principal of and interest on the Bonds only to or upon

the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal and interest on the Bonds to the extent of the sum or sums so paid. So long as the Book-Entry Only System described in this Section is in effect, no person other than DTC shall receive an authenticated Bond.

(c) Upon receipt by the City and the Bond Registrar of written notice from DTC or any other securities depository to the effect that it is unable or unwilling to discharge its responsibilities under the Book-Entry Only System, the Bond Registrar shall issue, transfer, and exchange Bonds of the initial series as requested by the securities depository in appropriate amounts, and whenever the securities depository requests the City and the Bond Registrar to do so, the City and the Bond Registrar shall cooperate with the securities depository in taking appropriate action after reasonable notice: (i) to arrange for a substitute depository willing and able, upon reasonable and customary terms, to maintain custody of the Bonds; or (ii) to make available Bonds registered in whatever name or names the Beneficial Owner registering ownership, transferring or exchanging such Bonds shall designate, in accordance with clause (f) or clause (g) below, whichever is applicable.

(d) In the event the City determines that it is in the best interests of the Beneficial Owners that they be able to obtain printed Bonds, the City may so notify the securities depository and the Bond Registrar, whereupon the securities depository shall notify the Beneficial Owners of the availability through the securities depository of such printed Bonds. In such event, the City shall cause to be prepared and the Bond Registrar shall issue, transfer and exchange printed Bonds, fully executed and authenticated, as requested by the securities depository in appropriate amounts and, whenever the securities depository requests, the City and the Bond Registrar shall cooperate with the securities depository in taking appropriate action after reasonable notice to make available printed Bonds registered on the Bond Register in whatever name or names the Beneficial Owners entitled to receive Bonds shall designate, in accordance with clause (f) or clause (g) below, whichever is applicable.

(e) Notwithstanding any other provisions of this Resolution to the contrary, so long as any Bond is registered in the name of a securities depository or its nominee, all payments of principal and interest on the Bond and all notices with respect to the Bond shall be made and given, respectively, to the securities depository as provided in the representation letter given to it by the City. The Letter of Representation is confirmed and shall apply to the Bonds.

(f) In the event that the Book-Entry Only System established pursuant to this Section is discontinued, except as provided in clause (g), the Bonds shall be issued through the securities depository to the Beneficial Owners.

(g) In the event of termination of the Book-Entry Only System, the City shall have the right to terminate, and shall take all steps necessary to terminate, all arrangements with the securities depository described herein, and thereafter shall issue, register ownership of, transfer and exchange all Bonds as provided herein. Upon receipt by the securities depository of notice from the City, the securities depository shall take all actions necessary to assist the City and the Bond Registrar in terminating all arrangements for the issuance of documents evidencing ownership interests in the Bonds through the securities depository. Nothing herein shall affect the securities depository's rights under clause (e) above.

#### **SECTION 4. SALE, EXECUTION, AND DELIVERY OF BONDS AND RELATED DOCUMENTS.**

**4.01. Method of Sale.** Authority to negotiate the sale and issuance of the Bonds is hereby delegated to the Finance Officer under Section 475.60, subdivision 1, of the Municipal Debt Act; provided that each series of Bonds shall be sold only at a price of not less than ninety-eight percent (98%) of the principal amount of such series of Bonds, and the Bonds shall bear interest at the rates specified by the successful proposal. In connection with the sale of the Bonds, by one or more certificates or other written instruments or documents, the Finance Officer may make such additional covenants or directions as it may deem necessary and expedient, including but not limited to, approval of an Official Statement and of a Continuing Disclosure Certificate. Any unused discount and any unused issuance costs shall be deposited in the Debt Service Account or applied to such other purposes as determined to be appropriate by the Finance Officer.

**4.02. Execution and Delivery.** The Bonds shall be executed by the manual or facsimile signature of the Finance Officer and a facsimile of the corporate seal of the City shall be included as set forth in the form of Bond. The text of the approving legal opinion of Kennedy & Graven, Chartered, of Minneapolis, Minnesota, as bond counsel, may be printed on or accompany the delivery of each Bond. When the Bonds have been duly executed and authenticated by the Bond Registrar in accordance with this Resolution, the Bonds shall be delivered to the purchasers in accordance with the terms of the sale upon payment of the purchase price, and the receipt of the Finance Officer to said purchasers thereof shall be a full acquittance; and said purchasers shall not be bound to see to the application of the purchase money. The Bonds shall not be valid for any purpose until authenticated by the Bond Registrar, which is hereby appointed authenticating agent in accordance with the Municipal Debt Act.

**4.03. Official Statement.** The Finance Officer shall cause an Official Statement relating to the Bonds and any appropriate addendums to such Official Statement to be prepared (collectively, the "Official Statement"), and the use thereof by the purchasers is approved.

**4.04. Certificates.** If such officer finds the same to be accurate, the Finance Officer is authorized and directed to furnish to the purchasers at the closing: (i) a certificate that, to the best of the knowledge of such officer, the Official Statement does not, at the date of closing, and did not, as of its date, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; and (ii) such other certificates as are required as a condition of sale, including a Continuing Disclosure Certificate setting forth the continuing disclosure obligations of the City under applicable law, as approved by the Finance Officer. Unless litigation shall have been commenced and be pending questioning the Bonds or the organization of the City or incumbency of its officers, at the closing, the Finance Officer shall also execute and deliver to the purchasers 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. The Finance Officer shall also execute and deliver an arbitrage certificate meeting the requirements of the arbitrage regulations under Section 148 of the Code and shall deliver the signed approving legal opinion of Kennedy & Graven, Chartered, as to the validity and enforceability of the Bonds and the exemption of interest thereon from federal and Minnesota income taxation (other than Minnesota corporate franchise and bank excise taxes measured by income) under present laws and rulings.

## **SECTION 5. REFUNDING SERIES 2000E BONDS; APPLICATION OF PROCEEDS OF BONDS.**

**5.01. Redemption and Prepayment of Series 2000E Bonds.** All of the outstanding Series 2000E Bonds are hereby called for redemption and prepayment on a date selected by the Finance Officer, but in no event more than ninety (90) days after the date of issuance of the Bonds.

**5.02. Appropriation of Funds.** The proceeds of the Bonds are hereby appropriated as follows: (i) any accrued interest shall be deposited in the Debt Service Account; (ii) an amount determined by the Finance Officer to pay interest on the Bonds shall be set aside and applied to such purpose; (iii) an amount sufficient to refund the Series 2000E Bonds shall be applied to such purpose; and (iv) an amount sufficient to pay the costs of issuing the Bonds shall be set aside and applied to such purpose. Any remaining proceeds of the Bonds shall be applied to purposes of the City as determined and designated by the Finance Officer.

## **SECTION 6. COVENANTS OF THE CITY.**

**6.01. Debt Service Account.** There is hereby established a separate Debt Service Account for payment of principal of, premium, if any, and interest on the Bonds. To the extent deemed appropriate and in the best interests of the City, the City will apply the Tax Increment Revenues derived from the TIF Districts and a portion of the net public parking revenues derived from the municipal parking garage constructed within the Development District to the payment of the principal of and interest on the Bonds. The Finance Officer shall deposit in the Debt Service Account, from amounts in the accounts which shall be or have heretofore been created for the deposit of Tax Increment Revenues of the TIF Districts and other revenues to be applied to payment of the Bonds, such Tax Increment Revenues and other revenues as are deemed appropriate and necessary to pay the principal of and interest on the Bonds when due; provided that such use of Tax Increment Revenues is subordinate to any prior obligations of the City to which the Tax Increment Revenues have been pledged (and which pledge does not recognize or permit parity claims or parity uses of such Tax Increment Revenues) and such deposit shall be made only to the extent such Tax Increment Revenues are available for such purposes. The City may pledge or apply the Tax Increment Revenues to existing or future obligations of the City on a parity or priority basis with the Bonds.

**6.02. Pledge of Full Faith and Credit; Tax Levies.** The full faith and credit of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, when due. It is hereby estimated that the Tax Increment Revenues and other revenues to be applied to the payment of the Bonds under Section 6.01 will produce at least five percent (5%) in excess of the amount needed to meet when due the principal and interest payments on the Bonds, but the City shall levy, in addition to all other taxes, a direct tax on all taxable property in the City, without limitation as to rate or amount, if necessary to pay such principal and interest when due. Without limiting the foregoing, the City shall levy taxes in each year to the extent estimated collections of Tax Increment Revenues and other revenues to be applied to the payment of the Bonds in the following year, together with available amounts on deposit in the Debt Service Account and other dedicated funds, are insufficient to pay the principal of and interest on the Bonds in such subsequent year and at least five percent (5%) in excess thereof.

**6.03. Private Activity Bond Covenant.** 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 each such series of Bonds or any related activity which would cause any such series of Bonds to be deemed to be “private activity bonds,” within the meaning of Section 141 of the Code. The City shall take all such action as may be required under the Code to ensure that interest on each such series of Bonds is not and does not become includable in gross income for federal income tax purposes.

**6.04. Arbitrage Covenant.** The City covenants and agrees with the purchasers and holders of each such series of Bonds that the investments of the “gross proceeds” of each such series of Bonds, including the investment of any revenues pledged to the Bonds which are considered “gross proceeds” under Section 148 of the Code and the applicable Treasury Regulations promulgated thereunder, and accumulated sinking funds, if any, shall be limited as to amount and yield in such manner that each such series of Bonds shall not be deemed to be “arbitrage bonds” within the meaning of Section 148 of the Code and applicable Treasury Regulations promulgated thereunder. On the basis of existing facts, estimates and circumstances, including the foregoing findings and covenants, the City Council hereby certifies that it is not expected that the proceeds of any such series of Bonds will be used in such manner as to cause any such series of Bonds to be “arbitrage bonds” under Section 148 of the Code and applicable Treasury Regulations promulgated thereunder. The Finance Officer shall furnish an arbitrage certificate to the original purchasers embracing or based on the foregoing certification at the time of delivery of any series of Bonds to be issued as obligations the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes, and the Finance Officer may make any election permitted under Section 148 of the Code, or under any other provision of the Code, on behalf of the City.

## **SECTION 7. MISCELLANEOUS MATTERS RELATING TO BONDS.**

**7.01. Registration.** The Finance Officer or City Clerk is hereby authorized and directed to certify a copy of this Resolution and to cause the same to be filed with the Taxpayer Services Division Manager of Hennepin County, exercising the powers of the County Auditor under Section 475.63 of the Municipal Debt Act, and to obtain a certificate as to registration of the Bonds.

**7.02. Certification.** The City Clerk, the Finance Officer, and other officers and employees of the City are hereby authorized and directed 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, to show the proceedings taken in connection with the Bonds, 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.

## **SECTION 8. MISCELLANEOUS MATTERS RELATING TO BONDS.**

**8.01. Enforceability of Bonds.** 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 shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

**8.02. Rights Conferred.** 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 Bonds 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.

**8.03. Persons Authorized to Execute Documents.** 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 an acting 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.

**8.04. Amendments.** The authority to approve, execute, and deliver future amendments to the documents executed and delivered by the City in connection with the transactions contemplated by this Resolution 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, 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; (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; (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. 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.

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

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