

**RESOLUTION 2003R-404**  
**By Lane, Ostrow, Goodman, Benson and Zerby**

**Providing funding for Discretionary Development Activities from 2004-2009.**

Resolved by the City Council of the City of Minneapolis:

**Section 1. Title.** This resolution shall be known as the Discretionary Development Funding Plan.

**Section 2. Definitions.**

**2.01. "Legacy Fund"** means that certain investment trust account containing the proceeds of the 1999 sale of the MCDA's interest in the Hilton Hotel property.

**2.02. "Sources of Security and Repayment"** means the proceeds of any repayment or other receipt of funds relative to the Brookfield Loan and the proceeds of any sale or other disposition of the MCDA's interest in the Saks Parcel, including net income from operation of the Saks Parcel, if any.

**2.03. "Brookfield Loan"** means that certain MCDA loan for the Gaviidae II project to BCED Minnesota, Inc. in the original principal amount of \$15,000,000 maturing December 19, 2008, unless extended one year by the borrower pursuant to an option in the loan documents.

**2.04. "Discretionary Development Activities"** means such discretionary development activities as the City Council and/or the MCDA Board of Commissioners may from time to time direct through their budgeting and business planning processes.

**2.05. "Installment Amount"** means an amount not to exceed Three Million Six Hundred Seventy Nine Thousand and No/100 Dollars (\$3,679,000.00) in any calendar year.

**2.06. "Loan"** means the loan authorized by Section 3.01 of this resolution (inclusive of principal and interest accrued hereunder).

**2.07. "MCDA"** means the Minneapolis Community Development Agency, its successors and assigns.

**2.08. "Loan Amount Due"** means the total principal amount and accrued interest outstanding under this resolution at any given point in time.

**2.09. "Saks Parcel"** means that portion of the Gaviidae I project currently owned by MCDA, subject to certain legal claims by Brookfield Market, Inc., and leased to Saks and M & I Bank.

**Section 3. Loan Authorization.**

**3.01. Loan.** In calendar years 2004 through and including 2009, the MCDA or its successor in interest may borrow up to Twenty-Two Million and No/100 Dollars (\$22,000,000.00) from the Legacy Fund for Discretionary Development Activities as provided herein.

**3.02. Installments.** The Loan may be drawn down in an annual amount not to exceed the Installment Amount by action of the Mayor and City Council and/or the MCDA Board of Commissioners, as appropriate, in accordance with the process set forth in Section 5.01 below.

**Section 4. Loan Repayment.**

**4.01. Repayment and Security.** The Loan shall be secured with and repaid from the Sources of Security and Repayment and such other funds as the City Council may direct, if any.

**4.02. Repayment Priority.** Repayment of the Loan shall have first priority with respect to the Sources of Security and Repayment. No money from the Sources of Security and Repayment shall be allocated, reserved, pledged, expended or otherwise encumbered to or for any other use while there remains an amount due on the Loan.

**4.03. Time of Repayment.** Money from the Sources of Security and Repayment shall be applied to repay the Loan and credited to the Legacy Fund at the time they are received.

**4.04. Excess Sources of Security and Repayment.** In the event that the money received from the Sources of Security and Repayment exceeds the Loan Amount Due at the time when the money is received, the balance in excess of the Loan Amount Due shall be reserved for Discretionary Development Activities. Any such balance must be drawn down under this resolution for Discretionary Development Activities, up to an annual maximum of the Installment Amount, before additional money may be drawn down under the Loan. In the event that the outstanding balance is less than the Installment Amount in any calendar year eligible for a loan installment, the Loan may be drawn down so that the total of the outstanding balance and the loan installment do not exceed the Installment Amount.

**Section 5. Further Actions.**

**5.01. Annual Process.** Subject to Section 4.04 above, the Mayor and City Council and/or the MCDA Board of Commissioners, as appropriate, shall act annually as part of their budget process to set the amount of the annual installment and shall direct staff to transfer funds from the Legacy Fund to the appropriate City or MCDA fund as part of the adopted budget.

**5.02. Status.** As part of the annual budget process or as may otherwise be deemed reasonable or necessary by the Finance Officer, staff shall present to the Mayor and City Council and/or the MCDA Board of Commissioners, as appropriate, the status of the Loan and the Sources of Security and Repayment.

**5.03. Authority to Pay.** Staff shall make repayments hereunder as Sources of Security and Repayment become available for repayment at such time and in such manner as the Finance Officer may direct without the need for further action by the Mayor and City Council and/or the MCDA Board of Commissioners.

Adopted 8/22/03. Yeas, 12; Nays, 1 as follows:

Yeas - Lilligren, Johnson Lee, Benson, Goodman, Lane, Samuels, Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Ostrow.

Nays - Niziolek.