



Request for City Council Committee Action from the Department of Community Planning & Economic Development - CPED

Date: July 14, 2015

To: Council Member Lisa Goodman, Chair, Community Development and
Regulatory Services Committee

Subject: A Public Hearing and Request for Preliminary and Final Approval of up
to \$6,500,000 in 501 (c)(3) Tax-exempt Revenue Bonds for Walker
Methodist Health Center, Inc. and Walker Residence

Recommendation: **The CPED Director recommends that the City Council adopt the
attached Resolution giving Preliminary and Final Approval to
the issuance of up to \$6,500,000 in 501 (c)(3) Tax-exempt
Revenue Bonds for Walker Methodist Health Center, Inc. and
Walker Residence**

Previous Directives: The City of Minneapolis has issued nursing home and assisted living tax-exempt revenue bonds in the past for various Walker Methodist projects. In October 1998 the City Council gave approval of the issuance of \$69,835,000 in Tax-exempt Revenue Bonds to refund prior Revenue Bond issues that had previously been issued for Walker Methodist Health Center for facilities in Minneapolis, Edina, West St. Paul and the City of Anoka under Joint Powers Agreements with the other municipalities. In addition, the 1998 Revenue Bonds included \$12,000,000 for facility repairs, renovations and improvements at the various metropolitan locations. In 2012, the City Council approved the refunding of the outstanding balances.

Prepared by: Charles Curtis, 612-673-5069

Approved by: D. Craig Taylor, Executive Director CPED _____

Charles T. Lutz, Deputy Director CPED _____

Presenters in Committee: Charles Curtis

Reviews

- Permanent Review Committee (PRC): NA

Financial Impact

Affirmative Action Compliance: The existing Affirmative Action Plan will be updated prior to a closing on the bonds

CITY IRB POLICIES:

Job Component	Minimum standard of one (1) job per 1,000 square feet of building area. Walker Methodist Health Center - NA
Property Improvements	For private activity IRBs consisting of industrial/manufacturing projects, no more than 25% of the bond proceeds may be used for land and acquisition. If purchasing an existing building, an amount equal to at least 15% of the acquisition cost must be spent on rehabilitation expenditures. This IRB policy does not apply to nonprofit organizations issuing 501(c)(3) tax-exempt revenue bonds. Walker Methodist Health Center- 501 (c)(3)
Development Standards	Compliance with the Land Use Plan of the City's Comprehensive Plan. Walker Methodist Health Center – in compliance. Existing facilities.
Equipment Financing	Limited to companies that create or preserve a significant number of jobs, and the equipment financed must be sufficiently secured. No more than 10% of the bond proceeds may be used to finance movable equipment not constituting a fixture. Walker Methodist Health Center - NA A 501(c)(3) non-profit organization.

Restaurant/Bank

IRB financing is allowed for a restaurant or a bank if it is built or rehabilitated in a CPED Redevelopment Area. No more than 25% of the bond proceeds can be used to finance retail food and beverage establishments, automobile dealerships or recreation or entertainment facilities.

Walker Methodist Health Center - NA

Tax-exempt Institution

Refinancing is permitted when new jobs are created or when a significant number of jobs are preserved; any interest cost savings must directly reduce patient costs.

Walker Methodist Health Center - NA

IRB CAP:

The project is not subject to the volume cap, in that the project is exempt from income tax under Internal Revenue Code Section 501(c)(3) for its exempt purposes and is classified thereunder as a non-profit organization.

BOND COUNSEL:

Kennedy & Graven, Chartered

UNDERWRITER:

Dougherty & Company

RESOLUTION
Of the
City of Minneapolis

By Goodman

AMENDED AND RESTATED
PROGRAM FOR A MULTIFAMILY HOUSING DEVELOPMENT UNDER
MINNESOTA STATUTES, CHAPTER 462C

Section 1. Statutory Authority. Pursuant to Minnesota Statutes, Chapter 462C (the "Act"), the City of Minneapolis, a municipal corporation and political subdivision of the State of Minnesota, organized and existing under the Constitution and laws of the State, and its home rule charter (the "City"), has been authorized to develop and administer programs for multifamily housing developments under the circumstances and within the limitations set forth in the Act. Section 462C.07 of the Act provides that such programs may be financed by revenue bonds issued by the City.

Section 2. The Program. On October 16, 1998, the City Council of the City approved a housing program (the "Original Program") with respect to a 125-unit senior multifamily housing development (the "Project") owned by Walker Residence, Inc., a Minnesota nonprofit corporation ("WRI"), and located at 3701 Bryant Avenue South in the City. The Project was originally financed and refinanced with a portion of the proceeds of bonds issued by the City in 1988 and 1991. On November 15, 1998, the City issued its Revenue Bonds, Series 1998A (Walker Methodist Senior Services Obligated Group), in the original aggregate principal amount of \$56,615,000, Revenue Bonds, Series 1998B (Walker Methodist Senior Services Obligated Group), in the original aggregate principal amount of \$2,295,000, and Revenue Bonds, Series 1998C (Walker Methodist Senior Services Obligated Group), in the original aggregate principal amount of \$10,925,000 (collectively, the "Series 1998 Bonds"). A portion of the proceeds of the Series 1998 Bonds financed improvements to the Project and to a skilled nursing facility with a licensed bed capacity of 330 beds (the "Care Center"), owned by Walker Methodist Health Center, Inc., a Minnesota nonprofit corporation ("WMHC"), and

located at 3737 Bryant Avenue South in the City. Subsequently on September 20, 2012, the City issued its Refunding Revenue Bonds (Walker Minneapolis Campus Project), Series 2012 (the "Series 2012 Bonds"), in the original aggregate principal amount of \$20,410,000, a portion of the proceeds of which refinanced the Project and the Care Center through the redemption and prepayment of the outstanding Series 1998 Bonds.

The City has received a proposal from WMHC and WRI (together, the "Borrower") to approve a program for the issuance of bonds by the City (the "Bonds"), pursuant to Section 462C.05, subdivision 4 of the Act, to finance additional improvements to the Project. The Bonds, if issued by the City, will be in an aggregate principal amount not to exceed \$6,500,000 pursuant to an overall plan of financing benefiting the Borrower. Such plan includes amounts for the benefit of improvements to the Care Center, pursuant to Minnesota Statutes, Section 469.152 through 469.1655, as amended (the "Development Act"). A portion of the aggregate amount of the Bonds may be applied to financing improvements to the Project if certain requirements are met. In approving the Original Program, the City determined that the requirements of Section 462C.05, subdivision 4 were met because the Project is designed and intended to be used for rental occupancy primarily by elderly persons.

Section 3. Need for the Program: How the Program Meets the Needs of Low and Moderate Income Families. In establishing the Original Program, the City considered the goals and information contained in the City's Housing Plan (the "Housing Plan"). In order to issue the Bonds to finance improvements to the Project in accordance with the Act, the City will amend and restate the Original Program pursuant hereto (the "Program"). The Borrower has concluded that the Project units are and will continue to be affordable by a significant number of elderly residents of the City on the basis of their current income, and such number will be greater if funds received from the sale of current residences are available. No statutory income limits are applicable to the Project because the Project is designed for rental primarily to elderly persons.

Section 4. Method of Financing. The Bonds will be issued upon such terms and conditions as set forth herein and as may be agreed upon in writing between the City, the original purchaser(s) of the Bonds, and the Borrower.

The Bonds are expected to be issued within 12 months after the adoption of this Program. A public offering of the Bonds is contemplated.

Insofar as the City will or may be contracting with underwriters, legal counsel, bond counsel, a trustee and others, all of whom will be reimbursed from Bond proceeds (to the extent permitted by federal law) and revenues generated by

the Program, no administrative costs will be paid from the City's budget with respect to this Program. The Bonds will not be general obligation bonds of the City but will be special, limited obligations of the City which are expected to be paid from the properties or credit pledged to the payment thereof.

It is not contemplated that any additional financing or contributions on the part of the City will be needed for the completion of the Facilities or for the operation of the Program.

It is expected that the Program can be implemented without subjecting some or all of the obligations thereafter to be issued by the Minnesota Housing Finance Agency to federal income tax.

Section 5. Standards and Requirements Relating to the Project Pursuant to the Program. The following standards and requirements shall apply with respect to the operation of the Project:

(1) Substantially all of the proceeds of the Bonds will be applied to the financing improvements to the Project, the financing of improvements to the Care Center, the funding of a debt service reserve fund, and the payment of the costs of issuance of the Bonds. The resolution authorizing the issuance of the Bonds and the loan agreement pursuant to which the proceeds of the Bonds are to be loaned to the Borrower will include certain covenants to be made by the City and the Borrower regarding the use of proceeds and by the Borrower regarding the character and use of the Project.

(2) The Borrower will covenant that it will not arbitrarily reject an application from a proposed tenant because of race, color, creed, religion, national origin, sex, marital status, or status with regard to public assistance or disability.

(3) The dwelling units of the Project will be occupied by, or held for occupancy by, elderly persons.

(4) The Project is intended to be a "multifamily housing development" as defined in Section 462C.02 of the Act.

The Borrower will enter into agreements requiring compliance throughout the term of the Bonds (or for such longer period as may be required by law) with the

requirements of state law. The Project is consistent with the City's Housing Plan. The Borrower will be required to operate the Project in accordance with state and local anti-discrimination laws and ordinances. The City may require from the Borrower, or such other persons deemed necessary at or before the issuance of the Bonds, evidence satisfactory to the City of the ability and intention of the Borrower to complete the improvements contemplated herein and evidence satisfactory to the City of compliance with the standards and requirements for making of the financing established by the City, and in connection therewith, the City or its representatives may inspect the relevant books and records of both WMHC and WRI in order to confirm such ability, intention and compliance. In addition, the City may periodically require certification from the Borrower, or such other person deemed necessary, concerning compliance with various aspects of the Program and the Code.

Section 6. State Ceiling. The Bonds shall be issued as "qualified 501(c)(3) bonds" pursuant to Section 145 of the Internal Revenue Code of 1986, as amended, the interest on which is not includable in gross income for federal income tax purposes and which is not includable in taxable net income for individuals, estates, and trusts for State of Minnesota income tax purposes (subject to certain qualifications). None of the state ceiling for private activity bonds is required to be allocated to the Bonds.

Section 7. Severability. The provisions of this Program are severable and if any of its provisions, sentences, clauses or paragraphs shall be held unconstitutional, contrary to statute, exceeding the authority of the City or otherwise illegal or inoperative by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 8. Amendment. This Program shall be a component of and an amendment to the Housing Plan of the City as recognized by the Act. The City shall not amend this Program while Bonds are outstanding to the detriment of the holders of such Bonds.

RESOLUTION
Of the
City of Minneapolis

By Goodman

AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF REVENUE BONDS FOR THE BENEFIT OF WALKER METHODIST HEALTH CENTER, INC. AND WALKER RESIDENCE, INC.; APPROVING A HOUSING PROGRAM FOR MULTIFAMILY HOUSING DEVELOPMENTS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE REVENUE BONDS AND RELATED DOCUMENTS; PROVIDING FOR THE SECURITY, RIGHTS, AND REMEDIES WITH RESPECT TO THE REVENUE BONDS; AND GRANTING APPROVAL FOR CERTAIN OTHER ACTIONS WITH RESPECT THERETO

RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

1. STATUTORY AUTHORIZATION. The City of Minneapolis (the "City") is a home rule city and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota. The City is authorized by Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the "Development Act"), to issue revenue bonds to finance, in whole or in part, the costs of the acquisition, construction, reconstruction, improvement, betterment, or extension of projects, including any properties, real or personal, used or useful in connection with a revenue producing enterprise, whether or not operated for profit, engaged in providing health care services, including nursing homes and related medical facilities, and of any related public improvements. The City is further authorized by Minnesota Statutes, Chapter 462C, as amended (the "Housing Act"), to issue and sell revenue bonds or obligations to finance multifamily rental housing developments and, in the issuance of revenue bonds and in making loans to finance multifamily rental housing developments, the City may exercise within its corporate limits any of the powers of the Minnesota Housing Finance Agency under Minnesota Statutes, Chapter 462A, as amended (the "MHFA Act"), without limitation under the provisions of Minnesota Statutes, Chapter 475, as amended.

2. SERIES 2012 BONDS. On September 20, 2012, the City issued its Refunding Revenue Bonds (Walker Minneapolis Campus Project), Series 2012 (the "Series 2012 Bonds"), in the original aggregate principal amount of \$20,410,000. The Series 2012 Bonds

were issued under the provisions of the Development Act, the Housing Act, and an Indenture of Trust, dated as of September 1, 2012 (the "Original Indenture"), between the City and U.S. Bank National Association, as trustee (the "Trustee"). The Original Indenture was subsequently amended and supplemented pursuant to a First Supplemental Indenture of Trust, dated as of February 1, 2013 (the "First Supplemental Indenture"), between the City and the Trustee. The City loaned the proceeds of the Series 2012 Bonds to Walker Methodist Health Center, Inc., a Minnesota nonprofit corporation ("WMHC"), and Walker Residence, Inc., a Minnesota nonprofit corporation ("WRI," and together with WMHC, the "Borrower"), pursuant to a Loan Agreement, dated as of September 1, 2012 (the "Original Loan Agreement"), between the City and the Borrower, for the purpose of (i) refunding the outstanding (a) Revenue Bonds, Series 1998A (Walker Methodist Senior Services Obligated Group), issued by the City in the original aggregate principal amount of \$56,615,000, (b) Revenue Bonds, Series 1998B (Walker Methodist Senior Services Obligated Group), issued by the City in the original aggregate principal amount of \$2,295,000, and (c) Revenue Bonds, Series 1998C (Walker Methodist Senior Services Obligated Group), issued by the City in the original aggregate principal amount of \$10,925,000 (collectively, the "Series 1998 Bonds"); (ii) funding a debt service reserve fund; and (iii) paying a portion of the costs of issuance of the Series 2012 Bonds. To secure the obligation of the Borrower under the Loan Agreement, the Borrower executed and delivered to the Trustee an Amended and Restated Mortgage, Security Agreement and Fixture Financing Statement, dated as of September 1, 2012 (the "Original Mortgage").

3. SERIES 2015 BONDS. The Borrower has requested that the City issue its Senior Housing and Healthcare Facilities Revenue Bonds (Walker Minneapolis Campus Project), Series 2015 (the "Series 2015 Bonds"), in the principal amount not to exceed \$6,500,000, as additional bonds under the Original Indenture, as amended and supplemented by the First Supplemental Indenture, and further amended and supplemented by the Second Supplemental Indenture of Trust, to be dated on or after August 1, 2015 (the "Second Supplemental Indenture," and collectively with the Original Indenture and the First Supplemental Indenture, the "Indenture"), between the City and the Trustee. The Borrower has further requested that the City loan the proceeds derived from the sale of the Series 2015 Bonds (the "Loan") to the Borrower pursuant to the Original Loan Agreement, as amended by the First Amendment to Loan Agreement, to be dated as of August 1, 2015 (the "First Amendment to Loan Agreement," and together with the Original Loan Agreement, the "Loan Agreement"), between the City and the Borrower. The Borrower has represented to the City that it intends to use the Loan to (i) finance improvements to a skilled nursing facility with a licensed bed capacity of 330 beds (the "Care Center"), owned and operated by WMHC and located at 3737 Bryant Avenue South in the City, and improvements to a 125-unit senior multifamily housing development ("Walker Place"), owned and operated by WRI and located at 3701 Bryant Avenue South in the City (collectively, the "Project"); (ii) fund a debt service reserve fund; and (iii) pay the costs of issuance of the Series 2015 Bonds. The repayment of the Loan under the terms of the Loan Agreement and the payment of the principal of, premium, if any, and interest on the Series 2015 Bonds will be secured by a First Amendment to Amended and Restated Mortgage, Security Agreement and Fixture Financing Statement, to be dated on or after August 1, 2015 (the "First Amendment to Mortgage," and together with the Original Mortgage, the "Mortgage"), from the Borrower to the Trustee.

The Series 2015 Bonds will be special, limited obligations of the City that: (i) shall be payable solely from the revenues pledged therefor under the Loan Agreement; (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 Loan Agreement; and (v) shall not constitute a general or moral obligation of the City.

4. PUBLIC HEARING. Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations promulgated thereunder, Section 462C.04 of the Housing Act, and Section 469.154, subdivision 4 of the Development Act require that prior to the issuance of the Series 2015 Bonds, the City Council approve the issuance of the Series 2015 Bonds after conducting a public hearing thereon. On July 14, 2015, the Community Development and Regulatory Services Committee of the Minneapolis City Council, on behalf of the City, conducted a duly noticed public hearing with respect to the proposed issuance of revenue obligations to finance the Project and the approval of a housing program in accordance with Section 462C.04, subdivision 2 of the Housing Act. The public hearing was conducted at least fifteen (15) days after the publication in *Finance and Commerce*, the official newspaper of the City, and *Star Tribune*, a newspaper of general circulation in the City.

5. APPROVAL OF THE HOUSING PROGRAM. On October 16, 1998, prior to the issuance of the Series 1998 Bonds, the City approved a housing program with respect to Walker Place. In accordance with Section 462C.03 of the Housing Act, the City has prepared an amendment and restatement of the Original Program (the "Housing Program") with respect to the improvements to Walker Place. The Housing Program was submitted to the Metropolitan Council for its review and comment and is hereby approved in the form substantially on file with the City.

6. APPROVAL OF PROJECT. It is hereby found and determined that the improvements to the Care Center further the purposes set forth in the Development Act, and therefore the Project constitutes a "project" within the meaning of Section 469.153, subdivision 2(d) of the Development Act. In accordance with Section 469.154 of the Development Act, the Finance Officer of the City and the Director of Economic Policy and Development of the City (together, the "Authorized Officers") are authorized and directed to submit the proposal for the Project to DEED. The Authorized Officers and other officers, employees, and agents of the City are hereby authorized to provide DEED with any information needed for this purpose, and the Authorized Officials are authorized to initiate and assist in the preparation of such documents as may be appropriate to the Project, if it is approved.

7. OBLIGATIONS OF THE CITY. The City acknowledges, finds, determines, and declares that the issuance of the Series 2015 Bonds is authorized by the Development Act and the Housing Act and is consistent with the purposes of the Development Act and the Housing Act and that the issuance of the Series 2015 Bonds, and the other actions of the City under this resolution, the Indenture, and the Loan Agreement constitute a public purpose and are in the interests of the City.

8. ISSUANCE OF THE SERIES 2015 BONDS. For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the Series 2015 Bonds, in one

or more series, in the maximum aggregate principal amount of \$6,500,000, subject to the approval of DEED pursuant to the Development Act. The Series 2015 Bonds are hereby authorized to be issued as tax-exempt bonds the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. The Series 2015 Bonds, substantially in the form set forth in the Indenture now on file with the City, are hereby approved with the amendments referenced herein. All of the provisions of the Series 2015 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 Series 2015 Bonds shall bear interest at the rates, shall be designated, shall be numbered, shall be dated, shall mature, shall be in the aggregate principal amount, shall be subject to redemption prior to maturity, shall be in such forms, and shall have such other terms, details, and provisions as are prescribed in the Indenture, in the form now on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the aggregate principal amount of the Series 2015 Bonds, the stated maturities of the Series 2015 Bonds, the interest rates on the Series 2015 Bonds, and the terms of redemption of the Series 2015 Bonds) as the Finance Officer, in his discretion, shall determine. The execution of the Series 2015 Bonds with the manual or facsimile signature of the Finance Officer and the delivery of the Series 2015 Bonds by the City shall be conclusive evidence of such determination.

The Series 2015 Bonds shall be special, limited obligations of the City payable solely from the revenues provided by the Borrower pursuant to the terms of the Loan Agreement and from the revenues and security pledged, assigned, and granted pursuant to the Indenture and pursuant to the Mortgage and any other security documents provided by the Borrower to the Trustee. As provided in the Loan Agreement, the Series 2015 Bonds shall not be payable from nor charged upon any funds other than the revenue pledged to their payment, nor shall the City be subject to any liability thereon, except as otherwise provided in this paragraph. No holder of the Series 2015 Bonds shall ever have the right to compel any exercise by the City of any taxing powers of the City to pay the Series 2015 Bonds or the interest or premium thereon, or to enforce payment thereof against any property of the City except the interests of the City in the Loan Agreement and the revenues and assets thereunder, which will be assigned to the Trustee under the terms of the Indenture. The Series 2015 Bonds shall recite that the Series 2015 Bonds are issued pursuant to the Development Act and the Housing Act, and that the Series 2015 Bonds, including interest and premium, if any, thereon, are payable solely from the revenues and assets pledged to the payment thereof, and the Series 2015 Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitations.

9. SECOND SUPPLEMENTAL INDENTURE. The Second Supplemental Indenture is hereby approved and the Finance Officer is hereby authorized to execute and deliver the Second Supplemental Indenture on behalf of the City. All of the provisions of the Second Supplemental Indenture, 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 Second Supplemental Indenture shall be substantially in the form now on file with the City with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, as the Finance Officer, in his discretion, shall determine, and the execution and delivery thereof by the Finance Officer shall be conclusive evidence of such determination.

10. FIRST AMENDMENT TO LOAN AGREEMENT. The First Amendment to Loan Agreement is hereby approved and the Finance Officer is hereby authorized to execute and deliver the First Amendment to Loan Agreement on behalf of the City. All of the provisions of the First Amendment to Loan 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 First Amendment to Loan Agreement shall be substantially in the form now on file with the City, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, as the Finance Officer, in his discretion, shall determine, and the execution and delivery thereof by the Finance Officer shall be conclusive evidence of such determinations. Except for certain reserved rights, the interests of the City in the First Amendment to Loan Agreement will be assigned to the owners of the Series 2015 Bonds pursuant to the terms of the Indenture.

The loan repayments to be made by the Borrower under the Loan Agreement are fixed to produce revenues sufficient to provide for the prompt payment of the principal of, premium, if any, and interest on the Series 2015 Bonds when due, and the Loan Agreement also provides that the Borrower is required to pay all expenses of the operation and maintenance of the Care Center and Walker Place, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all lawfully imposed taxes and special assessments levied upon or with respect to the Care Center and Walker Place and payable during the term of the Loan Agreement.

11. OTHER CITY DOCUMENTS. The Finance Officer is hereby authorized to execute and deliver, on behalf of the City, such other documents and certificates as are necessary or appropriate in connection with the issuance, sale, and delivery of the Series 2015 Bonds, including a Bond Purchase Agreement, dated after the date hereof (the "Purchase Agreement"), between the City, the Borrower, and Dougherty & Company LLC, as original purchaser of the Series 2015 Bonds, various certificates of the City, an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, an endorsement to the Borrower's certificate as to arbitrage and rebate, and similar documents, and all other documents and certificates as shall be necessary and appropriate in connection with the issuance, sale, and delivery of the Series 2015 Bonds. All of the provisions of such documents and certificates, 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 City hereby authorizes Kennedy & Graven, Chartered, as bond counsel, to prepare, execute, and deliver its approving legal opinions with respect to the Series 2015 Bonds.

12. DISCLOSURE DOCUMENTS. The City will not participate in the preparation of an official statement or other disclosure document relating to the offer and sale of the Series 2015 Bonds (the "Disclosure Document"), and will make no independent investigation with respect to the information contained in the Disclosure Document, including the appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy, or completeness of such information (except for such information that is specifically provided by the City for inclusion in the Disclosure Document such as information regarding the authority of the City to issue the Series 2015 Bonds and any material pending litigation against the City).

13. SUBSEQUENT AMENDMENTS. On any date subsequent to the date of issuance of the Series 2015 Bonds, the Finance Officer is hereby authorized to execute and deliver any amendments or supplements to any of the documents referred to in this resolution or other documents executed and delivered in connection with the issuance of the Series 2015 Bonds if, after review by bond counsel, the Finance Officer determines that the execution and delivery of such amendment or supplement is in the interests of the City. The Finance Officer may impose any terms or conditions on the execution and delivery of any such amendment or supplement as the Finance Officer deems appropriate.

14. LIMITATIONS OF LIABILITY. 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 Series 2015 Bonds shall be personally liable on the Series 2015 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 Series 2015 Bonds, or in any other document relating to the Series 2015 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 Loan Agreement which are to be applied to the payment of the Series 2015 Bonds, as provided therein.

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, and any holders of the Series 2015 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 holders from time to time of the Series 2015 Bonds issued under the provisions of this resolution.

15. SEVERABILITY. In case any one or more of the provisions of this resolution, other than the provisions limiting the liability of the City, or of the aforementioned documents, or of the Series 2015 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 Series 2015 Bonds, but this resolution, the aforementioned documents, and the Series 2015 Bonds shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

16. VALIDITY OF THE SERIES 2015 BONDS. The Series 2015 Bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the Development Act and the Housing Act, and such recital shall be conclusive evidence of the validity of the Series 2015 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 Series 2015 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.

17. REIMBURSEMENT REGULATIONS.

(a) The United States Department of the Treasury has promulgated regulations 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 the Borrower for project expenditures paid prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require 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 Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds occur 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 Regulations generally permit reimbursement of capital expenditures and costs of issuance of the Series 2015 Bonds.

(b) To the extent any portion of the proceeds of the Series 2015 Bonds will be applied to expenditures with respect to the Project, the City reasonably expects to reimburse the Borrower for the expenditures made for costs of the Project from the proceeds of the Series 2015 Bonds after the date of payment of all or a portion of such expenditures. All reimbursed expenditures shall be capital expenditures, costs of issuance of the Series 2015 Bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations and also qualifying expenditures under the Housing Act.

Based on representations by the Borrower, other than (i) expenditures to be paid or reimbursed from sources other than the Series 2015 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 minimis" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures with respect to the Project to be reimbursed with the proceeds of the Series 2015 Bonds have been made by the Borrower more than sixty (60) days before the date of adoption of this resolution of the City.

(c) 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 for the expenditures related to the Project to be financed from proceeds of the Series 2015 Bonds, other

than pursuant to the issuance of the Series 2015 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.

18. ADDITIONAL ACTIONS. The officers of the City, bond counsel, other attorneys, 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 Series 2015 Bonds, for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Series 2015 Bonds, the aforementioned documents, and this resolution. The Borrower has agreed and it is hereby determined that any and all costs incurred by the City in connection with the Project and the issuance of the Series 2015 Bonds will be paid by the Borrower. It is understood and agreed that the Borrower shall indemnify the City against all liabilities, losses, damages, costs, and expenses (including attorney's fees and expenses incurred by the City) arising with respect to the Project or the issuance of the Series 2015 Bonds, as provided for and agreed to by and between the Borrower and the City in the Loan Agreement.

19. DESIGNATION AS PROGRAM BONDS. The Series 2015 Bonds are hereby designated "Program Bonds" and are determined to be within the "Economic Development Program" and the "Program," all as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 1997R-402 of the City adopted December 12, 1997.

20. EFFECTIVE DATE. This resolution shall take effect and be in force from and after its approval and publication.