Request for MCDA Board of Commissioners Action from the Department of Community Planning & Economic Development - CPED

Date: November 30, 2010

To: Council Member Lisa Goodman, Community Development Committee

Referral to: MCDA Board of Commissioners

Subject: Minneapolis Economic Recovery Strategy: A Public Hearing and Request for Preliminary and Final Approval of up to $ 7,000,000 in 501(c)(3) Bank Qualified Bank Direct Tax-exempt Minneapolis Community Development Agency Revenue Bonds for Catholic Charities

Recommendation: City Council Recommendation: Adopt the attached Resolution, giving Preliminary and Final Approval to the issuance of up to $7,000,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Minneapolis Community Development Agency Revenue Bonds, Series 2010 for Catholic Charities

MCDA Board Recommendation: Forward this report to the Minneapolis Community Development Agency Board of Commissioners for their approval and adoption of the attached Resolution giving Preliminary and Final Approval of up to $7,000,000 in Tax-exempt 501(c)(3) Bank Qualified Bank Direct Revenue Bonds, Series 2010, for Catholic Charities

Previous Directives: On June 22, 2010 the City Council authorized CPED staff to execute an amendment to the Redevelopment Contract by and between the City of Minneapolis and CDHC Boxleitner LLC to extend the closing date of the J. Jerome Boxleitner Place Project redevelopment to on or before December 31, 2010.

On January 29, 2010 the City Council authorized CPED staff to execute an extension of the redevelopment contract for the sale of 165 Glenwood Avenue North for the development of the J. Jerome Boxleitner Project through May 31, 2010.

On October 30, 2009 the City Council authorized CPED staff to execute a Memorandum of Understanding to Transfer an existing Emergency Shelter Facility at Secure Waiting Space located at 1000 Curie Avenue to the new J. Jerome Boxleitner Project at 165 Glenwood Avenue North.

On January 23, 2009 the City authorized the sale of 165 Glenwood Avenue to Community Housing Development Corporation or an affiliate for $835,000 subject to the conditions outline in that report.

Catholic Charities has made use of Revenue Bond financing in the past. In 1996 the City of Minneapolis issued $7 million in revenue bonds to fund renovations and equipping of nine facilities throughout the metro area.

Prepared by: Becky Shaw Phone: 673-5066
Approved by: Charles T. Lutz, Deputy Director CPED ________________
Catherine A. Polasky, Director, Economic Development ________________
Presenters in Committee: Becky Shaw

Reviews

- Permanent Review Committee (PRC): Approval _N.A.__ Date _________________

Financial Impact

- Other financial impact: The issuance of revenue bonds for the Catholic Charities project will generate revenue bond administrative fees of approximately $17,500 a year that are used to support the small business assistance programs of the City of Minneapolis.

Community Impact

- Neighborhood Notification: The North Loop Neighborhood has been notified of this project.
- City Goals: This project meets the City Goals of A Safe Place To Call Home and Livable Communities, Healthy Lives
- Sustainability Targets: N.A.
- Comprehensive Plan: The proposed project is in compliance with the policies of the Minneapolis plan.
- Zoning Code: The proposed project is in compliance.
- Living Wage/Business Subsidy Agreement Yes ____ No _X__ All conduit revenue bonds allocated under State Statute 474A, refunding bonds and 501(c)(3) bonds are exempt from the State Ace. City bond financing is not subject to the City's local Ordinance if the intent of the bond financing is not to create jobs.
- Job Linkage Yes ____ No __X__

Supporting Information

Project Location & Description:

Catholic Charities and Community Housing Development Corporation (CHDC) have been working together, and with the City of Minneapolis, for a number of years to co-develop a new affordable housing facility located at 165 Glenwood Avenue North. The seven story building, known as the J. Jerome Boxleitner Project, will contain a continuum of housing from overnight shelter beds to supportive housing units.

Catholic Charities will own and operate the first two floors of the facility as an overnight shelter. The Shelter Facility will have office space for employees, a resident lounge on each floor and will contain a total of 251 shelter beds. There will be a ground level link connecting the building to the adjacent Glenwood Residence where meals will be provided. The Glenwood Residence, which provides permanent housing for chronic alcoholics, is also managed by Catholic Charities and CHDC.

CHDC will own the 85 unit supportive housing portion of the development. The housing project will occupy the third through seventh floors of the building and have an entrance and indoor lobby separate from the overnight shelter. Each floor will have a reception area, a laundry room and a resident lounge.

All residents within the development will have access to case management, tenant education, housing placement, medical services, financial and budget training, independent living skills and employment training. Residents living within housing portion of the project will be provided three meals per day and residents of the overnight shelter will be provided an evening meal. There will be a front desk staffed 24 hours a day, seven days a week.

When the project is complete, the facility at 1000 Currie Avenue North will be closed.

CDHC will be financing the housing portion of the development through an arrangement with the Minnesota Housing Finance Agency and Minnesota Department of Finance under the 501(c)(3) bond program. The shelter portion of the facility will be funded with Tax-exempt MCDA Bank-Qualified Bank Direct Bonds.

Sources of funds:

MHFA 501(c)(3) Bonds	$12,750,000
Federal Home Loan Bank	500,000
Hennepin County AHIF 2009	700,000
Hennepin County AHIF 2010	1,000,000
Secure Waiting Purchase Agreement	200,000
Hennepin County ERF	145,000
Family Housing Fund	300,000
Heading Home Hennepin	300,000
Livable Communities	284,000
Catholic Charities MCDA Bond	7,000,000
Total Sources:	$23,179,000

Uses of funds:

Acquisition	$ 835,000
Acquisition – City Fee	20,000
Construction	13,809,784
Construction Contingency	595,681
Environmental Cleanup	145,000
Design & Engineering	695,200
Soft Costs/Fees/Reserves	4,368,335
Refunding Series 1996 Bonds	2,710,000
Total Uses	$23,179,000

Type of Financing:

Industrial Development Bonds (commonly known as IDBs or tax-exempt revenue bonds) have been used by the City of Minneapolis since 1972 to finance the capital needs of many small companies and organizations. In 2003, City developed a financing program to provide cost-effective tax-exempt financing for small 501(c)(3) nonprofit organizations. Tax-exempt revenue bonds have often not been a practical financing option for small organizations in the past due to the high cost of borrowing. Providing a streamlined application and documentation process has resulted in lower borrowing costs for non-profits.

Within the existing federal tax code, there is the ability to issue bank qualified debt that local lenders can purchase and take advantage of the partial tax deductions on the interest earnings. With bank qualified status, banks are allowed to deduct 80% of their “carrying costs” (interest paid on borrowed funds like deposits to purchase bonds) associated with buying tax-exempt bonds. Banks, therefore, can get the dual benefits of tax-exemption and deductibility of carrying costs. This translates into lower borrowing costs for the nonprofit organizations that work with a city (issuer) on the issuance of bank qualified bank direct bonds. Tax-exempt revenue bonds are underwritten and collateralized just like any conventional bank loan. The bank approval process for the revenue bond program does not differ from conventional financing.

The MCDA Bonds of up to $7,000,000 will be used to fund the Shelter Financing gap of $4,368,335 and also to refund Catholic Charities Series 1996 Bonds in the amount of $2,710,000.

It is expected that the bonds for the Catholic Charities/Boxleitner Project will be underwritten and purchased by US Bank.

Present Employment: This project is to be constructed in the spring of 2011. There are no current jobs.

New Employment: Approximately 105 construction workers will be on site to build the facility. The project estimates approximately 30 full time positions when the shelter facility is complete.

Assessor's Estimate Annual Tax Increase: Tax-exempt facility.

Affirmative Action Compliance: Catholic Charities is working with the City's Civil Rights department to ensure compliance.

CITY IRB POLICIES:

Job Component	Minimum standard of one (1) job per 1,000 square feet of building area. Catholic Charities: In compliance.
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. Catholic Charities: In compliance.
Development Standards	Compliance with the Land Use Plan of the City's Comprehensive Plan. Catholic Charities: In compliance.
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. Catholic Charities: In compliance.
Restaurant/Bank	IRB financing is allowed for a restaurant or a bank if it is built or rehabilitated in an 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. Catholic Charities: N.A.
Tax-exempt Institution	Refinancing is permitted when new jobs are created or when a significant number of jobs is preserved; any interest cost savings must directly reduce patient costs. Catholic Charities: In compliance.

<u>IRB CAP:</u> 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.

<u>BOND COUNSEL:</u> Briggs & Morgan, P.A.

<u>UNDERWRITER:</u> US Bank

RESOLUTION
of the
CITY OF MINNEAPOLIS

Giving preliminary and final approval to and authorizing the financing of a project on behalf of Catholic Charities of the Archdiocese of Saint Paul and Minneapolis, a Minnesota nonprofit corporation (the "Borrower"), and approving the issuance of a revenue notes or bonds of the Minneapolis Community Development Agency therefor.

WHEREAS, pursuant to Laws of Minnesota 1980, Chapter 595, as amended ("Chapter 595"), the City Council of the City of Minneapolis, Minnesota (the "City") established the Minneapolis Community Development Agency (the "Agency") and granted certain powers and duties to the Agency; and

WHEREAS, pursuant to such granted powers, the Agency has been authorized to issue revenue obligations for various purposes; and

WHEREAS, it has been proposed that the Agency issue revenue notes or bonds in one or more series in an aggregate amount not to exceed $7,000,000 (the "Bonds") by the Borrower to finance (i) the acquiring, constructing and equipping of the first two floors of a seven story building to be used to provide approximately 251 shelter beds for homeless individuals to be located at 165 Glenwood Avenue in the City and (ii) the refunding of the City’s Variable Rate Seven Day Demand Revenue Bonds (Catholic Charities Project) Series 1996 (the "Project"); and

WHEREAS, the property included in the Project is owned by the Borrower, which is a Minnesota corporation; and

WHEREAS, the Agency expects to give final approval to the issuance of the Bonds by a resolution to be adopted on the date hereof; and

WHEREAS, the Bonds shall bear interest at variable rates of interest and/or fixed interest rates, shall have final maturity dates, and shall have such other terms as required or permitted by the Agency's resolution, which terms are to be incorporated herein by reference.

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

That the City Council hereby gives preliminary and final approval to the issuance by the Agency of the Bonds in a principal amount not to exceed $7,000,000 for the purpose of financing the Project.

That the Bonds are hereby designated as "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 97R-402 of the City adopted December 12, 1997.

RESOLUTION

of the

MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY

GIVING PRELIMINARY AND FINAL APPROVAL TO
FINANCING FOR A PROJECT ON BEHALF OF CATHOLIC CHARITIES,
PROVIDING FOR THE ISSUANCE AND SALE OF UP TO $7,000,000
REVENUE NOTES (CATHOLIC CHARITIES PROJECT), SERIES 2010 AND
AUTHORIZING EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS

WHEREAS,

(a) Minnesota Statutes, Sections 469.152 through 469.1651, as amended (the "Act"), confers upon cities and agencies the power to issue revenue bonds for the purpose of the encouragement and development of economically sound industry and commerce to prevent so far as possible the emergence of blighted and marginal lands and areas of chronic unemployment; and

(b) The Board of Commissioners of the Minneapolis Community Development Agency (the "Agency") has received from Catholic Charities, a Minnesota nonprofit corporation organized under the laws of the State of Minnesota and a 501(c)(3) organization (the "Borrower"), a proposal that the Agency assist in financing a project hereinafter described and the refunding of a project hereinafter described through the issuance of two separate revenue notes, pursuant to the Act; and

(c) In authorizing the financing of the Project and the Refunding (both as hereinafter defined), and the issuance of the Notes (as hereinafter defined), the Agency's purpose is, and in its judgment the effect thereof will be, to promote the public welfare by providing facilities within the meaning of the Act, such purpose to be accomplished in the manner and upon the terms and conditions set forth in the Act and in this Resolution; and

(d) The project to be financed by one of the revenue notes consists of the acquisition, development, construction, improving and equipping of the first two floors and related interests and common areas in a seven story building located at 165 Glenwood Avenue in the Agency to provide approximately 251 shelter beds (up to approximately 80 pay-for-stay beds and 171 shelter beds) for homeless individuals (the “Project”). The Project includes the cost of issuance relating to the notes authorized by this resolution and will be owned and operated by the Borrower or an affiliate of the Borrower; and

(e) The refunding to be financed by the other revenue note is the refunding of the outstanding Variable Rate Demand Purchase Revenue Bonds (Catholic Charities Project) Series 1996 issued by the City of Minneapolis, Minnesota (the “City”) (the "Refunded Bonds"), which were issued to finance the acquisition, construction, and equipping of various facilities owned and operated by the Borrower in the City and, pursuant to a joint powers agreement, in the City of Saint Paul, Minnesota (the "Refunding"); and

(f) The Agency has been advised by representatives of the Borrower that without the aid of municipal financing, and its resulting low borrowing cost, the Project and the provision of the services offered in connection therewith is not economically feasible; and

(g) No public official of the City or the Agency has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project.

RESOLVED BY THE MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY:

SECTION 1 LEGAL AUTHORIZATION AND FINDINGS.

1.1 Findings. The Agency hereby finds, determines and declares as follows:

(a) The Agency is, by the Constitution and Laws of the State of Minnesota, including Sections 469.152 to 469.165, Minnesota Statutes, as amended (the "Act"), authorized to issue and sell its revenue bonds for the purpose of financing the cost of acquisition and construction of authorized projects and to enter into contracts necessary or convenient in the exercise of the powers granted by the Act.

(b) As required by Section 469.154 Subd. 4 of the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the Agency held a public hearing on the issuance of one or more series of revenue bonds or other obligations to finance the Project and the Refunding.

(c) The Project and the Refunding furthers the purposes and policies of the Act and constitute a "project" within the meaning of Section 469.153 Subd. 2(d) of the Act.

(d) The Agency has determined to proceed with the project and the refunding and the financing thereof as required by Section 469.154 Subd. 4 of the Act and authorizes application to the Department of Employment and Economic Development for the approval of the Project and the Refunding.

(e) The issuance and sale of the Agency's Revenue Notes (Catholic Charities Project) Series 2010 (the "Notes") in an amount not to exceed $7,000,000 by the Agency, pursuant to the Act, is in the best interest of the Agency, and the Agency hereby determines to issue the Notes and sell the Notes to U.S. Bank National Association (the "Lender"), as provided herein. The Agency will loan the proceeds of the Notes (the "Loan") to the Borrower in order to finance the Project and the Refunding.

(f) Pursuant to a Loan Agreement (the "Loan Agreement") to be entered into between the Agency and the Borrower, the Borrower has agreed to repay the Notes in specified amounts and at specified times sufficient to pay in full when due the principal of, premium, if any, and interest on the Notes. In addition, the Loan Agreement contains provisions relating to the maintenance and operation of the Project, indemnification, insurance, and other agreements and covenants which are required or permitted by the Act and which the Agency and the Borrower deem necessary or desirable for the financing of the Project and the Refunding. A draft of the Loan Agreement has been submitted to the Board of Commissioners of the Agency.

(g) Pursuant to the Loan Agreement the proceeds of the Notes will be disbursed to the Borrower for the Project and the Refunding pursuant to the terms of the Loan Agreement and the Disbursing Agreement by and between the Borrower and the Lender (the “Disbursing Agreement”). A draft of the Disbursing Agreement has been submitted to the Board of Commissioners of the Agency.

(h) Pursuant to a Pledge Agreement to be entered into between the Agency and the Lender, the Agency has pledged and granted a security interest in all of its rights, title, and interest in the Loan Agreement to the Lender (except for certain rights of indemnification and to reimbursement for certain costs and expenses). A draft of the Pledge Agreement has been submitted to the Board of Commissioners of the Agency.

(i) The Notes will be special limited obligations of the Agency. The Notes shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the City or the Agency be subject to any liability thereon. No holder of a Note shall ever have the right to compel any exercise of the taxing power of the City or the Agency to pay such Note or the interest thereon, nor to enforce payment thereof against any property of the City or the Agency. The Notes shall not constitute a debt of the City or the Agency within the meaning of any constitutional or statutory limitation. A Draft of each Note has been submitted to the Board of Commissioners of the Agency.

(j) It is desirable, feasible and consistent with the objects and purposes of the Act to issue the Notes, for the purpose of financing the costs of the Project and the Refunding.

1.2 Authorization of Project and Refunding. The Agency hereby approves the Project and the Refunding, and does hereby authorize the Borrower, in accordance with the provisions of the Act and subject to the terms and conditions imposed by the Lender, to provide for the financing of the Project and the Refunding by such means as shall be available to the Borrower and in the manner determined by the Borrower and without advertisement for bids as may be required for the construction and acquisition of other municipal facilities; the Agency hereby ratifies, affirms, and approves all actions heretofore taken by the Borrower consistent with and in anticipation of such authority; and the Borrower is hereby authorized to make such expenditures and advances for cost of the Project and/or toward redemption of the Refunded Bonds to be financed from the proceeds of the Note as the Borrower considers necessary, if and when delivered, but otherwise without liability on the part of the Agency.

SECTION 2 THE NOTE.

2.1 Authorized Amount and Form of Notes. The issuance of two separate Notes, both payable from loan repayments to be made under the Loan Agreement, is hereby authorized. The two Notes, respectively, shall be designated “Minneapolis Community Development Agency, Revenue Note (Catholic Charities Project) Series 2010A (the “Series 2010A Note”) and “Minneapolis Community Development Agency, Revenue Refunding Note (Catholic Charities Project) Series 2010B (the “Series 2010B Note”, and together with the Series 2010A Note, each a “Note” and collectively the “Notes”). The proceeds of the Series 2010A Note shall be used to finance the Project. The proceeds of the Series 2010B Note shall be used to finance the Refunding.

The Notes issued pursuant to this Resolution shall be in substantially the form submitted to the Board of Commissioners of the Agency with such appropriate variations, omissions and insertions as are necessary and appropriate and are permitted or required by this Resolution, and in accordance with the further provisions hereof. The total aggregate principal amount of the Notes that may be outstanding hereunder is expressly limited to $7,000,000, unless a duplicate Note is issued pursuant to Section 2.7. The Notes shall bear interest as set forth therein. The initial interest rate on the Series 2010A Note shall be a variable rate calculated substantially as set forth in the draft Loan Agreement on Series 2010A Note submitted to the Board of Commissioners of the Agency, subject to adjustment from time to time substantially as set forth in the draft Loan Agreement or Series 2010A Note submitted to the Board of Commissioners of the Agency. The interest rate on the Series 2010B Note shall be a variable rate substantially as set forth in the draft Loan Agreement or draft Series 2010B Note submitted to the Board of Commissioners of the Agency. The Bonds shall contain a recital that they are issued pursuant to the Act and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

2.2 The Notes. Each Note shall be dated, shall be payable at the times and in the manner, shall bear interest at the rates, and shall be subject to such other terms and conditions as are set forth therein.

2.3 Execution. The Notes shall be executed in the name and on behalf of the Agency by the Executive Director (or Deputy Executive Director) and the Finance Officer (or Assistant Finance Officer), in substantially the forms on file, but with all such changes therein, not inconsistent with this resolution, the Act or other law, as may be approved by the officers executing the same, which approval shall be conclusively evidenced by the execution thereof. In case any officer whose signature shall appear on a Note shall cease to be such officer before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if had remained in office until delivery.

2.4 Delivery of Initial Note. Before delivery of the Notes there shall be filed with the Lender (except to the extent waived by the Lender) the following items:

(1) an executed copy of each of the following documents:

(a) the Loan Agreement;

(b) the Disbursing Agreement, and

(c) the Pledge Agreement;

(2) an opinion of Counsel for the Borrower as prescribed by the Lender and Bond Counsel;

(3) the opinion of Bond Counsel as to the validity and tax exempt status of the Notes;

(4) a 501(c)(3) determination letter or comparable evidence from the Internal Revenue Service evidencing that the Borrower is exempt from income taxation under Section 501(c)(3) of the Code; and

(5) such other documents and opinions as Bond Counsel may reasonably require for purposes of rendering its opinion required in subsection (3) above or that the Lender may reasonably require for the closing.

2.5 Disposition of Proceeds of the Notes. Upon delivery of the Notes to Lender, the Lender is hereby authorized to disburse the proceeds of the Notes for payment of Project Costs and for the Refunding in accordance with the terms of the Loan Agreement and the Disbursing Agreement.

2.6 Registration of Transfer. The Agency will cause to be kept at the office of the Agency a Note Register for the Notes in which, subject to such reasonable regulations as it may prescribe, the Agency shall provide for the registration of transfers of ownership of the Notes. The Notes shall be initially registered in the name of the Lender and shall be transferable upon the Note Register by the Lender in person or by its agent duly authorized in writing, upon surrender of the applicable Note together with a written instrument of transfer satisfactory to the Agency, duly executed by the Lender or its duly authorized agent. The following form of assignment shall be sufficient for said purpose.

For value received ___________ hereby sells, assigns and transfers unto ________________ the within Note of the Minneapolis Community Development Agency, and does hereby irrevocably constitute and appoint ___________________ attorney to transfer said Note on the books of said Agency with full power of substitution in the premises. The undersigned certifies that the transfer is made in accordance with the provisions of Section 2.9 of the Resolution authorizing the issuance of the Note.

Dated: ______________________________

____

Registered Owner

Upon such transfer the Agency shall note the date of registration and the name and address of the new holder in the applicable Note Register and in the registration blank appearing on the Note.

2.7 Mutilated, Lost or Destroyed Notes. In case any Note issued hereunder shall become mutilated or be destroyed or lost, the Agency shall, if not then prohibited by law, cause to be executed and delivered, a new Note of like outstanding principal amount, number and tenor in exchange and substitution for and upon cancellation of such mutilated Note, or in lieu of and in substitution for such Note destroyed or lost, upon the Lender's paying the reasonable expenses and charges of the Agency in connection therewith, and in the case of a Note destroyed or lost, the filing with the Agency of evidence satisfactory to the Agency with indemnity satisfactory to it. If the mutilated, destroyed or lost Note has already matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Note prior to payment.

2.8 Ownership of Notes. The Agency may deem and treat the person in whose name the Note is last registered in the applicable Note Register and by notation on the applicable Note whether or not such Note shall be overdue, as the absolute owner of such Note for the purpose of receiving payment of or on account of the Principal Balance, redemption price or interest and for all other purposes whatsoever, and the Agency shall not be affected by any notice to the contrary.

2.9 Limitation on Note Transfers. The Notes will be issued to an "accredited investor" and without registration under state or other securities laws, pursuant to an exemption for such issuance; and accordingly a Note may not be assigned or transferred in whole or part, nor may a participation interest in the Note be given pursuant to any participation agreement, except to another "accredited investor" or "financial institution" in accordance with an applicable exemption from such registration requirements and with full and accurate disclosure of all material facts to the prospective purchaser(s) or transferee(s).

2.10 Issuance of New Notes. Subject to the provisions of Section 2.9, the Agency shall, at the request and expense of the Lender, issue new notes, in aggregate outstanding principal amount equal to that of the Note surrendered, and of like tenor except as to number, principal amount, and the amount of the monthly installments payable thereunder, and registered in the name of the Lender or such transferee as may be designated by the Lender.

SECTION 3 GENERAL COVENANTS

3.1 Payment of Principal and Interest. The Agency covenants that it will promptly pay or cause to be paid the principal of and interest on the Notes at the place, on the dates, solely from the source and in the manner provided herein and in the applicable Note. The principal and interest are payable solely from and secured by revenues and proceeds derived from the Loan Agreement and the Pledge Agreement, which revenues and proceeds are hereby specifically pledged to the payment thereof in the manner and to the extent specified in the Notes, the Loan Agreement, and the Pledge Agreement; and nothing in the Notes or in this Resolution shall be considered as assigning, pledging or otherwise encumbering any other funds or assets of the City or the Agency.

3.2 Performance of and Authority for Covenants. The Agency covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Resolution, in the Notes executed, authenticated and delivered hereunder and in all proceedings of the Board of Commissioners of the Agency pertaining thereto; that it is duly authorized under the Constitution and laws of the State of Minnesota including particularly and without limitation the Act, to issue the Notes authorized hereby, pledge the revenues and assign the Loan Agreement in the manner and to the extent set forth in this Resolution, the Notes, the Loan Agreement, and the Pledge Agreement, that all action on its part for the issuance of the Notes and for the execution and delivery thereof has been duly and effectively taken; and that the Notes in the hands of the Purchaser is and will be a valid and enforceable special limited obligation of the Agency according to the terms thereof.

3.3 Enforcement and Performance of Covenants. The Agency agrees to enforce all covenants and obligations of the Borrower under the Loan Agreement upon request of the Lender and being indemnified to the satisfaction of the Agency for all expenses and claims arising therefrom, and to perform all covenants and other provisions pertaining to the Agency contained in the Notes and the Loan Agreement and subject to Section 3.4.

3.4 Nature of Security. Notwithstanding anything contained in the Notes, the Loan Agreement, the Pledge Agreement or any other document referred to in Section 2.4 to the contrary, under the provisions of the Act, the Notes may not be payable from or be a charge upon any funds of the City or the Agency other than the revenues and proceeds pledged to the payment thereof, nor shall the City or the Agency be subject to any liability thereon, nor shall the Notes otherwise contribute or give rise to a pecuniary liability of the City or the Agency or, to the extent permitted by law, any of the City's or the Agency's officers, employees and agents. No holder of a Note shall ever have the right to compel any exercise of the taxing power of the City or the Agency to pay such Note or the interest thereon, or to enforce payment thereof against any property of the City or the Agency other than the revenues pledged under the Pledge Agreement; and the Notes shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City or the Agency; and the Notes shall not constitute a debt of the City or the Agency within the meaning of any constitutional or statutory limitation; but nothing in the Act impairs the rights of the Lender to enforce the covenants made for the security thereof as provided in this Resolution, the Loan Agreement, and the Pledge Agreement, and in the Act, and by authority of the Act the Agency has made the covenants and agreements herein for the benefit of the Lender; provided that in any event, the agreement of the Agency to perform or enforce the covenants and other provisions contained in the Notes, the Loan Agreement, and the Pledge Agreement shall be subject at all times to the availability of revenues under the Loan Agreement sufficient to pay all costs of such performance or the enforcement thereof, and the Agency shall not be subject to any personal or pecuniary liability thereon.

SECTION 4 MISCELLANEOUS.

4.1 Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Resolution contained shall not affect the remaining portions of this Resolution or any part thereof.

4.2 Authentication of Transcript. The officers of the Agency are directed to furnish to Bond Counsel certified copies of this Resolution and all documents referred to herein, and affidavits or certificates as to all other matters which are reasonably necessary to evidence the validity of the Note. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute recitals of the Agency as to the correctness of all statements contained therein.

4.3 Authorization to Execute Agreements. The forms of the proposed Loan Agreement, Disbursing Agreement, Pledge Agreement, and Notes are hereby approved in substantially the forms heretofore presented to the Board of Commissioners of the Agency, together with such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by Bond Counsel prior to the execution of the documents, and the Executive Director and Finance Officer or other officers authorized to act on behalf of the Agency is authorized to execute the Loan Agreement, the Pledge Agreement and such other documents as required, appropriate or desirable in connection with the issuance of the Notes in the name of and on behalf of the Agency. The execution of any instrument by the appropriate officer or officers of the Agency herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

4.4 Certifications. The officers of the Agency are authorized and directed to prepare and furnish to bond counsel, to the Borrower, to the Lender and to counsel for the Borrower and the Lender, certified copies of all proceedings and records of the Agency relating to the Project, the Refunding, and the Notes, and such other affidavits and certificates as may be required to show the facts appearing from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the Agency as to the trust of all statements contained therein.