



*Our Mission is to Provide Quality Public  
Services in a Fiscally Responsible Manner  
While Preserving the City's Open Space  
Character*

## **NOTICE OF MEETING**

### **City of Lake Elmo Economic Development Authority Meeting**

**3800 Laverne Avenue North  
Tuesday, June 5, 2018 6:00 PM**

## **AGENDA**

- A. Call to Order/Roll Call**
- B. Approval of September 21, 2017 Minutes**
- C. Purchase/Lease and Bonding of 3880 Laverne Ave N**
  - a. Resolution Relating to Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A and Trust Indenture**
  - b. Lease Purchase Agreement between the EDA and City of Lake Elmo**
- D. Staggered Terms**
- E. Commissioner Reports**
- F. Director Report**
- G. Next Meeting Date and Agenda**
- H. Adjourn**

**CITY OF LAKE ELMO  
ECONOMIC DEVELOPMENT AUTHORITY MINUTES  
September 21, 2017**

**Call to Order/Roll Call**

Mayor Pearson called the meeting to order at 7:00 P.M.

**PRESENT: Mike Pearson, Anne Cohen, John Thompson, Linda Larson, Mark Gaertner, Steve Nelson, John Schiltz, and Dan Raleigh**

**ABSENT: Jill Lundgren**

Staff Present: City Administrator Handt, Planning Director Becker, City Planner Prchal

**Approval of May 11, 2017 Minutes**

Motion by Thompson, seconded by Gaertner to approve the May 11, 2017 minutes. Motion passed.

**Economic Development Chap of Comp Plan**

Jennifer Haskamp from SHC and Jay Demma from Perkins and Will, the city's consultants on the 2040 comprehensive plan update presented information on the process to update the comp plan. They provided background info on the systems plan; economic, household and employment growth; market trends and discussed land use plans for south of 10<sup>th</sup> St and the Old Village.

**Commissioner Reports**

None

**Director Report**

Handt introduced Ben Prchal, the new City Planner who will provide support to the EDA; reported on the open house for the Twin Cities Business Magazine article and Open to Business meeting; mentioned working with Washing County CDA on trying to recruit a business from Wisconsin and working with Xcel Energy on a site certification application at Hudson and Manning.

**Next Meeting Date and Agenda**

Thompson mentioned developing a pamphlet to send to developers. He will work on a sample before the next meeting. Due to the holidays the next meeting will be January 2018.

**Adjourn**

Meeting adjourned at 9:05 P.M.

Respectfully Submitted,  
Kristina Handt



## STAFF REPORT

DATE: June 5, 2018

**REGULAR**

ITEM #: C

**MOTION**

**AGENDA ITEM:** 2018 Bonding for Brookfield Building and Lease Purchase Agreement with City of Lake Elmo

**TO:** Economic Development Authority

**SUBMITTED BY:** Kristina Handt, EDA Executive Director

---

### **BACKGROUND:**

In 2017 the City engaged BKV Group to complete a space needs study for city hall, fire and public works. The final draft report was presented to Council in December 2017. Also, in December 2017 the Council discussed purchasing the Brookfield Building (3880 Laverne Ave N) across from city hall. In January 2018 a purchase agreement was approved which included a number of contingencies including financing of the purchase, building inspection, and building fit analysis.

Staff met with Northland Securities in January to discuss financing options. Since the intention was to retain the tenants for a period of time (through their lease terms), the City is prohibited from issuing general obligation bonds as much of the building (about 75%) could be used for non-city business (other tenants in the private and non-profit sector). The Council had the option to just pay cash for the purchase (\$875,000) but decided they would rather borrow the funds so as not to reduce the city's fund balance by so much. The EDA has statutory powers which allows it to issue taxable bonds for non-governmental purposes such as this.

The city had CEG Assessments perform a property condition assessment and environmental assessment of the building. In addition, Leo A Daly performed a fit analysis to determine if the site could work for a city hall/fire station location. With additions for a council chamber and fire apparatus bay and remodeling of the interior it was shown to be able to meet the needs. In addition, costs estimates (including the purchase price) of the Brookfield site were estimated to be less than other options reviewed by the public at an open house in February. The public feedback supported the purchase of the Brookfield site as well.

### **ISSUE BEFORE COMMITTEE:**

Should the EDA approve the resolution to borrow \$933,000? Should the EDA approve the lease purchase agreement with the City of Lake Elmo?

### **PROPOSAL DETAILS/ANALYSIS:**

Included in your packet is a resolution to award the bond sale to Lake Elmo Bank at 4.5% interest for a 15 year term. The resolution includes recitals relating to the EDA's statutory powers

(including HRA powers) and the City's purchase of the building at 3880 Laverne Ave and adjacent parcel.

Bonds from the EDA are being proposed because the City cannot issue general obligation bonds since there are other tenants occupying the building. The resolution also makes reference to the EDA lease of the property to the City with the option to purchase.

The resolution gives the President and Secretary the authority to sign documents. This is consistent with the EDA's bylaws.

The bonds are paid from the rental payments. If the city defaults then the EDA can use its HRA powers to levy for the funds.

A quit claim deed will follow to transfer the ownership of the property from the city to the EDA. There is a reference to reimbursement for expenses, which includes some of the costs associated with the purchase such as the architect work to review the suitability of the building for use as a city hall/fire station, the building inspection and some legal fees related to the purchase and closing.

Your packet also includes the trust indenture which lays out how the bonds are repaid.

The lease agreement between the EDA and City is included. It allows the city to sublease and retain those rents but also then to be responsible for all costs associated with running the building. Semiannual lease payments are due from the City to the EDA at least three days before the bond payments are due. The lease also includes an option for the city to purchase the property in an amount equal to the outstanding principal payments plus accrued interest. At this point, staff anticipates the City will purchase the property back in 2022 when the lease expires for the last tenant. The timing will be part of the discussion as the City works on the 2019-2023 Capital Improvement Plan beginning later this month with the Finance Committee. If the City displaces any tenants before the end of their lease the city will have to pay relocation costs.

Tammy Omdahl, Northland Securities, will be at the meeting to present information to the EDA and answer questions related to the bonding.

**FISCAL IMPACT:**

The lease is drafted to require the city to make semiannual payments in the amounts equal to the bond payments so no impact is expected to the EDA budget. So long as the city continues to make those payments, it is not anticipated the EDA will have to use its HRA powers to levy a tax to make the bond payments.

**OPTIONS:**

- 1) Approve Resolution No. 2018-001, Relating to \$933,000 Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A, Authorizing the Issuance, Awarding the Sale, Providing Security and Authorizing the Execution of Documents.
- 2) Amend and then Approve Resolution No. 2018-001, Relating to \$933,000 Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A, Authorizing the Issuance, Awarding the Sale, Providing Security and Authorizing the Execution of Documents.

- 3) Do not Approve Resolution No. 2018-001, Relating to \$933,000 Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A, Authorizing the Issuance, Awarding the Sale, Providing Security and Authorizing the Execution of Documents

AND

- 1) Approve the Lease Purchase Agreement between the EDA and City of Lake Elmo
- 2) Amend and then Approve the Lease Purchase Agreement between the EDA and City of Lake Elmo
- 3) Do not Approve the Lease Purchase Agreement between the EDA and City of Lake Elmo

**RECOMMENDATION:**

*Motion to Approve Resolution No. 2018-001, Relating to \$933,000 Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A, Authorizing the Issuance, Awarding the Sale, Providing Security and Authorizing the Execution of Documents.*

AND

*Motion to Approve the Lease Purchase Agreement between the EDA and City of Lake Elmo*

**ATTACHMENT:**

- Resolution No. 2018-001, Relating to \$933,000 Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A, Authorizing the Issuance, Awarding the Sale, Providing Security and Authorizing the Execution of Documents.
- Trust Indenture between the EDA and U.S. National Bank Association
- Lease Purchase Agreement between the EDA and City of Lake Elmo

CERTIFICATION OF MINUTES RELATING TO  
\$933,000 TAXABLE PUBLIC PROJECT LEASE REVENUE  
AND LIMITED TAX BONDS, SERIES 2018A

Authority: Economic Development Authority of the City of Lake Elmo, Minnesota

Governing Body: Board of Commissioners

Kind, date, time and place of meeting: A regular meeting held on June 5, 2018, at 7:00 p.m., at the Lake Elmo City Hall.

Members present:

Members absent:

Documents Attached:

Minutes of said meeting (including):

RESOLUTION NO. 2018-01

RESOLUTION RELATING TO \$933,000 TAXABLE PUBLIC PROJECT  
LEASE REVENUE AND LIMITED TAX BONDS, SERIES 2018A;  
AUTHORIZING THE ISSUANCE, AWARDED SALE, PROVIDING  
SECURITY AND AUTHORIZING THE EXECUTION OF DOCUMENTS

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the bonds referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, so far as they relate to said bonds; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer this \_\_\_\_\_ day of June, 2018.

---

Secretary

Commissioner \_\_\_\_\_ introduced the following resolution and moved its adoption, which motion was seconded by Commissioner \_\_\_\_\_:

RESOLUTION RELATING TO \$933,000 TAXABLE PUBLIC PROJECT LEASE REVENUE AND LIMITED TAX BONDS, SERIES 2018A; AUTHORIZING THE ISSUANCE, AWARDED SALE, PROVIDING SECURITY AND AUTHORIZING THE EXECUTION OF DOCUMENTS

BE IT RESOLVED by the Economic Development Authority of the City of Lake Elmo, Minnesota (the “Authority”), as follows:

Section 1. Recitals.

1.01. The Authority is authorized by Minnesota Statutes, Sections 469.001 to 469.047 and 469.090 to 469.1082, Chapter 471, and Chapter 475, as amended (collectively, the “Act”), and specifically Sections 469.034 and 469.035 thereof, to issue revenue bonds for any of its corporate purposes, and to pledge thereto income and revenues of the Authority. Section 469.033, Subdivision 6, of the Act permits the Authority to levy and collect a special benefit levy of up to .0185 percent of estimated market value in the City upon all taxable real property within the City in order to finance housing and redevelopment activities authorized under the Act (the “HRA Levy”).

1.02. The City of Lake Elmo, Minnesota (the “City”), is authorized by Minnesota Statutes, Section 465.71, as amended, to acquire real and personal property under lease-purchase agreements.

1.03. The City has heretofore acquired certain real property located at or about 3880 Laverne Avenue N. and 39<sup>th</sup> Street and Laverne Avenue N., in the City of Lake Elmo, County of Washington, Minnesota, including a 2.06 acre parcel with an approximately 18,000 square foot building and a vacant .58 acre parcel (the “Real Property”), and the City has heretofore recorded or will record a quitclaim deed transferring title to the Real Property to the Authority.

1.04. The Authority and the City find it necessary and desirable that the Authority issue its Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A (the “Bonds”) in an aggregate principal amount of \$933,000 (the “Bonds”) for the purpose of (i) financing the acquisition of the Real Property, and (ii) paying costs associated with the issuance of the Bonds (collectively, the “Project”).

1.05. The City and the Authority propose that the Authority will lease the Real Property to the City with an option to purchase pursuant to a Lease-Purchase Agreement dated as of June 1, 2018 (the “Lease”) in exchange for payments from the City to the Authority (the “Rental Payments”).

1.06. The Authority will issue its Bonds pursuant to a Trust Indenture dated as of June 1, 2018 (the “Indenture”), between the Authority and U.S. Bank National Association, as trustee (the “Trustee”).

1.07. Under the Indenture, proceeds of the Bonds will be used to pay costs of the Project and the Bonds will be secured by and payable from certain revenues of the Authority, including the Rental Payments and the HRA Levy, if necessary.

1.08. Forms of the Lease and the Indenture have been prepared and submitted to the Authority and are on file with the Authority.

Section 2. Sale of Bonds; Terms.

2.01. Placement Agent. The Authority has retained Northland Securities, Inc., as placement agent, to assist the Authority in connection with the direct sale of the Bonds to Lake Elmo Bank, a Minnesota banking institution (the “Purchaser”). The Bonds are being sold to the Purchaser pursuant to Minnesota Statutes, Section 475.60, subdivision 2, without meeting the requirements for public sale under Minnesota Statutes, Section 475.60, subdivision 1.

2.02. Sale. The Authority hereby ratifies and approves in all respects the execution and delivery by the President and the Secretary of the Authority of a contract, dated on or before June 5, 2018 (the “Bond Purchase Agreement”), for the sale of the Bonds to the Purchaser at the purchase price set forth in the Bond Purchase Agreement.

2.03. Issuance of Bonds. The Authority will forthwith issue and sell the Bonds in the total principal amount of \$933,000, in the form and upon the terms set forth in the Indenture, which terms are for this purpose incorporated in this resolution and made a part hereof; provided, however, that the initial aggregate principal amounts of and the maturities of the Bonds, the interest rates thereon, and any provisions for the optional or mandatory redemption thereof shall all be as set forth in the final form of the Indenture to be approved, executed and delivered by the officers of the Authority authorized to do so by the provisions of this resolution, which approval shall be conclusively evidenced by such execution and delivery. The President and Secretary of the Authority are authorized and directed to prepare and execute the Bonds as prescribed in the Indenture and to deliver them to the Trustee, together with a certified copy of this resolution and the other documents required by the Indenture, for authentication, registration and delivery to the Purchaser. As provided in the Indenture, each Bond shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity and regularity of the issuance thereof.

Section 3. Approval and Execution of Documents. The Lease, Indenture and Bond Purchase Agreement, together with any other documents, instruments or certifications necessary in connection with the issuance of the Bonds, are hereby approved (collectively, the “Financing Documents”). The President and Secretary are authorized and directed to execute and deliver the Financing Documents on behalf of the Authority, substantially in the forms on file, but with all such changes therein as shall be approved by the officers executing the same, which approval shall be conclusively evidenced by the execution thereof. Copies of all of the Financing Documents shall be delivered, filed and recorded as provided therein. The President and Secretary of the Authority are also authorized and directed to execute such other instruments as may be required to give effect to the transactions herein contemplated.



Section 4. Security and Covenants.

4.01. Security. The Bonds are payable solely as provided in the Indenture from the Rental Payments to be made by the City under the Lease, and the moneys received, if any, from the pledge of the HRA Levy in accordance with Section 4.02. No property or funds of the Authority, other than the property pledged pursuant to the Indenture is pledged to the payment of the Bonds.

4.02. HRA Levy Pledge. The Authority hereby covenants and agrees that if there is an event of default under the Lease or the City exercises its right not to appropriate funds sufficient to make Rental Payments, or if Rental Payments are no longer available for payment of amounts due with respect to the Bonds for any other reason, then:

(a) For the prompt and full payment of the principal of and interest on the Bonds as such payments respectively become due, the Authority shall levy an annual tax levy for collection in each year in which principal of or interest on the Bonds is due and payable, in an amount not to exceed the lesser of (i) the maximum annual amount of principal and interest due on the Bonds or (ii) the statutory maximum, pursuant to its taxing power under Minnesota Statutes, Section 469.033, subdivision 6 and irrevocably appropriates the collections of such HRA Levy to the Bond Fund created in the Indenture for payment of the Bonds.

(b) The Authority shall submit to the City in each year during which the Bonds are outstanding a budget in accordance with the requirements of Section 469.033, Subdivision 6, of the Act, and to take any other actions necessary to promptly levy and apply, pursuant to the Indenture, proceeds of its HRA Levy in accordance with (a) above.

(c) Any proceeds of the HRA Levy collected by the Authority in excess of amounts needed to pay debt service on the Bonds or other amounts due under the Indenture are not pledged to the Bonds under this resolution and may be retained by the Authority and used for any purpose in accordance with law.

Section 5. Authentication of Transcript.

5.01. Bond Transcript. The officers of the Authority are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the Bonds, certified copies of proceedings and records of the Authority relating to the Bonds and such other certificates, affidavits and transcripts as may be required to show the facts within their knowledge or as shown by the books and records in their custody and under their control, relating to the validity and marketability of the Bonds and such instruments, including any heretofore furnished, may be deemed representations of the Authority as to the facts stated therein.

Section 6. Reimbursement.

6.01. Recitals.

(a) The Internal Revenue Service has issued Section 1.150-2 of the Income Tax Regulations (the "Regulations") dealing with the issuance of bonds, all or a portion of the

proceeds of which are to be used to reimburse the Authority for project expenditures made by the Authority prior to the date of issuance.

(b) The Regulations generally require that the Authority make a declaration of its official intent to reimburse itself for such prior expenditures out of the proceeds of a subsequently issued series of bonds within 60 days after payment of the expenditures, that the bonds be issued and the reimbursement allocation be made from the proceeds of such bonds within the reimbursement period (as defined in the Regulations), and that the expenditures reimbursed be capital expenditures or costs of issuance of the bonds.

(c) The Authority desires to comply with requirements of the Regulations with respect to certain projects hereinafter identified.

6.02. Official Intent Declaration.

(a) The Authority proposes to undertake the following project or projects and to make original expenditures with respect thereto prior to the issuance of reimbursement bonds, and reasonably expects to issue reimbursement bonds for such project or projects in the maximum principal amounts shown below:

Project

The acquisition of the Real Property and the construction of a new city hall or fire station.

Maximum Amount of Bonds Expected to be Issued for Project

\$15,000,000

(b) Other than (i) de minimis amounts permitted to be reimbursed pursuant to Section 1.150-2(f)(1) of the Regulations or (ii) expenditures constituting preliminary expenditures as defined in Section 1.150-2(f)(2) of the Regulations, the Authority will not seek reimbursement for any original expenditures with respect to the foregoing projects paid more than 60 days prior to the date of adoption of this resolution. All original expenditures for which reimbursement is sought will be capital expenditures or costs of issuance of the reimbursement bonds.

6.03. Budgetary Matters. As of the date hereof, there are no Authority funds reserved, pledged, allocated on a long term basis or otherwise set aside (or reasonably expected to be reserved, pledged, allocated on a long term basis or otherwise set aside) to provide permanent financing for the original expenditures related to the projects, other than pursuant to the issuance of the reimbursement bonds. Consequently, it is not expected that the issuance of the reimbursement bonds will result in the creation of any replacement proceeds.

Section 7. Effective Date. **This resolution shall be effective immediately upon final adoption by the City Council of the City of its resolution dated the date hereof relating to the Bonds.**

The motion for the adoption of the foregoing resolution was introduced by Member \_\_\_\_\_ and duly seconded by Member \_\_\_\_\_, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

**EXECUTION**

=====

TRUST INDENTURE

between

ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF LAKE ELMO, MINNESOTA

and

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

Dated as of June 1, 2018

=====

Relating to:

TAXABLE PUBLIC PROJECT LEASE REVENUE  
AND LIMITED TAX BONDS, SERIES 2018A

This instrument drafted by:

Dorsey & Whitney LLP (NC)  
50 South Sixth Street  
Minneapolis, Minnesota 55402

## TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I DEFINITIONS AND INTERPRETATION.....	4
Section 1.01.    Definitions.....	4
Section 1.02.    Additional Provisions as to Interpretation .....	6
ARTICLE II FORM, EXECUTION AND REGISTRATION OF BONDS .....	7
Section 2.01.    Form of Bonds .....	7
Section 2.02.    Maturities, Numeration and Interest Payment Dates .....	7
Section 2.03.    Execution of Bonds.....	7
Section 2.04.    Authentication of Bonds .....	7
Section 2.05.    Registration, Transfer and Exchange.....	8
Section 2.06.    Payment of Interest on Bonds; Interest Rights Preserved.....	8
Section 2.07.    Ownership of Bonds .....	9
Section 2.08.    Reissuance of Mutilated, Destroyed, Stolen or Lost Bonds .....	10
Section 2.09.    Conditions for Authentication of Bonds .....	10
Section 2.10.    Authorization of Additional Bond .....	10
Section 2.11.    Reserved.....	11
ARTICLE III REDEMPTION OF BONDS .....	12
Section 3.01.    Redemption of Bonds .....	12
Section 3.02.    Notice of Redemption .....	12
Section 3.03.    Deposit for Redemption.....	13
Section 3.04.    Payment of Redeemed Bonds .....	13
Section 3.05.    Cancellation of Redeemed Bonds.....	13
Section 3.06.    Partial Redemption of Bonds.....	13
ARTICLE IV USE OF BOND PROCEEDS .....	15
Section 4.01.    Deposit of Series 2018A Bond Proceeds.....	15
ARTICLE V DISPOSITION OF PLEDGED REVENUES.....	16
Section 5.01.    Bond Fund.....	16
Section 5.02.    Reserved.....	16
Section 5.03.    Investment of Funds in the Bond Fund.....	16
ARTICLE VI PARTICULAR COVENANTS OF THE AUTHORITY .....	18
Section 6.01.    Payment of Bonds .....	18
Section 6.02.    Extensions of Payments of Bonds.....	18
Section 6.03.    Authorization .....	18
Section 6.04.    Concerning the Lease.....	19

Section 6.05.	To Observe All Covenants and Terms – Limitations on Authority’s Obligations .....	19
Section 6.06.	Liens .....	19
Section 6.07.	Rental Payments .....	19
Section 6.08.	HRA Levy .....	19
ARTICLE VII EVENTS OF DEFAULT; REMEDIES .....		20
Section 7.01.	Events of Default .....	20
Section 7.02.	Enforcement of Covenants and Conditions .....	20
Section 7.03.	Application of Moneys .....	21
Section 7.04.	Right of Trustee to Act Without Possession of Bonds .....	22
Section 7.05.	Power of Majority of Bondholders .....	22
Section 7.06.	Limitation on Suits by Bondholders .....	22
Section 7.07.	Waiver by Bondholders .....	23
Section 7.08.	Remedies Cumulative, Delay Not To Constitute Waiver .....	23
Section 7.09.	Restoration of Rights Upon Discontinuance of Proceedings .....	23
ARTICLE VIII CONCERNING THE TRUSTEE .....		25
Section 8.01.	Acceptance of Trust and Prudent Performance Thereof .....	25
Section 8.02.	Trustee May Rely Upon Certain Documents and Opinions .....	26
Section 8.03.	Trustee Not Responsible for Indenture Statements, Validity .....	26
Section 8.04.	Limits on Duties and Liabilities of Trustee .....	27
Section 8.05.	Money Held in Trust .....	27
Section 8.06.	Obligation of Trustee .....	27
Section 8.07.	Notice to Bondholders .....	28
Section 8.08.	Intervention in Judicial Proceedings .....	28
Section 8.09.	Further Investigation by Trustee .....	28
Section 8.10.	Trustee to Retain Financial Records .....	28
Section 8.11.	Compensation of Trustee .....	28
Section 8.12.	Trustee May Hold Bonds .....	29
Section 8.13.	Appointment of Trustee .....	29
Section 8.14.	Merger of Trustee .....	29
Section 8.15.	Resignation or Removal of Trustee .....	29
Section 8.16.	Appointment of Successor Trustee .....	30
Section 8.17.	Transfer of Rights and Property to Successor Trustee .....	30
Section 8.18.	Appointment of Successor or Alternate Paying Agents .....	31
Section 8.19.	Indemnification .....	31
Section 8.20.	Agents .....	31
ARTICLE IX CONCERNING THE BONDHOLDERS .....		32
Section 9.01.	Execution of Instruments by Bondholders .....	32
Section 9.02.	Waiver of Notice .....	32
Section 9.03.	Determination of Bondholder Concurrence .....	32
Section 9.04.	Bondholders’ Meeting .....	32

Section 9.05.    Revocation by Bondholders .....	34
ARTICLE X PAYMENT, DEFEASANCE AND RELEASE .....	35
Section 10.01.  Payment and Discharge of Indenture .....	35
Section 10.02.  Bonds Deemed Not Outstanding After Deposits .....	36
Section 10.03.  Unclaimed Money to be Returned .....	36
ARTICLE XI SUPPLEMENTAL INDENTURES .....	37
Section 11.01.  Purposes for Which Supplemental Indentures May be Executed .....	37
Section 11.02.  Execution of Supplemental Indenture .....	38
Section 11.03.  Discretion of Trustee .....	38
Section 11.04.  Modification of Indenture with Consent of Bondholders .....	38
Section 11.05.  Supplemental Indentures to be Part of Indenture .....	39
Section 11.06.  Rights of City Unaffected .....	39
Section 11.07.  Rights of Authority .....	39
ARTICLE XII AMENDMENTS TO THE LEASE .....	40
Section 12.01.  Amendments to the Lease Not Requiring Consent of Bondholders .....	40
Section 12.02.  Amendments to Lease Requiring Consent of Bondholders .....	40
Section 12.03.  Rights of Authority .....	40
ARTICLE XIII RESERVED .....	41
ARTICLE XIV MISCELLANEOUS .....	42
Section 14.01.  Rights in Authority are Held Solely for Benefit of Bondholders .....	42
Section 14.02.  Covenants of Authority Bind Successors and Assigns .....	42
Section 14.03.  Immunity of Officers .....	42
Section 14.04.  No Benefits to Outside Parties .....	42
Section 14.05.  Separability of Indenture Provisions .....	42
Section 14.06.  Execution of Indenture in Counterparts .....	42
Section 14.07.  Headings Not Controlling .....	42
Section 14.08.  Notices etc., to Trustee, Authority and City .....	43

Exhibit A – A legal description of the Real Property

Exhibit B – Form of the Bonds

Exhibit C – Costs of Issuance

## TRUST INDENTURE

This TRUST INDENTURE (the Indenture) is executed as of June 1, 2018, between the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF LAKE ELMO, MINNESOTA, a public body corporate and politic of the State of Minnesota (the Authority) and U.S. BANK NATIONAL ASSOCIATION, a national banking association, having an office in the City of St. Paul, Minnesota (the Trustee).

### RECITALS

WHEREAS, as authorized by Minnesota Statutes, Section 469.034, the Authority has agreed to issue its revenue bonds to acquire the Real Property (as defined herein);

WHEREAS, the Authority has deemed it advisable to enter into this Indenture and has duly authorized and directed the issuance of its Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A (the Bonds) in the aggregate principal amount of its \$933,000, for the purpose of (i) acquiring the Real Property, and (ii) paying costs associated with the issuance of the Bonds (collectively, the Project);

WHEREAS, upon issuance of the Bonds, good and marketable title to the Real Property will be in the Authority;

WHEREAS, to secure payment of the Bonds, pursuant to a Lease-Purchase Agreement dated as of the date hereof (the Lease), the Authority has leased to the City of Lake Elmo, Minnesota (the City), and the City has hired and taken from the Authority, the Real Property, and for such purpose the Authority has granted to the City for the term of the Lease all rights necessary for the City to lease and purchase the Real Property;

WHEREAS, the Lease requires the City to make Rental Payments thereunder in amounts and at times sufficient to pay the principal of, premium, if any, on and interest on the Bonds when due;

WHEREAS, the execution and delivery of this Indenture and the Lease and the issuance of the Bonds have been in all respects duly and validly authorized by the Board of Commissioners of the Authority pursuant to a resolution adopted by the Board of Commissioners of the Authority on June 5, 2018 (the Bond Resolution);

WHEREAS, all conditions, acts and things necessary and required by the Constitution and laws of the State of Minnesota, or otherwise, to exist, to have happened or to have been performed precedent to and in the execution and delivery of this Indenture, and in the issuance of the Bonds, do exist, have happened or have been performed in regular form, time and manner, and the execution and delivery of this Indenture have been in all respects duly authorized; and

WHEREAS, the Trustee has accepted the trusts created by this Indenture and in evidence thereof has joined in the execution hereof.



NOW, THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

That the Authority, in order to secure the payment of the principal of, premium (if any) and interest on the Bonds issued under this Indenture according to their tenor and effect and the performance and observance of each and all of the covenants and conditions herein and therein contained, and for and in consideration of the premises and of the purchase and acceptance of the Bonds by the respective purchaser or purchasers and Owners or Holders thereof, and for other good and valuable considerations, the receipt whereof is hereby acknowledged, has executed and delivered this Indenture and has granted, bargained, sold, assigned, transferred, conveyed, warranted, pledged and set over, and by these presents does hereby grant, bargain, sell, assign, transfer, convey, warrant, pledge and set over, absolutely unto the Trustee, and to its successor or successors in the trust hereby created and to its or their assigns forever (collectively, the Trust Estate):

I.

All of the right, title and interest of the Authority in the Rental Payments due under the Lease.

II.

A first lien on and pledge of the money and investments in the Bond Fund covenanted to be created and maintained under this Indenture, including any proceeds of the limited tax pledge described herein.

III.

Any and all other property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, assigned or transferred, or in which a security interest is granted, by the Authority or the City or by anyone on behalf of them or with their written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same to the terms hereof.

TO HAVE AND TO HOLD all and singular the said property hereby conveyed and assigned, or agreed or intended so to be, to the Trustee, its successor or successors in trust and its and their assigns, FOREVER.

IN TRUST NEVERTHELESS, upon the terms and trust herein set forth, for the equal and proportionate benefit, security and protection of all Holders of the Bonds issued or to be issued under and secured by this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any of the others;

PROVIDED, HOWEVER, that if the Authority, its successors or assigns, shall well and truly pay or cause to be paid the principal of the Bonds and the premium (if any) and interest due or to become due thereon, at the times and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or shall provide, as permitted hereby, for the payment thereof by

depositing with the Trustee sums sufficient to pay the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof; then upon such final payment this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared that, all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said property hereby assigned or pledged is to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Authority has agreed and covenanted and does hereby agree and covenant with the Trustee and with the respective Holders from time to time, of the said Bonds, as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Article I and in the recitals and succeeding Articles of this Indenture shall, for all purposes of this Indenture and of any indenture 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:

*Additional Bonds* means any additional Bonds issued pursuant to the terms and conditions of Section 2.10 of this Indenture.

*Authority Representative* means the President or Secretary of the Authority or any other person authorized to act on behalf of Authority under or with respect to this Indenture, as evidenced by a certificate conferring such authority executed by the President, given to the Trustee and the City.

*Bond Counsel* means Dorsey & Whitney LLP or any other nationally recognized municipal bond counsel acceptable to the Authority and the City.

*Bond Fund* means the Bond Fund created under Section 5.01 of this Indenture.

*Bonds* means the Bonds and any Additional Bonds.

*Business Day* means any day other than a Saturday, Sunday, or other day on which commercial banks in the city in which the principal corporate trust office of the Trustee is located are not open for business.

*Certificate* means a certification in writing required or permitted by the provisions of the Lease or this Indenture, signed and delivered to the Trustee or other proper person or persons.

*City Representative* means the City Administrator, or any person authorized by law to act on behalf of the City under or with respect to the Lease, as evidenced by a certificate conferring such authority executed by the City Administrator, given to the Trustee and the Authority.

*Default* means default by the Authority in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Indenture, exclusive of any notice or period of grace required to constitute a default an “Event of Default” as described in Section 7.01 hereof.

*Event of Default* means an Event of Default described in Section 7.01 hereof which has not been cured.

*Fiscal Year* means each twelve month fiscal period of the Authority commencing on January 1 of any year and ending on the following December 31.

*Holder, Bondholder or Owner* means the person or persons in whose name any Bond shall be registered in the registration books maintained by the Trustee on behalf of the Authority.

*HRA Levy* has the meaning assigned in Section 5.01.

*Interest Payment Date* means the stated maturity of an installment of interest on any of the Bonds.

*Opinion of Counsel* means a written opinion of counsel (who need not be Independent Counsel unless so specified) appointed by the City or Authority or appointed by the Trustee.

*Outstanding* means, when used as of any particular time with reference to Bonds (subject to the provisions of Section 9.03 pertaining to Bonds held by the Authority and the City), all Bonds theretofore authenticated and delivered by the Trustee under this Indenture except: (i) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) Bonds for the payment or redemption of which funds or direct obligations of or obligations fully guaranteed by the United States of America in the necessary amount shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or the redemption date of such Bonds); provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given pursuant to Article III of this Indenture, or provision satisfactory to the Trustee shall have been made for the giving of such notice; and (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee pursuant to the terms of Section 2.08 hereof pertaining to replacement of Bonds.

*Predecessor Bonds* means every previous Bond evidencing all or a portion of the same debt as that evidenced by a particular Bond, including Bonds exchanged pursuant to Section 2.05 hereof, and for purposes of this definition, any Bond authenticated and delivered under Section 2.08 hereof in lieu of a lost, destroyed or stolen Bond shall be deemed to evidence the same debt as the lost, destroyed or stolen Bond.

*Principal Payment Date* means the stated maturity of principal of any Bond.

*Qualified Investments* means any investments permitted pursuant to Minnesota Statutes, Sections 118A.04 and 118A.05, for the investment of public funds.

*Real Property* means the real property legally described in Exhibit A which is located at or about 3880 Laverne Avenue N. and 39<sup>th</sup> Street and Laverne Avenue N., in the City of Lake Elmo, County of Washington, Minnesota, including a 2.06 acre parcel with an approximately 18,000 square foot building and a vacant .58 acre parcel.

*Redeem or Redemption* includes and means “prepay” or “prepayment,” as the case may be.

*Rental Payment* has the meaning assigned in the Lease.

*Responsible Officer* means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the trustee who customarily performs functions similar to those performed by the persons who at the time shall be

such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

Section 1.02. Additional Provisions as to Interpretation. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

Any terms defined in the Lease, but not defined herein, shall have the same meaning herein unless the context hereof clearly requires otherwise.

This Indenture is governed by and shall be construed in accordance with the laws of the State of Minnesota.

## ARTICLE II

### FORM, EXECUTION AND REGISTRATION OF BONDS

Section 2.01. Form of Bonds. The Bonds to be issued and secured under this Indenture shall each be designated “Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A.” The Bonds, forms of assignment and certificates of Trustee shall be substantially in the form attached as Exhibit B hereto.

Section 2.02. Maturities, Numeration and Interest Payment Dates. The Bonds shall be in the denomination of \$1,000 or any integral multiple thereof, initially numbered R-1 upwards in order of issuance or in such other manner as the Trustee may determine, and shall bear a date of original issue of June 28, 2018. No Bond shall represent principal payable or maturing in different years. The Bonds shall bear interest payable semiannually on January 15 and July 15 of each year, commencing January 15, 2019, from their date of original issue or the most recent Interest Payment Date to which interest has been paid or duly provided for. The principal and redemption price of the Bonds shall be payable to the Owner upon presentation and surrender at the principal office of the Trustee in such coin or currency of the United States of America as may be, on the respective dates of payment thereof, legal tender for the payment of public and private debts, and interest on Bonds shall be paid by check or draft mailed to the Owner at the Owner’s registered address.

The Regular Record Date referred to in Section 2.06 for the payment of interest on the Bonds payable, and punctually paid or duly provided for, on any Interest Payment Date shall be the first day (whether or not a Business Day) of the calendar month of such Interest Payment Date.

The Bonds shall be in the aggregate principal amount of \$933,000, and shall mature on January 15, 2034 and shall bear interest at 4.500% per annum.

Section 2.03. Execution of Bonds. The Bonds shall be signed in the name of the Authority by the manual or facsimile signatures of the President and Secretary of the Authority and said signatures shall be authenticated by the Trustee, which is hereby designated as authenticating agent. The seal of the Authority, if any, need not be affixed to or imprinted on the Bonds. In the event that any of the officers who shall have signed any of the Bonds shall cease to be officers of the Authority before the Bonds shall have been authenticated or delivered by the Trustee, or issued by the Authority, such Bonds may, nevertheless, be authenticated, delivered, and issued, and upon such authentication, delivery and issue, shall be binding upon the Authority as though those officers who signed the same had continued to be such officers of the Authority; and, also, any Bond may be signed on behalf of the Authority by such person who, at the actual date of execution of such Bond, shall be the proper officer of the Authority, although at the date of such Bond such person shall not have been such an officer of the Authority. Upon the execution and delivery of this Indenture, the Authority shall execute and deliver the Bonds to the Trustee for authentication.

Section 2.04. Authentication of Bonds. No Bond shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder or under the Lease, unless an authorized signatory of the Trustee shall manually endorse and execute on such Bond a certificate of authentication substantially in the form of the certificate of authentication set forth in Exhibit B hereto. Such Trustee’s certificate of authentication upon any Bond executed on behalf of the

Authority shall be conclusive evidence that the Bond so authenticated has been duly issued under this Indenture and that the Holder thereof is entitled to the benefits of this Indenture.

No Bonds shall be authenticated by the Trustee except in accordance with this Article.

The Trustee shall not be required to authenticate any Bond or Bonds unless provided with the documents referred to in Section 2.09 hereof.

Section 2.05. Registration, Transfer and Exchange. As long as any of the Bonds issued hereunder shall remain outstanding, the Authority shall maintain and keep at the office of the Trustee as paying agent, records for the payment of the principal of and interest on such Bonds, as in this Indenture provided, and for the registration and transfer of such Bonds, and shall also keep at said office of the Trustee books for such registration and transfer. The Authority does hereby appoint the Trustee, and its successors in the trust from time to time, as its agent to maintain said office and agency at the office of the Trustee.

Upon surrender for transfer of any fully registered Bond at the office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the Owner or the 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 Authority shall execute and the Trustee 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.

Except as the right of exchange may be limited as to Bonds of any series, fully registered Bonds, upon surrender thereof at the office of the Trustee, may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of fully registered Bonds of the same series, 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 Authority shall execute and the Trustee shall deliver Bonds in accordance with the provisions of this Indenture. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Trustee 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 Indenture, the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Authority or the Trustee incurred in connection therewith (except any applicable tax, fee or other governmental charge) shall be paid by the City pursuant to the Lease. The Authority and the Trustee shall not be obligated to make any such exchange or transfer of Bonds during the 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. The Authority and Trustee shall not be required to make any transfer or exchange of any Bonds called for redemption.

Section 2.06. Payment of Interest on Bonds; Interest Rights Preserved. 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 Predecessor Bonds) is registered at the close of business on the Regular Record Date for such interest specified in the provisions of this Indenture creating such series.

Any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the 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 Authority as provided in Subsection A or B below:

(a) The Authority may elect to make payment of any Defaulted Interest on the fully registered Bonds of any series to the persons in whose names such Bonds (or their respective Predecessor Bonds) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Authority shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and at the same time the Authority shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Subsection provided and not to be deemed part of the Trust Estate. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Authority of such Special Record Date and, in the name of the Authority and at the expense of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Holder of a fully registered Bond of such series at his address as it appears in the registration books not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Bonds of such series (or their respective Predecessor Bonds) are registered on such Special Record Date and shall no longer be payable pursuant to the following Subsection B.

(b) The Authority may make payment of any Defaulted Interest on the Bonds of any series in any other lawful manner, if, after notice given by the Authority to the Trustee of the proposed payment pursuant to this Subsection, such payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Bond delivered under this Indenture 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.

Section 2.07. Ownership of Bonds. The Authority and the Trustee and their respective successors, each in its discretion, may deem and treat the person in whose name any Bond shall



for the time being be registered as the absolute owner thereof for all purposes, and neither the Authority nor the Trustee nor their respective successors shall be affected by any notice to the contrary. Payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the 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.

Section 2.08. Reissuance of Mutilated, Destroyed, Stolen or Lost Bonds. In case any outstanding Bond shall become mutilated or be destroyed, stolen or lost, the Trustee shall authenticate and deliver a new Bond of like tenor, number and amount as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, upon filing with the Trustee evidence satisfactory to the Authority and the Trustee that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Authority, the Trustee and the City with indemnity satisfactory to them and complying with such other reasonable regulations as the Trustee may prescribe and paying such reasonable expenses as the Authority, the Trustee and the City may incur in connection therewith. In the event any such Bond shall have matured, instead of issuing a new Bond, the Authority may pay the same without surrender thereof.

Section 2.09. Conditions for Authentication of Bonds. The Trustee shall not authenticate and deliver the Bonds to be issued and delivered pursuant to the Indenture unless theretofore or simultaneously therewith there shall have been delivered to the Trustee the following:

- (A) a certified copy of the Bond Resolution authorizing the issuance of the Bonds and the execution and delivery of the Lease and this Indenture;
- (B) a certified copy of the resolution adopted by the City Council of the City approving the issuance of the Bonds and the terms of the Indenture and authorizing the execution and delivery of the Lease by the City;
- (C) executed counterparts of the Lease and this Indenture;
- (D) the manually signed approving opinion of Dorsey & Whitney LLP, Minneapolis, Minnesota, as Bond Counsel for the Authority, concerning the validity and legality of the Bonds; and
- (E) such further certifications, documents and Opinions of Counsel as Bond Counsel may require.

Section 2.10. Authorization of Additional Bond. In addition to the Bonds above described, the Authority may in its discretion, upon request of the City, issue Additional Bonds to provide funds for additions to or further improvements of the Real Property. Any such Additional Bonds shall be authorized by resolution of the Authority and described in a supplemental indenture executed by the Authority and the Trustee and which, when so issued, authorized and described, shall be secured by this Indenture and the Trust Estate on a parity with the Bonds then Outstanding under this Indenture; provided, that no such Additional Bonds shall be issued under the Indenture

or secured by the Trust Estate on a parity with the Outstanding Bonds unless the following conditions are met:

(A) There shall have been furnished to the Trustee a Certificate of an Authority Representative and a Certificate of a City Representative to the effect that the Lease is in effect and no “event of default” (as such term is defined in the Lease) exists thereunder which shall not be cured upon the issuance of the Additional Bonds;

(B) There shall have been furnished to the Trustee a supplement to the Lease providing for additional Rental Payments sufficient to pay the principal of and interest on the Additional Bonds when due; and

(C) There shall have been furnished to the Trustee a Certificate of an Authority Representative to the effect that the proceeds of the Additional Bonds, together with any additional funds supplied or to be supplied by the Authority or City will be sufficient to complete the cost of the improvement to the Real Property.

The Trustee shall not authenticate any such Additional Bonds until there is also delivered to the Trustee a resolution of the Authority authorizing the Additional Bonds, executed counterparts of amendments to the Lease providing for the additional Rental Payments, a supplement to the Indenture describing the Additional Bonds and further documents of the kind described in Section 2.09 to the extent applicable to the Additional Bonds. Additional Bonds shall have Interest Payment Dates of January 15 and July 15 and Principal Payment Dates of January 15.

Section 2.11. Reserved.

ARTICLE III

REDEMPTION OF BONDS

Section 3.01. Redemption of Bonds. The Bonds maturing on any date, upon prepayment of the corresponding principal portion of the Rental Payments pursuant to Section 10.1 of the Lease, are subject to redemption at the option of the Authority, in whole or in part in integral multiples of \$1,000, and if in part, in such order of maturity dates as the Authority may determine and by lot as to Bonds maturing on the same date, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

The Bonds are also subject to redemption prior to their stated maturities in whole at any time, at a redemption price equal to the principal amount thereof, together with interest accrued thereon to the date fixed for redemption, without premium, in the event the Real Property is damaged, destroyed or condemned as described in Section 8.1 of the Lease, as further described in Articles VIII and X of the Lease.

The Bonds are subject to mandatory sinking fund redemption, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest to the redemption date, on January 15 in the following years and amounts:

Bonds Maturing in 2034

<u>January 15</u>	<u>Amount</u>
2020	\$45,000
2021	47,000
2022	49,000
2023	51,000
2024	53,000
2025	56,000
2026	58,000
2027	61,000
2028	64,000
2029	67,000
2030	70,000
2031	73,000
2032	76,000
2033	80,000
2034*	83,000

\*final maturity

Section 3.02. Notice of Redemption. If the Bonds are to be redeemed pursuant to Section 3.01 hereof, and written notice of an election to exercise an option to redeem Bonds hereunder shall have been given to the Trustee at least 45 days prior by the Authority (other than for the mandatory sinking fund redemption of the Bonds for which no notice of election shall be required), the Trustee shall prepare a notice in the name of the Authority or in its own name describing the Outstanding Bonds to be redeemed, the date of redemption, and the redemption

price. Such notice may be conditional. Notice of redemption shall be mailed by the Trustee, not less than thirty (30) days nor more than ninety (90) days before the redemption date, by first-class mail, to the Owners of all Bonds which are to be redeemed, at their last addresses appearing upon the registry books of the Authority and shall be published to the extent required by law.

Section 3.03. Deposit for Redemption. Prior to the designated redemption date the Authority shall deposit or cause to be deposited with the Trustee funds sufficient to pay the redemption price of the Bonds to be redeemed, and interest thereon to the redemption date, and there shall be deposited, or arrangements shall be made with the Trustee to deposit, with the Trustee a sum sufficient to pay the proper expenses and charges of the Trustee in connection with such redemption. Upon deposit with the Trustee of the aggregate amount of such redemption price and interest pursuant to this Section, such moneys shall be set aside by the Trustee and held by it for the account of the respective Holders of the Bonds being redeemed.

Section 3.04. Payment of Redeemed Bonds. After notice of redemption shall have been given as provided in Section 3.02, the Bonds specified in such notice shall become due and payable on the redemption date. Payment of the redemption price and interest shall be made to or upon order of the Owner, upon the surrender of the Bonds. Any installment of interest maturing on or prior to the redemption date shall be payable to the Owners of Bonds registered as such on the relevant Record Dates according to the terms of such Bonds and the provisions of Section 2.06 hereof and the notice of redemption herein provided for may so state. If redemption moneys are available for the payment of all of the Bonds called for redemption on the redemption date, the Bonds so called shall cease to draw interest after the redemption date, and such Bonds shall not be deemed to be outstanding hereunder for any purpose, except that the Holders thereof, on presentation, as herein provided, shall be entitled to receive payment of the redemption price and interest accrued thereon to the redemption date from the moneys set aside by the Trustee as aforesaid.

Section 3.05. Cancellation of Redeemed Bonds. All Bonds so redeemed, shall forthwith be canceled and destroyed by the Trustee in accordance with its corporate trust policies; and no further Bonds shall be executed or authenticated or issued hereunder in exchange or substitution therefor.

Section 3.06. Partial Redemption of Bonds. If less than all of the Bonds of a particular maturity at the time outstanding are to be called for prior redemption, the particular Bonds or portions thereof of such maturity to be redeemed shall be selected by lot, except as otherwise provided herein. The Trustee shall call for redemption in accordance with the foregoing provisions as many Bonds or portions thereof as will, as nearly as practicable, exhaust the moneys available therefor. Particular Bonds or portions thereof shall be redeemed only in integral multiples of principal amount of \$1,000.

In the case of Bonds of denominations greater than \$1,000, if less than all of such Bonds then outstanding are to be called for redemption, then for all purposes in connection with redemption, each \$5,000 of principal amount shall be treated as though it was a separate Bond of the denomination of \$5,000 bearing one of the numbers borne by such fully registered Bond. If it is determined that one or more, but not all of the \$1,000 units of principal amount represented by any such fully registered Bond is to be called for redemption, then upon notice of intention to

redeem such \$5,000 unit or units, the owner of such fully registered Bond which forthwith surrender such Bond to the Trustee (1) for payment of the redemption price (including the redemption premium, if any, and interest to date fixed for redemption) of the \$1,000 unit or units of principal amount called for redemption and (2) exchange for a new Bond or Bonds of the aggregate principal amount of the unredeemed balance of the principal amount of such fully registered Bond, which shall be issued to the Owner thereof, without charge therefor. If the owner of any such fully registered Bond of a denomination greater than \$1,000 shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, such Bond shall nevertheless become due and payable on the date fixed for redemption to the extent of the \$1,000 unit or units of principal amount called for redemption (and to that extent only). Interest shall cease to accrue on the portion of the principal amount of such Bond represented by such \$1,000 unit or units of principal amount on and after the date fixed for redemption, provided that funds sufficient for the payment of the redemption price shall have been deposited with the Trustee and shall be available for the redemption of said \$5,000 unit or units on the date fixed for redemption, and in such event, such Bond shall not be entitled to the benefit or security of this Indenture or the Lease to the extent of the portion of its principal amount (and accrued interest thereon to the date fixed for redemption and applicable premium, if any) represented by such \$1,000 unit or units of principal amount, nor shall new Bonds be thereafter issued corresponding to said unit or units.

## ARTICLE IV

### USE OF BOND PROCEEDS

Section 4.01. Deposit of Series 2018A Bond Proceeds. The Authority shall deposit, or shall direct the purchaser or purchasers of the Bonds to deposit, with the Trustee all of the net proceeds of the sale of the Bonds (including accrued interest thereon from the date from which interest is to be paid thereon to the date of delivery to the purchaser or purchasers thereof), and such net proceeds (\$933,000.00), shall be applied by the Trustee as follows:

(A) To pay, promptly upon settling the Bonds, the costs of the acquisition of the Real Property in the amount of \$904,417.00, pursuant to a closing memorandum provided by Northland Securities, Inc.; and

(B) To pay, promptly upon settling the Bonds, the costs of issuance of the Bonds in the amount of \$28,583.00, as set forth in Exhibit C, but only upon receipt of each invoice, provided by Northland Securities, Inc.

## ARTICLE V

### DISPOSITION OF PLEDGED REVENUES

Section 5.01. Bond Fund. The Authority hereby establishes and shall maintain, so long as any of the Bonds are outstanding, with the Trustee a separate account to be designated “Lease Revenue and Limited Tax Bonds Bond Fund” (the Bond Fund) into which the Authority and Trustee shall make the following deposits:

- (A) Any amounts not applied pursuant to Section 4.01 to pay for costs of acquiring the Real Property or costs of issuing the Bonds.
- (B) All Rental Payments by the City pursuant to Section 5.1 of the Lease.
- (C) All moneys received, if any, from the annual tax levies pledged by the Authority pursuant to the Bond Resolution in accordance with Minnesota Statutes, Section 469.033, subdivision 6 (the HRA Levy).
- (D) All other moneys received by the Trustee from the City or Authority when accompanied by directions of the City or Authority that such moneys are to be paid into the Bond Fund or used for purposes for which moneys in the Bond Fund may be used. If the City or Authority so directs, such monies shall be credited against Rental Payments due or to become due.
- (E) All other moneys required to be deposited in the Bond Fund pursuant to any provision of this Indenture, the Lease or the Bond Resolution.

The moneys and investments in the Bond Fund are irrevocably pledged to and shall be used by the Trustee, from time to time, to the extent required, for the payment of principal of, premium (if any) on and interest on the Bonds, as and when such principal, premium and interest shall become due and payable.

Section 5.02. Reserved.

Section 5.03. Investment of Funds in the Bond Fund. Any moneys held as a part of the Bond Fund shall be invested or reinvested by the Trustee upon the request and direction of an Authority Representative in any Qualified Investment. Subject to the foregoing, the type, amount and maturity of Qualified Investments shall conform to the instructions, if any, in the written request of the Authority Representative; provided that investments acquired with moneys held in the Bond Fund shall mature no later than the Interest Payment Date upon which such moneys will be needed to pay principal of, premium, if any, and interest on the Bonds. Investments permitted under this Section may be purchased from the Trustee or from any of its affiliates. Obligations so purchased shall be deemed at all times to be a part of the Bond Fund, unless otherwise provided herein, but may from time to time be sold or otherwise converted into cash, whereupon the proceeds derived from such sale or conversion shall be credited to the Bond Fund. Any interest accruing on and any profit realized from such investment shall be credited to the Bond Fund. The Trustee shall redeem or sell, at the best price obtainable, any obligations so purchased, whenever

it shall be necessary to do so in order to provide moneys to meet any payment from the Bond Fund. Neither the Trustee nor the Authority shall be liable for any loss resulting from any such investment, nor from failure to preserve rights against endorsers or other prior parties to instruments evidencing any such investment. The Trustee has no duty to monitor yield on any directed investment or any obligation to limit the yield on any investment the Authority directs the Trustee to make.

The Trustee shall have no liability whatsoever for any loss, fee, tax or other charge incurred in connection with any investment, reinvestment, sale or liquidation of an investment hereunder. In the absence of written direction delivered to the Trustee from the Authority, the Trustee shall hold such funds in a money market account. The Trustee shall be entitled to rely on any written direction of the Authority as to the suitability and legality of the directed investments. The Trustee shall have no responsibility whatsoever to determine whether any investments made pursuant to this agreement are or continue to be Qualified Investments. Any deposit or investment directed by the Authority shall constitute a certification by the Authority to the Trustee that the assets so deposited or to be purchased pursuant to such directions are Qualified Investments. In no event shall the Trustee be deemed an investment manager or adviser in respect of any selection of investments hereunder.

The Authority acknowledges that regulations of the Comptroller of the Currency grant the Authority the right to receive brokerage confirmations of security transactions as they occur. The Authority specifically waives such right to notification to the extent permitted by law and acknowledges that they will receive periodic transaction statements that will detail all investment transactions.



## ARTICLE VI

### PARTICULAR COVENANTS OF THE AUTHORITY

The Authority covenants and agrees, so long as the Bonds shall be outstanding and subject to the limitations on its obligations herein set forth, that:

Section 6.01. Payment of Bonds. It will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture and the Bond Resolution and in each and every Bond executed, authenticated and delivered hereunder; will pay or cause to be paid, **solely from Rental Payments by the City, the moneys received, if any, from the HRA Levy, and other amounts received or available under this Indenture**, the principal of, premium (if any) on and interest on every Bond issued hereunder on the dates, at the places and in the manner prescribed in the Bonds in any coin or currency which, on the respective dates of payment of such principal and interest, is legal tender for the payment of public and private debts; and will cause such amounts received to be deposited with the Trustee prior to the due date of each installment of principal and interest and prior to the maturity of any Bond in amounts sufficient to pay such installment; provided, however, that the principal of and interest on any Bond is not and shall not be deemed to represent a debt or pledge the faith or credit of the Authority, the City, the State of Minnesota or any other political subdivision thereof or grant to the Holder of any Bond any right to have the Authority, the City, the State of Minnesota or any other political subdivision thereof levy any taxes or appropriate any funds to the payment of principal of or interest on the Bonds, such payment to be made **solely from Rental Payments by the City, the moneys received, if any, from the HRA Levy, and other amounts received or available under this Indenture.**

Section 6.02. Extensions of Payments of Bonds. It shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds, or the time of payment of any claims for interest by the purchase or refunding of such Bonds or claims for interest or by any other arrangement; and in case the maturity of any of the Bonds, or the time for payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled in case of any default hereunder to the benefit of the Indenture or to any payment out of any assets of the Authority or the funds (except funds held in the trust by the Trustee for the payment of particular Bonds or claims for interest pursuant to this Indenture) held by the Trustee except subject to the prior payment of the principal of all Bonds issued and outstanding hereunder, the maturity of which Bonds or principal installments has not been extended, and of such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest. Nothing in this Section shall, however, be deemed to limit the right of the Authority to fund or refund at one time all of such Bonds and claims for interest.

Section 6.03. Authorization. The Authority is duly authorized under the Constitution and laws of the State of Minnesota to create and issue the Bonds, to undertake the acquisition of the Real Property, to execute this Indenture and assign and pledge to the Trustee the Trust Estate, including the Rental Payments, and to make the covenants as herein provided. All necessary action and proceedings on its part to be taken for the creation and issuance of the Bonds and the execution and delivery of this Indenture have been duly and effectively taken.

Section 6.04. Concerning the Lease. The Authority will cause such action as may be necessary or advisable to enforce the covenants, terms and conditions of the Lease. The Authority shall do or cause to be done all things on its part to be performed under the Lease so that the obligations of the City thereunder shall not be impaired or excused.

Section 6.05. To Observe All Covenants and Terms – Limitations on Authority's Obligations. The Authority will not issue or permit to be issued any Bonds hereunder in any manner other than in accordance with the provisions of this Indenture and the agreements in that behalf herein contained, and will not suffer or permit any Event of Default to occur under this Indenture, but will faithfully observe and perform all the conditions, covenants and requirements hereof. It is expressly agreed that the Authority has no obligation to levy taxes, other than the HRA Levy, for, or make any advance or payment or incur any expense or liability from its general funds in performing, any of the conditions, covenants or requirements of the Bonds or this Indenture or from any funds other than Rental Payments received pursuant to the Lease, the proceeds of the HRA Levy, and other amounts received or available under this Indenture, including from the sale of the Real Property upon an Event of Default hereunder.

Section 6.06. Liens. The Authority agrees it will not mortgage, sell or otherwise encumber its interests so long as the Lease remains in effect, except pursuant to the Lease or as otherwise permitted in the Lease or this Indenture.

Section 6.07. Rental Payments. The Rental Payments to be made by the City pursuant to the Lease will produce the amounts needed to meet when due the principal and interest payments on the Bonds.

Section 6.08. HRA Levy. It is estimated that the Rental Payments to be made by the City pursuant to the Lease will produce the amounts needed to meet when due the principal and interest payments on the Bonds. In addition to the pledge of Rental Payments under the terms of the Lease, to the extent Rental Payments are insufficient or unavailable to pay principal and interest payments on the Bonds, the Authority has pledged and covenanted, pursuant to the Bond Resolution, the net revenues of the Authority derived from the HRA Levy for so long as the Bonds are outstanding.

## ARTICLE VII

### EVENTS OF DEFAULT; REMEDIES

Section 7.01. Events of Default. Each of the following events is hereby defined as, and is declared to be and to constitute, an “Event of Default”:

(A) If payment of the principal of, or premium, if any, on any of the Bonds, when the same shall become due and payable, whether at maturity or by proceedings for redemption (by redemption, declaration or otherwise), shall not be made; or

(B) If payment of any interest on the Bonds when the same shall become due and payable (in which case interest shall be payable to the extent permitted by law on any overdue installments of interest, in each case at the interest rate borne by the Bonds in respect of which such interest is overdue) shall not be made; or

(C) If default shall be made in the performance or observance of any other of the covenants, agreement or conditions on the part of the Authority in this Indenture, or in the Bonds contained, and such default shall have continued for a period of thirty days after written notice thereof given to the Authority by the Trustee.

Section 7.02. Enforcement of Covenants and Conditions. Upon the occurrence of an Event of Default or breach of any of the covenants and conditions of this Indenture, or to protect the Trust Estate, the Trustee, anything herein contained to the contrary notwithstanding and without any request from any Bondholder (subject, however, to the provisions of Section 7.06 hereof), may take such action or actions for the enforcement of its rights and the rights of the Bondholders as due diligence, prudence and care would require and to pursue the same with like diligence, prudence and care.

Upon the occurrence of an Event of Default, the Trustee may, and shall upon the written request of the Holders of not less than twenty-five per centum (25%) in aggregate principal amount of Outstanding Bonds, by written notice to the Authority, declare the principal of the Bonds to be immediately due and payable, whereupon that portion of the principal of the Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding.

Upon the happening and continuance of an Event of Default, the Trustee may, and shall upon the written request of the Holders of not less than twenty-five per centum (25%) in aggregate principal amount of outstanding Bonds, proceed forthwith by suit or suits at law or in equity or by any other appropriate remedy to enforce payment of the Bonds, to enforce application to such payment of the funds, revenues and income appropriated thereto by this Indenture and by the Bonds, and to enforce any such other appropriate legal or equitable remedy as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of its rights or any of the rights of the Bondholders. Notwithstanding the foregoing, the Trustee need not proceed upon any such written request of the Bondholders, as aforesaid, unless the Bondholders shall have offered

to the Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby.

Upon the occurrence of an Event of Default, in addition to the acceleration of the Bonds, the Trustee may, and shall upon the written request sent by registered or certified mail to the Trustee by the Holders of not less than twenty-five per centum (25%) in aggregate principal amount of outstanding Bonds, proceed to protect and enforce its rights by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in the Bond Resolution (including for specific performance of the covenant of the Authority, as consented to by the City, to levy the HRA Levy in an amount at sufficient to pay principal and interest on the Bonds) or the Bonds, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Indenture, by action or by advertisement, or for the enforcement of any other appropriate legal or equitable remedy, and in the event of a foreclosure shall be entitled to the immediate appointment of a receiver to operate and protect the Trust Estate.

Section 7.03. Application of Moneys. Subject to the limitation contained in Section 7.02 hereof, all moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Indenture, shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, charges, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and all moneys in the Bond Fund maintained with the Trustee shall be applied as follows:

(A) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied:

First: To the payment to the Bondholders entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Bondholders entitled thereto, without any discrimination or privilege; and

Second: To the payment to the Bondholders entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, then to the payment ratably, according to the amount of principal due on such date, to the Bondholders entitled thereto without any discrimination or privilege.

(B) If the principal of all the Bonds shall have become due, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Bondholders entitled thereto without any discrimination or privilege.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all Bonds and interest thereon have been paid under the provisions of this Section and all expenses and charges of the Trustee and the Authority have been paid, any balance remaining shall be paid to the persons entitled to receive the same; if no other person shall be entitled thereto, then the balance shall be paid to the City.

When the Trustee incurs expenses or renders services after the occurrence of an event of default, the expenses and the compensation for the services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 7.04. Right of Trustee to Act Without Possession of Bonds. All rights of action (including the right to file proof of claim) under this Indenture, the Lease or under any of the Bonds, may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Holders of the Bonds hereby secured, and any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds, subject to the provisions of Section 6.02 hereof with respect to extended Bonds and claims for interest.

Section 7.05. Power of Majority of Bondholders. Anything in this Indenture to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of Bonds Outstanding hereunder shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken under this Indenture and the Lease; provided, that such direction shall not be otherwise than in accordance with the provisions of law and that the Trustee shall be indemnified as provided in Section 7.06.

Section 7.06. Limitation on Suits by Bondholders. No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for any other remedy hereunder, unless an Event of Default has occurred of which the Trustee has been notified or of which it is deemed to have notice; nor unless the Holders of twenty-five per centum (25%) in aggregate principal amount of Bonds outstanding hereunder shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; nor unless also they shall have offered

to the Trustee indemnity as provided hereinafter; and such notification, request and offer of indemnity are hereby declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for enforcement or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb, or prejudice the lien of this Indenture by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Holders of all Bonds outstanding hereunder. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholder, which is absolute and unconditional, to enforce and bring suit for the payment of the principal of and interest on any Bond at and after the maturity thereof to pay the principal of and interest on each of the Bonds issued hereunder to the respective Holders thereof at the time and place in said Bonds expressed, in accordance with the terms of the Bonds.

Section 7.07. Waiver by Bondholders. The Trustee, upon the written request of the Holders of not less than a majority in principal amount of the Bonds at the time outstanding hereunder, shall waive any Event of Default hereunder and its consequences, except an Event of Default in the payment of the principal of the Bonds at the date of maturity specified therein; provided, however, that an Event of Default in the payment of interest on the Bonds shall not be waived unless, prior to such waiver, all arrears of interest and all expenses of the Trustee shall have been paid or shall have been provided for by deposit with the Trustee of a sum sufficient to pay the same. In case of any such waiver, the Authority, the Trustee and the Holders of the Bonds shall be restored to their former positions and rights hereunder respectively. No such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

Section 7.08. Remedies Cumulative, Delay Not To Constitute Waiver. No remedy by the terms of this Indenture or the Lease, conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

Section 7.09. Restoration of Rights Upon Discontinuance of Proceedings. In case the Trustee or Bondholders shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee or the Bondholders, then and in every such case the Authority, the City, the Trustee and the Bondholders shall be restored to their former positions and rights

hereunder with respect to the Trust Estate, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceedings had been taken.

## ARTICLE VIII

### CONCERNING THE TRUSTEE

Section 8.01. Acceptance of Trust and Prudent Performance Thereof. The Trustee, prior to the occurrence of an Event of Default and after the curing of all such Events of Default as may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no duties shall be implied. The Trustee shall, during the existence of any such Event of Default which has not been cured, exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. The Trustee shall not be liable for any action taken or omitted by it in the performance of its duties under this Indenture except for its own negligence or willful misconduct.

The Trustee shall not be required to take notice or be deemed to have notice of any Default hereunder, except Default in the deposits or payments required by Section 6.01 hereof, unless the Responsible Officer shall be specifically notified in writing of such Default by the City, by the Authority or by the Holders of at least twenty-five per centum (25%) in aggregate principal amount of Bonds outstanding hereunder, and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume that there is no Default, except as aforesaid.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(A) prior to such an Event of Default hereunder, and after the curing of all such Events of Default which may have occurred:

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee, and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and to the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee conforming to the requirements of this Indenture; but in the case of any such certificate or opinion which by any provision hereof is specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not it conforms in form to the requirements of this Indenture; and

(B) at all times, regardless of whether or not any such Event of Default shall exist:



(1) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts, and

(2) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in aggregate principal amount of all the Bonds at the time outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Section 8.02. Trustee May Rely Upon Certain Documents and Opinions. Except as otherwise provided in Section 8.01,

(A) the Trustee may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(B) any request, direction, election, order, certification or demand of the Authority or the City shall be sufficiently evidenced by an instrument signed by an Authority Representative or a City Representative, as the case may be (unless otherwise in this Indenture specifically prescribed), and any resolution of the Authority may be evidenced to the Trustee by a copy certified by the Secretary;

(C) the Trustee may consult with counsel (who may be counsel for the Authority or the City) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel; and

(D) whenever, in the administration of the trusts of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the Authority or Certificate of the City and any such Certificate shall, in the absence of negligence or bad faith on the part of the Trustee, be full warrant to the Trustee for any action taken or suffered by it under the provisions of this Indenture upon the faith thereof.

Section 8.03. Trustee Not Responsible for Indenture Statements, Validity. The Trustee shall not be responsible for any recital or statement herein, or in the Bonds (except in respect of

the certificate of the Trustee endorsed on such Bonds), or for the validity of the execution by the Authority of this Indenture or the validity or execution of the Lease or the Bond Resolution, or of any supplemental instrument, or for the sufficiency of the security of the Bonds issued hereunder or intended to be secured hereby, or for the value or title of any of the Trust Estate, or otherwise as to the maintenance of the security hereof; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenant, condition or agreement on the part of the Authority or the City, except as herein set forth, but the Trustee may require of the Authority and the City full information and advice as to the performance of the covenants, conditions and agreements aforesaid and of the condition of the physical property included in the Trust Estate. The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder.

Section 8.04. Limits on Duties and Liabilities of Trustee. The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee and the Trustee shall be answerable only for its own negligence or willful default. The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises. The Trustee shall be under no obligation to institute any suit, or to undertake any proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees and other anticipated disbursements, and against all liability except to the extent determined by a court of competent jurisdiction to have been caused solely by its own negligence or willful misconduct. Nevertheless, the Trustee may begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as the trustee, without indemnity, and in such case the Trustee shall, to the extent not reimbursed by the Authority or the City reimburse itself from the monies available under this Indenture for all costs and expenses, outlays and counsel fees and expenses and other reasonable disbursements properly incurred in connection therewith and the Trustee shall be entitled to a preference therefor over any bonds outstanding hereunder. In no event shall the Trustee be liable for incidental, indirect, special, consequential or punitive damages or penalties, even if the Trustee has been advise of the likelihood of such damages or penalties and regardless of the form of action.

Section 8.05. Money Held in Trust. Money held by the Trustee hereunder is held in trust but need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Authority or the City.

Section 8.06. Obligation of Trustee. The Trustee shall be under no obligation to institute any suit, or to take any proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall have reasonable grounds for believing that repayment of all costs and expenses, outlays and counsel fees and other reasonable disbursements in connection therewith and adequate indemnity against all risk and liability is reasonably assured to it; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without assurance of reimbursement or indemnity, and in such case the Trustee shall be reimbursed

for all costs and expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith. If the City shall fail to make such reimbursement, the Trustee may reimburse itself from any moneys in its possession under the provisions of this Indenture and shall be entitled to a preference therefor over any of the Bonds or claims for interest outstanding hereunder.

Section 8.07. Notice to Bondholders. The Trustee shall give to the Holders of the Bonds whose names and addresses are known to it written notice of all Events of Default known to the Trustee by virtue of actual knowledge of a Responsible Officer, within sixty (60) days after the occurrence of an Event of Default unless such Event of Default shall have been cured before the giving of such notice; provided that, except in the case of an Event of Default in the payment of principal and interest on any of the Bonds, the Trustee shall be protected in withholding such notice if and so long as its board of directors, an executive committee or trust default committee or chief executive officer of the Trustee in good faith determines that the withholding of such notice is in the interest of the Bondholders.

Section 8.08. Intervention in Judicial Proceedings. In any judicial proceeding to which the Authority or the City is a party and which in the opinion of the Trustee has a substantial bearing on the interest of owners of Bonds issued hereunder, the Trustee may intervene on behalf of Bondholders and shall do so if requested in writing by the owners of at least twenty-five percent (25%) in the aggregate principal amount of Bonds Outstanding hereunder. The rights and obligations of the Trustee under this Section are subject to the approval of the court having jurisdiction in the premises.

Section 8.09. Further Investigation by Trustee. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be in full warrant, protection and authority to the Trustee for its actions hereunder; but the Trustee may, in its unrestricted discretion, and shall, if requested in writing so to do by the Holders of not less than twenty-five per centum (25%) in aggregate principal amount of Bonds Outstanding hereunder, cause to be made such independent investigation as it may see fit, and in that event may decline to release any property, or pay over cash, or take other action unless satisfied by such investigation of the truth and accuracy of the matters so investigated.

Section 8.10. Trustee to Retain Financial Records. The Trustee shall retain all financial statements and other reports furnished by the Authority or the City in accordance with this Indenture so long as any of the Bonds shall be Outstanding. The Trustee shall have no duty to review or analyze any such financial agreements. The Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed in any manner therein.

Section 8.11. Compensation of Trustee. All advances, counsel fees and other expenses reasonably made or incurred by the Trustee in and about the execution of the trust hereby created and reasonable compensation to the Trustee for its services in the premises in the amounts set forth in Exhibit C hereto shall be paid by the City. The compensation of the Trustee shall not be limited to or by any provision of law in regard to the compensation of trustees of an express trust. If not paid by the City, the Trustee shall have a first lien, with right of payment prior to payment on

account of interest or principal of any Bond issued hereunder, for reasonable compensation, expenses, advances and counsel fees incurred in and about the execution of the trusts hereby created and exercise and performance of the powers and duties of the Trustee hereunder and the cost and expense incurred in defending against any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the negligence or willful default of the Trustee).

Section 8.12. Trustee May Hold Bonds. The Trustee and its officers and directors may acquire and hold, or become the pledgee of, Bonds and otherwise deal with the Authority or the City in the same manner and to the same extent and with like effect as though it were not Trustee hereunder.

Section 8.13. Appointment of Trustee. There shall at all times be a trustee hereunder which shall be a trust company or bank in good standing organized and doing business under the laws of the United States or any State thereof, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least Ten Million Dollars (\$10,000,000), and subject to supervision or examination by Federal or State authority. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, and another association or corporation is eligible, the Trustee shall resign immediately in the manner and with the effect specified in Section 8.16 hereof.

Section 8.14. Merger of Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association, resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.15. Resignation or Removal of Trustee. The Trustee may resign and be discharged from the trusts created by this Indenture by giving to the Authority and the Bondholders thirty (30) days notice in writing of such resignation, specifying a date when such resignation shall take effect. Such resignation shall take effect on the day specified in such notice, if a successor Trustee has been appointed, or upon such later date as a successor is appointed. The Authority shall promptly appoint a successor trustee by an instrument in writing. If at any time the Trustee resigns and no appointment of a successor Trustee is made pursuant hereto within 45 days after the giving of a notice of resignation, the resigning Trustee may apply to a court of competent jurisdiction at the expense of the Authority for the appointment of a successor Trustee. The resigning Trustee shall not be liable for the actions of the successor Trustee.

Any Trustee hereunder may be removed upon thirty (30) days notice in writing by an instrument or instruments in writing, appointing a successor to the Trustee so removed, filed with the Trustee and executed by either (i) the Authority or (ii) the Holders of a majority in principal amount of the Bonds hereby secured and then Outstanding.

Section 8.16. Appointment of Successor Trustee. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Trustee or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Trustee hereunder, and a successor may be appointed by either (i) the Authority or (ii) the Holders of a majority in principal amount of the Bonds hereby secured and then Outstanding, by an instrument or instruments in writing filed with the Trustee and executed by such Bondholders, notification thereof being given to the Authority, but in the event the Trustee has been removed by action of the Bondholders, until a new Trustee shall be appointed by the Bondholders as herein authorized, the Authority may, subject to the provisions hereof, appoint a Trustee to fill such vacancy. After any appointment by the Authority, in the event the Trustee has been removed by action of the Bondholders, the Trustee so appointed shall cause notice of its appointment to be mailed within 30 days of such appointment to the registered Holders of the Bonds, but any new Trustee so appointed by the Authority shall immediately and without further act be superseded by a Trustee appointed in the manner above provided by the Holders of a majority in principal amount of said Bonds whenever such appointment by said Bondholders shall be made.

If, in a proper case, no timely appointment of a successor Trustee shall be made pursuant to the foregoing provisions the Holder of any Bond hereby secured or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor trustee.

Section 8.17. Transfer of Rights and Property to Successor Trustee. Every successor trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Authority or of its successor execute and deliver an instrument transferring to such successor all the estate, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any assignment, conveyance or instrument in writing from the Authority be required by any successor trustee for more fully and certainly vesting in such successor trustee the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such assignments, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all assignments, conveyances and other instruments provided for in this Article shall, at the expense of the City, be forthwith filed and/or

recorded by the successor trustee in each recording office where the Indenture shall have been filed and/or recorded.

Section 8.18. Appointment of Successor or Alternate Paying Agents. In the event the initial Trustee shall also have been appointed paying agent for the Bonds or for any Additional Bonds, a successor Trustee shall become successor paying agent with respect to such Bonds unless otherwise provided in the instrument appointing such successor Trustee. If any paying agent other than the initial Trustee shall resign or become incapable of acting, or shall be removed under a supplemental indenture entered into pursuant to the terms hereof, the Trustee may appoint a successor paying agent which is a bank or trust company qualified to act as paying agent under the laws of the State of Minnesota and which is willing to accept the office on reasonable and customary terms approved by an Authority Representative. The Trustee may appoint successor paying agents. "Paying agent" as used in this Section refers to the bank or trust company named in the form of Bond provided for the Bonds in the recitals hereof, or provided for Additional Bonds in a supplemental indenture, where principal of and interest on Bonds may be paid.

Section 8.19. Indemnification. To the extent authorized by law, the Authority shall indemnify and hold harmless the Trustee and its officers, directors, employees, agents and representatives against any and all loss, damage, claims, expense and liability arising out of or in connection with the acceptance of administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim (whether asserted by the Authority, any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder except to the extent that such loss, damage, claim, expense or liability is determined by a court of competent jurisdiction to have been caused solely by Trustee's gross negligence or willful misconduct.

Section 8.20. Agents. The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder and may in all cases pay reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trust hereof.

## ARTICLE IX

### CONCERNING THE BONDHOLDERS

Section 9.01. Execution of Instruments by Bondholders. Any request, direction, consent or other instrument in writing required by this Indenture to be signed or executed by Bondholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondholders in person or by agent duly appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(A) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments of deeds to be recorded within such jurisdiction, to the effect that the person signing such instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution.

(B) The ownership of Bonds shall be proved by the registration books kept under the provisions of this Indenture.

Nothing contained in this Article shall be construed as limiting the Trustee to the proof above specified, it being intended that the Trustee may accept any other evidence of the matters herein stated which to it may seem sufficient.

Section 9.02. Waiver of Notice. Any notice or other communication required by this Indenture to be given by delivery, publication or otherwise to the Bondholders or any one or more thereof may be waived, at any time before such notice or communication is so required to be given, by a writing mailed or delivered to the Trustee by the Holder or Holders of all of the Bonds entitled to such notice or communication.

Section 9.03. Determination of Bondholder Concurrence. In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned by the Authority or the City shall be disregarded and deemed not to be Outstanding for the purpose of any such determination; provided, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver only Bonds which the Trustee knows to be so owned shall be disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by or under common control with the Authority or the City. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 9.04. Bondholders' Meeting. A meeting of the Bondholders may be called at any time and from time to time for any of the following purposes:

(1) to give any notice to the Authority or to the Trustee, or to give any direction to the Trustee, or to make any request of the Trustee, or to consent to the waiving of any Event of Default hereunder and its consequences, or to take any other action authorized to be taken by Bondholders pursuant to any of the provisions of Article VII hereof;

(2) to remove the Trustee or appoint a successor Trustee pursuant to the provisions of Article VIII hereof;

(3) subject to Article XI hereof, to consent to the execution of an indenture or indentures supplemental hereto;

(4) subject to Article XII hereof, to consent to any amendment of the Lease or to any instrument supplemental to the Lease; or

(5) to take any other action authorized to be taken by or on behalf of the Holders of any percentage of the Outstanding Bonds under any other provisions of this Indenture or under applicable law.

Any Bondholders' meeting may be called and held as follows:

(a) A meeting of Bondholders may be held at such place within the City where the Trustee has its principal office as the Trustee or, in case of its failure to act, the Authority or Bondholders calling the meeting shall prescribe.

(b) Notice of every meeting of Bondholders, setting forth the time and place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed, postage prepaid, not less than 20 nor more than 180 days prior to the date fixed for the meeting, to each owner of Bonds. Any failure of the Trustee to mail such notice, or any defect therein shall not, however, in any way impair or affect the validity of any such meeting.

(c) In case at any time the Authority, pursuant to a resolution, or the Holders of at least ten percent (10%) in aggregate principal amount of the Bonds then Outstanding, shall have requested the Trustee to call a meeting of the Bondholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have given the notice of such meeting within 20 days after receipt of such request, then the Authority or the Holders of Bonds in the amount above specified may call such meeting to take any action authorized in this Section by giving notice thereof as provided in paragraph (b) of this Section.

(d) Only a Holder of one or more Bonds or a person appointed as proxy by an instrument in writing of such Holder shall be entitled to vote at or to participate with their counsel and the representatives of the Trustee and the Authority in such meeting. Each Holder shall be entitled to one vote for each \$1,000 in principal amount of Outstanding Bonds held.

(e) The Trustee or, in case of its failure to act, the Authority or Bondholders calling or requesting the meeting, may make such reasonable regulations as it may deem advisable for any meeting of Bondholders in regard to proof of the holding of Bonds and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and



examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate.

(f) At any meeting of Bondholders, the presence of persons owning Bonds in an aggregate principal amount sufficient under the appropriate provision of this Indenture to take action upon the business for the transaction of which such meeting was called shall constitute a quorum. Any meeting of Bondholders duly called pursuant to this Section may be adjourned from time to time by vote of the Holders (or proxies for the Holders) of a majority of the Bonds represented at the meeting and entitled to vote, whether or not a quorum shall be present; and the meeting may be held as so adjourned without further notice.

(g) The vote upon any resolution submitted to any meeting of Bondholders shall be by written ballots on which shall be subscribed the signatures of the Holders of Bonds or of their representatives by proxy and the serial number or numbers of the Bonds held or represented by them. The chair of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Bondholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was mailed as provided in paragraph (b) hereof. Each copy shall be signed and verified by the affidavits of the chair and secretary of the meeting and one such copy shall be delivered to the Authority and one copy to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 9.05. Revocation by Bondholders. At any time prior to (but not after) the evidencing to the Trustee of the taking of any action by the Holders of the percentage in aggregate principal amount of the Bonds specified in this Indenture in connection with such action, any Holder of a Bond may, by filing written notice with the Trustee at its principal office, revoke any consent given by such Holder or the predecessor Holder of such Bond. Except as aforesaid, any such consent given by the Holder of any Bond shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Bond and of any Bond issued in exchange therefor or in lieu thereof, irrespective of whether or not any notation in regard thereto is made upon such Bond. Any action taken by the Holders of the percentage in aggregate principal amount of the Bonds specified in this Indenture in connection with such action shall be conclusively binding upon the Authority, the Trustee and the Holders of all the Bonds.

## ARTICLE X

### PAYMENT, DEFEASANCE AND RELEASE

Section 10.01. Payment and Discharge of Indenture. If the Authority, its successors or assigns, shall, in accordance with the Lease and this Indenture,

(A) pay or cause to be paid all the principal of and premium, if any, and interest on the Bonds at the time and in the manner stipulated therein and herein, or

(B) provide for the payment of principal and premium, if any, of the Bonds and interest thereon by depositing with the Trustee at or at any time before maturity amounts sufficient either in cash or in government securities of the type permitted by Minnesota Statutes, Section 475.67, subd. 8, the principal and interest on which when due and payable and without consideration of any reinvestment thereof is sufficient to pay the entire amount due or to become due thereon for principal and premium, if any, and interest to maturity of all said Bonds Outstanding, or

(C) deliver to the Trustee (1) proof satisfactory to the Trustee that notice of redemption of all of the Outstanding callable Bonds not surrendered or to be surrendered to it for cancellation has been given or waived as provided in Article III hereof, or that arrangements satisfactory to the Trustee have been made insuring that such notice will be given or waived, or (2) a written instrument executed by the Authority under its official seal and expressed to be irrevocable, authorizing the Trustee to give such notice for and on behalf of the Authority, or (3) file with the Trustee a waiver of such notice of redemption signed by the Holders of all of such Outstanding Bonds, and in any such case, deposit with the Trustee on or before the date on which such Bonds are to be redeemed, as provided in said Article III, the entire amount of the redemption price, including accrued interest, and premium, if any, either in cash or in government securities of the type permitted by Minnesota Statutes, Section 475.67, subd. 8, in such aggregate face amount, bearing interest at such rates and maturing at such dates as shall be sufficient to provide for the payment of such redemption price on the date such Bonds are to be redeemed, and on such prior dates when principal of and interest on the Outstanding Bonds is due and payable, or

(D) surrender to the Trustee for cancellation all Bonds for which payment is not so provided, and shall also pay all other sums due and payable hereunder by the Authority,

then and in that case, all the Trust Estate shall revert to the Authority and the City as their interests may appear, and the entire estate, right, title and interest of the Trustee and of the owners of the Bonds shall thereupon cease, determine and become void; and the Trustee in such case, upon the cancellation of all Bonds for the payment of which cash or securities shall not have been deposited in accordance with the provisions of this Indenture, shall, upon receipt of a written request of the Authority, and at its cost and expense, execute to the Authority, or its order, proper instruments acknowledging satisfaction of this Indenture and surrender to the Authority and the City, as their interests appear, all cash and deposited securities, if any (other than cash or securities for the payment of the Bonds and interest thereon), which shall then be held hereunder as a part of the Trust Estate.

In case of any discharge of the lien of the Indenture pursuant to paragraphs (B) or (C) above, there shall be submitted to the Trustee (i) an Opinion of Counsel that all requirements of the Lease and Indenture for the defeasance of the Bonds have been complied with and (ii) if the defeasance escrow is not gross funded or is to be used in an advance refunding, a report in form and substance acceptable to the Trustee of an independent accountant to the effect that the payment when due of the principal of and the interest on the government securities of the type permitted by Minnesota Statutes, Section 475.67, subd. 8, deposited with the Trustee will provide, together with any other moneys which shall have been deposited with the Trustee for such purpose, sufficient moneys to pay all principal and interest on the Outstanding Bonds when due.

Nothing contained in this Section 10.01 shall be construed to prohibit the defeasance of one or more, but not all, series of Bonds by any of the methods set forth in clauses (A), (B), (C) or (D) above, as the same would apply to the particular series of Bonds being discharged.

The Authority shall pay and indemnify the Trustee against any tax, fee or other charge imposed or assessed against deposited United States government obligations or the principal and interest received on such securities.

Section 10.02. Bonds Deemed Not Outstanding After Deposits. When there shall have been deposited at any time with the Trustee in trust for the purpose, cash or government securities of the type permitted by Minnesota Statutes, Section 475.67, subd. 8, the principal and interest on which shall be sufficient to pay the principal of any Bonds when the same become due, either at maturity or otherwise, or at the date fixed for the redemption thereof and to pay all interest with respect thereto at the due dates for such interest or to the date fixed for redemption, for the use and benefit of the Holders thereof, then upon such deposit all such Bonds shall cease to be entitled to any lien, benefit or security of this Indenture except the right to receive the funds so deposited, and such Bonds shall be deemed not to be Outstanding hereunder; and it shall be the duty of the Trustee to hold the cash and securities so deposited for the benefit of the Holders of such Bonds, and from and after such date, redemption date or maturity, interest on such Bonds thereof called for redemption shall cease to accrue.

Section 10.03. Unclaimed Money to be Returned. Any moneys deposited with the Trustee pursuant to the terms of this Indenture, for the payment or redemption of Bonds, and the payment of interest and redemption premium with respect thereto, and remaining unclaimed by the Holders of the Bonds for a period of two years and eleven months after the due date or the date fixed for redemption of the same, as the case may be, shall, upon the written request of the Authority, and if the Authority or any successor to the obligations of the Authority under this Indenture and the Bonds shall not at the time, to the knowledge of the Trustee, be in default with respect to any of the terms and conditions contained in the Indenture or in the Bonds, be paid to the Authority, and such Holders of the Bonds shall thereafter look only to the Authority, for payment and then only to the extent of the amounts so received without interest thereon.

## ARTICLE XI

### SUPPLEMENTAL INDENTURES

Section 11.01. Purposes for Which Supplemental Indentures May be Executed. The Authority, upon resolution, and the Trustee from time to time and at any time, subject to the conditions and restrictions in this Indenture contained, may enter into such indentures supplemental hereto as may or shall by them be deemed necessary or desirable without the consent of any Bondholder for any one or more of the following purposes:

(A) To correct the description of any property hereby pledged or intended so to be, or to assign, convey, pledge or transfer and set over unto the Trustee, subject to such liens or other encumbrances as shall be therein specifically described, additional property or properties of the Authority or the City for the equal and proportional benefit and security of the Holders and owners of all Bonds at any time issued and Outstanding under this Indenture, subject, however, to the provisions hereinabove set forth with respect to extended Bonds;

(B) To add to the covenants and agreements of the Authority in this Indenture contained other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the Authority or to or upon any successor;

(C) To evidence the succession or successive successions of any other department, agency, body or corporation to the Authority and the assumption by such successor of the covenants, agreements and obligations of the Authority in the Bonds hereby secured and in this Indenture and in any and every supplemental indenture contained or the succession, removal or appointment of any trustee or paying agent hereunder;

(D) To cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indentures which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture or any supplemental indenture as the Authority may deem necessary or desirable and which shall not be inconsistent with the provisions of this Indenture or any supplemental indenture and which shall not impair the security of the same;

(E) To modify, eliminate and/or add to the provisions of this Indenture to such extent as shall be necessary to effect the qualification of this Indenture under the Trust Indenture Act of 1939, as then amended, or under any similar Federal statute hereafter enacted, and to add to this Indenture such other provisions as may be expressly permitted by said Trust Indenture Act of 1939, excluding, however, the provisions referred to in Section 316(a)(2) of said Trust Indenture Act of 1939; and

(F) To provide for the issuance of Additional Bonds pursuant to this Indenture.

Section 11.02. Execution of Supplemental Indenture. The Trustee is authorized to join with the Authority in the execution of any such supplemental indenture, to make the further agreements and stipulations which may be therein contained, and accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects its rights, duties or immunities under this Indenture. In executing any amendment or supplemental indenture, the Trustee shall receive and will be fully protected in conclusively relying upon an officers' certificate and an opinion of counsel stating that the execution of such amendment of supplemental indenture is authorized and permitted by this Indenture and is the legal, valid and binding obligation of the Authority enforceable against it in accordance with its terms.

Section 11.03. Discretion of Trustee. In each and every case provided for in this Article (other than a supplemental indenture approved by the Holders of not less than a majority in aggregate principal amount of the Bonds pursuant to Section 11.04 hereof), the Trustee shall be entitled to exercise its unrestricted discretion in determining whether or not any proposed supplemental indenture or any term or provisions therein contained is necessary or desirable, having in view the needs of the Authority and the respective rights and interests of the Holders of Bonds theretofore issued hereunder; and the Trustee shall be under no responsibility or liability to the Authority or to the City or to any Holder of any Bond, or to anyone whatever, for any act or thing which it may do or decline to do in good faith subject to the provisions of this Article, in the exercise of such discretion.

Section 11.04. Modification of Indenture with Consent of Bondholders. Subject to the terms and provisions contained in this Section, the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, to consent to and approve the execution by the Authority and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Authority for the purpose of modifying, altering, amending, adding to or rescinding in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that, notwithstanding any other provision of this Indenture, nothing herein contained shall permit or be construed as permitting, without the consent of the Holders of all Outstanding Bonds affected thereby, (a) an extension of the maturity of any Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon, or (c) the creation of a lien upon or a pledge of revenues ranking prior to or on a parity with the lien or pledge created by this Indenture, or (d) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required to consent to supplemental indentures or amendments to the Lease, or (f) a reduction in the aggregate principal amount of the Bonds required to waive an Event of Default.

Whenever the Authority shall deliver to the Trustee a resolution of Bondholders adopted at a Bondholders' meeting approved by, or an instrument or instruments purporting to be executed by, the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding, which resolution or instrument or instruments shall refer to the proposed supplemental indenture and shall specifically consent to and approve the execution thereof, thereupon, the Authority and the Trustee may execute such supplemental indenture without liability or responsibility to any Holder of any Bond, whether or not such Holder shall have consented thereto.

If the Holders of not less than a majority in aggregate principal amount of the Bonds outstanding at the time of the execution of such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to the execution of such supplemental indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action pursuant to the provisions thereof.

Section 11.05. Supplemental Indentures to be Part of Indenture. Any supplemental indenture executed in accordance with any of the provisions of this Article shall thereafter form a part of this Indenture; and all the terms and conditions contained in any such supplemental indenture as to any provisions authorized to be contained therein shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments. If deemed necessary or desirable by the Trustee, reference to any such supplemental indenture or any of such terms or conditions thereof may be set forth in reasonable and customary manner in the text of the Bonds or in a legend stamped on the Bonds.

Section 11.06. Rights of City Unaffected. Anything herein to the contrary notwithstanding, a supplemental indenture under this Article XI which adversely affects the rights of the City under the Lease, so long as the Lease is in effect, shall not become effective unless and until the City consents to the execution and delivery of such supplemental indenture. The Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture to the execution and delivery of which the City has not already consented, together with a copy of the proposed supplemental indenture, to be mailed to the City at least 30 days prior to the proposed date of execution and delivery of any such supplemental indenture.

Section 11.07. Rights of Authority. The Authority has no duty or obligation to consent to any supplemental indenture or other instrument amending the terms hereof and may, at the expense of the City, request and receive an opinion of such counsel as the Authority may select in connection with any matter relating to a proposed amendment to this Indenture.

## ARTICLE XII

### AMENDMENTS TO THE LEASE

Section 12.01. Amendments to the Lease Not Requiring Consent of Bondholders. The Authority, the City and the Trustee may, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of the Lease as may be required (i) by the provisions of the Lease and this Indenture, (ii) in connection with the issuance of Additional Bonds as provided herein, (iii) in connection with the financing of any additions or expansions of the Real Property, so long as such amendments do not affect the obligation of the City to make Rental Payments as they become due and payable, (iv) for the purpose of curing any ambiguity or formal defect or omission, or (v) in connection with any other change therein which is not to the prejudice of the Trustee or the Holders of the Bonds.

Section 12.02. Amendments to Lease Requiring Consent of Bondholders. Except for the amendments, changes or modifications as provided in Section 12.01 hereof, neither the Authority nor the Trustee shall consent to any other amendment, change or modification of the Lease without the written approval or consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and procured as in this Section provided; provided, however, that no such amendment, change or modification shall ever affect the obligation of the City to make Rental Payments as they become due and payable. If the Holders of not less than a majority in aggregate principal amount of the Bonds Outstanding hereunder at the time of the execution of any such amendment, change or modification shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or in the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee, the Authority or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 12.03. Rights of Authority. The Authority has no duty or obligation to consent to any proposed amendment to the Lease and may, at the expense of the City, request and receive an opinion of such counsel as the Authority may select in connection with any matter relating to a proposed amendment to the Lease.

ARTICLE XIII

RESERVED



## ARTICLE XIV

### MISCELLANEOUS

Section 14.01. Rights in Authority are Held Solely for Benefit of Bondholders. All rights, title and interest created in the Rental Payments pursuant to the Lease are held by the Authority solely for the benefit of the Owners of the Bonds issued pursuant to this Indenture, and are not created in the Authority in its individual capacity or for its own account or benefit for any reason whatsoever. All such rights, title and interest have been irrevocably and absolutely assigned and conveyed in their entirety to the Trustee for the benefit of the Owners of the Bonds issued pursuant to this Indenture.

Section 14.02. Covenants of Authority Bind Successors and Assigns. All the covenants, stipulations, promises and agreements in this Indenture contained, by or in behalf of the Authority, shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

Section 14.03. Immunity of Officers. No recourse for the payment of any part of the principal of or interest on any Bond or for the satisfaction of any liability arising from, founded upon or existing by reason of the issue, purchase or ownership of the Bonds shall be had against any officer, member or agent of the Board of Commissioners of the Authority, the Authority, the City or the State of Minnesota, as such, all such liability being hereby expressly released and waived as a condition of and as a part of the consideration for the execution of this Indenture and the issuance of the Bonds.

Section 14.04. No Benefits to Outside Parties. Nothing in this Indenture, express or implied, is intended or shall be construed to confer upon or to give to any person or corporation, other than the City and the Authority, the parties hereto and the Holders of the Bonds issued hereunder, any right, remedy or claim under or by reason of this Indenture or covenant, condition or stipulation thereof; and the covenants, stipulations and agreements in this Indenture contained are and shall be for sole and exclusive benefit of the City and the Authority, the parties hereto, their successors, and the Holders of the Bonds.

Section 14.05. Separability of Indenture Provisions. In case any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Indenture, but this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 14.06. Execution of Indenture in Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which, when so executed, shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

Section 14.07. Headings Not Controlling. The headings of the several Articles and Sections hereof are inserted for the convenience of reference only and shall not control or affect the meaning or construction of any of the provisions hereof.

Section 14.08. Notices etc., to Trustee, Authority and City. Any request, demand, authorization, direction, notice, consent of Bondholders or other document provided or permitted by this Indenture shall be sufficient for any purpose under this Indenture or the Lease, when mailed certified mail, return receipt requested, postage prepaid (except as otherwise provided in this Indenture) (with a copy to the other parties) at the following addresses (or such other address as may be provided by any party by notice) and shall be deemed to be effective upon receipt:

To the Trustee: U.S. Bank National Association  
60 Livingston Avenue, 3<sup>rd</sup> Floor  
EP-MN-WS3C  
St. Paul, Minnesota 55107  
Attention: Global Corporate Trust Services

To the Authority: Economic Development Authority  
of the City of Lake Elmo, Minnesota  
3800 Laverne Avenue N.  
Lake Elmo, Minnesota 55042  
Attn: Secretary

To the City: City of Lake Elmo, Minnesota  
3800 Laverne Avenue N.  
Lake Elmo, Minnesota 55042  
Attn: Finance Director

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, the Economic Development Authority of the City of Lake Elmo, Minnesota, by its Board of Commissioners, has caused this Indenture to be signed in its name by its President and Secretary, and U.S. Bank National Association, as Trustee, to evidence its acceptance of the trust hereby created, has caused this Indenture to be signed in its name by an authorized officer of the Trustee, all as of the day and year first above written.

ECONOMIC DEVELOPMENT AUTHORITY OF  
THE CITY OF LAKE ELMO, MINNESOTA

By \_\_\_\_\_  
Its President

By \_\_\_\_\_  
Its Secretary

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF DAKOTA    )

This instrument was acknowledged before me on June \_\_\_\_\_, 2018, by Steve Nelson and Kristina Handt, the President and Secretary, respectively, of the Economic Development Authority of the City of Lake Elmo, Minnesota, a Minnesota political subdivision, on behalf of the political subdivision.

\_\_\_\_\_  
Notary Public

(SEAL)

U.S. BANK NATIONAL ASSOCIATION  
as Trustee

By \_\_\_\_\_

Its \_\_\_\_\_

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF RAMSEY    )

This instrument was acknowledged before me on June \_\_\_\_\_, 2018, by \_\_\_\_\_, the \_\_\_\_\_ of U.S. Bank National Association, a national banking association, on behalf of the national banking association.

\_\_\_\_\_  
Notary Public

(SEAL)

[Signature Page – Trust Indenture]

## EXHIBIT A

### DESCRIPTION OF REAL PROPERTY

The North 126.89 feet of Lot 1, Block 2, Brookman Addition, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota, lying easterly of the West 199.91 feet thereof.

(PIN: 13.029.21.22.0025)  
(.58 acre parcel)

AND

The North 350.18 feet of Lot 1, Block 2, Brookman Addition, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota, except the West 199.91 feet of the North 126.89 feet of said Lot 1, Block 2, Brookman Addition; also except the North 126.89 feet of said Lot 1, Block 2, Brookman Addition, lying easterly of the West 199.91 feet thereof.

(PIN: 13.029.21.22.0026)  
(2.06 acre parcel)

EXHIBIT B

FORM OF SERIES 2018A BOND  
UNITED STATES OF AMERICA

STATE OF MINNESOTA

ECONOMIC DEVELOPMENT AUTHORITY  
OF THE CITY OF LAKE ELMO, MINNESOTA

TAXABLE PUBLIC PROJECT LEASE REVENUE AND LIMITED TAX BONDS, SERIES 2018A

R-1 \$933,000

<u>Rate</u>	<u>Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
4.500%	January 15, 2034	June 28, 2018	

REGISTERED OWNER: LAKE ELMO BANK

PRINCIPAL AMOUNT: NINE HUNDRED THIRTY-THREE THOUSAND DOLLARS

THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF LAKE ELMO, MINNESOTA, a public body corporate and politic of the State of Minnesota (the Authority), for value received, hereby promises to pay to the registered owner named above, or registered assigns, solely from the sources hereinafter identified, the principal amount set forth above on the maturity date specified above, and to pay to the registered owner hereof interest on such principal amount from such sources at the interest rate specified above from the date of original issue specified above or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as specified below, on January 15 and July 15 of each year, commencing January 15, 2019, until said principal amount is paid, subject to redemption of this Bond prior to its scheduled maturity. Interest shall be computed on the basis of a three hundred sixty (360) day year composed of twelve (12) thirty (30) day months and shall be payable to the person in whose name this Bond is registered at the close of business on the first day (whether or not a Business Day) of the month of such Interest Payment Date at such person's address set forth on the registration books maintained by the Trustee hereinafter designated. The interest hereon and, upon presentation and surrender at the principal office of the agent of the Trustee described below, the principal hereof are payable in lawful money of the United States of American by check or draft drawn on U.S. Bank National Association, as trustee designated under the Trust Indenture referred to below (the Trustee). Any such interest not punctually paid or provided for will cease to be payable to the registered owner as of a regular record date 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 Trustee pursuant to such Indenture.

This Bond is issued under Minnesota Statutes, Chapters 465, 469, 471 and Chapter 475, as amended, and in conformity with the provisions, restrictions and limitations thereof. This Bond does not constitute an indebtedness of the Authority, the City of Lake Elmo, Minnesota (the City), the State of Minnesota (the State) or any other political subdivision within the meaning of any state constitutional

provision or statutory limitation, nor does this Bond give rise to a charge against the general credit or properties or taxing powers of the Authority, the City, the State or other political subdivision and does not grant to the registered owner of this Bond any right to have the Authority, the City, the State or other political subdivision levy any taxes or appropriate any funds for the payment of the principal hereof or interest hereon, nor is this Bond a general obligation of the Authority, the City, the State or other political subdivision or the individual officers or agents thereof. This Bond and interest hereon are payable solely and only from the moneys received as rental payments to be paid by the City under the Lease (as hereinafter defined), the moneys received, if any from the annual tax levies pledged by the Bond Resolution (as hereinafter defined), in an amount not to exceed the lesser of (i) the maximum annual principal and interest due on the Bonds or (ii) the statutory maximum, pursuant to its taxing power under Minnesota Statutes, Section 469.033, subdivision 6, or other moneys held by the Trustee appropriated to the payment of the Bonds of this series under the Indenture (as hereinafter defined).

This Bond is one of a duly authorized series of special obligation Bonds of an aggregate principal amount of \$933,000 (the Bonds), all of which have been authorized by law to be issued and have been issued or are to be issued for the purpose of financing the costs of acquiring real property which is to be leased to the City by the Authority pursuant to a Lease-Purchase Agreement dated as of June 1, 2018 (the Lease), between the Authority, as lessor, and the City, as lessee. The Bonds of this series are issued pursuant to a Bond Resolution of the Authority duly adopted June 5, 2018, and a Trust Indenture dated as of June 1, 2018 (the Indenture), duly executed and delivered by the Authority to the Trustee. The Bonds of this series are equally and ratably secured by the rental payments under the Lease, the Indenture and any HRA Levy under the Bond Resolution, to which Lease, Indenture and Bond Resolution and amendments thereof reference is hereby made for a description and limitation of the revenues pledged to secure the payment of the Bonds, the nature and extent of the security thereby created, the rights of the registered owners of the Bonds, the rights, duties and immunities of the Trustee, and the rights, immunities and obligations of the Authority thereunder. **The obligation of the City under the Lease to make Rental Payments sufficient to pay the principal of and interest on the Bonds when due is a limited obligation of the City, subject to the annual appropriation in each fiscal year by the City Council of funds sufficient to pay such Rental Payments. The City is not obligated to make any such appropriation and has the right to cancel and terminate the Lease at the end of any fiscal year of the City if the City Council does not appropriate moneys sufficient to pay the Rental Payments coming due in the next fiscal year.** Certified copies of the Bond Resolution and executed counterparts of the Indenture and Lease are on file at the principal corporate trust office of the Trustee.

The Bonds are subject to redemption at the option of the Authority, on any date, in whole or in part in integral multiples of \$1,000, and if in part in such order of maturity dates as the Authority may determine and by lot or other manner deemed fair as to Bonds maturing on the same date, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest to the redemption date. The Bonds are subject to redemption prior to their maturity, on any date, upon certain events of damage, destruction and condemnation described in the Lease.

The Bonds are subject to mandatory sinking fund redemption, without presentment, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest to the redemption date, on January 15 in the years and amounts set forth in the Indenture.

Notice of any such redemption shall be published if, and to the extent, then required by law, and shall also be given to the registered owner of each Bond to be redeemed by first-class mail, addressed to such owner at the owner's registered address, not earlier than ninety (90) days nor later than thirty (30) days prior to the date fixed for redemption. On or prior to the date fixed for redemption, funds are required to be deposited with the Trustee sufficient to pay the Bonds called and accrued interest thereon. Upon the happening of the above conditions, Bonds thus called shall not bear interest after the redemption date and,

except for the purpose of payment from the funds so deposited, shall no longer be protected by the Indenture.

This Bond is transferable, as provided in the Indenture, only upon books of the Authority kept at the principal office of the agent of the Trustee by the registered owner hereof in person or by the owner's duly authorized attorney, upon surrender of this Bond for transfer at the principal corporate trust office of the Trustee, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Trustee duly executed by the registered owner hereof or the 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 this series of the same principal amount and interest rate will be issued to the designated transferee or transferees.

The Bonds are issuable only as fully registered bonds without coupons in denominations of \$1,000 or any integral multiple thereof of single maturities. As provided in the Indenture 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 a different authorized denomination, as requested by the registered owner or the owner's duly authorized attorney upon surrender thereof to the Trustee at its principal corporate trust office.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required to be done precedent to and in the issuance of this Bond and the series of which it is a part have been properly done, have happened and have been performed in regular and due time, form and manner as required by law.

This Bond shall not be valid nor become obligatory for any purpose under the Indenture until it shall have been authenticated by the execution of the Certificate hereon endorsed by the manual signature of an authorized representative of the Trustee.



IN WITNESS WHEREOF, the Economic Development Authority of the City of Lake Elmo, Minnesota, by its Board of Commissioners, has caused this Bond to be executed in its name by the facsimile signatures of its President and Secretary.

ECONOMIC DEVELOPMENT AUTHORITY OF THE  
CITY OF LAKE ELMO, MINNESOTA

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Indenture.

Date: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By \_\_\_\_\_  
Authorized Representative

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to the applicable laws or regulations:

- |  |  |         |
|--|--|---------|
| TEN COM --as tenants in common   | UTMA ..... as Custodian for<br>.....<br>(Cust) | (Minor) |
| TEN ENT --as tenants by the entireties under Uniform Transfers to Minors Act ..... |  | (State) |
| JT TEN --as joint tenants with right of survivorship and not as tenants in common  |  |         |

Other abbreviations may also be used.

\_\_\_\_\_  
ASSIGNMENT

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

Please Insert Social Security Number or Other Identifying Number of Assignee:  
\_\_\_\_\_

\_\_\_\_\_  
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, enlargement or and change whatever.

SIGNATURE GUARANTEED:

\_\_\_\_\_  
Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Trustee, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Trustee in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

EXHIBIT C

COSTS OF ISSUANCE EXPENSES AND TRUSTEE FEES

<u>Cost of Issuance</u>	<u>Amount</u>
Placement Agent	\$15,000.00
Bond Counsel	8,500.00
Trustee	3,400.00
Trustee Counsel	1,500.00
Miscellaneous	183.00
TOTAL	<u>\$28,583.00</u>

**EXECUTION**

---

LEASE-PURCHASE AGREEMENT

between the

ECONOMIC DEVELOPMENT AUTHORITY  
OF THE CITY OF LAKE ELMO, MINNESOTA  
as Lessor

and the

CITY OF LAKE ELMO, MINNESOTA  
as Lessee

Dated as of June 1, 2018

---

Relating to:

TAXABLE PUBLIC PROJECT LEASE REVENUE  
AND LIMITED TAX BONDS, SERIES 2018A

This instrument drafted by:

Dorsey & Whitney LLP (NC)  
Suite 1500  
50 South Sixth Street  
Minneapolis, Minnesota 55402  
(612) 340-2600

## TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I DEFINITIONS AND EXHIBITS.....	2
Section 1.1. Definitions.....	2
Section 1.2. Exhibits.....	3
ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES.....	4
Section 2.1. Representations, Covenants and Warranties of Lessee.....	4
Section 2.2. Representations Covenants and Warranties of Lessor.....	4
ARTICLE III AGREEMENT TO LEASE.....	6
Section 3.1. Lease.....	6
Section 3.2. Possession and Enjoyment.....	6
Section 3.3. Lessor Access to Real Property.....	6
ARTICLE IV TERM OF LEASE.....	7
Section 4.1. Term of Lease.....	7
Section 4.2. Termination of Lease Term.....	7
ARTICLE V RENTAL PAYMENTS.....	8
Section 5.1. Rental Payments.....	8
Section 5.2. Current Expense.....	8
Section 5.3. Rental Payments to be Unconditional.....	8
Section 5.4. Reserved.....	8
Section 5.5. Intent to Continue Rental Payments; Appropriations.....	8
ARTICLE VI NONAPPROPRIATION.....	9
Section 6.1. Termination of Lease.....	9
Section 6.2. Return of Real Property.....	9
Section 6.3. Effect of Termination.....	9
Section 6.4. Reserved.....	9
ARTICLE VII MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS.....	10
Section 7.1. Maintenance and Modification of Real Property by Lessee.....	10
Section 7.2. Taxes, Other Government Charges and Utility Charges.....	10
Section 7.3. Liability Insurance.....	11
Section 7.4. Lessee's Negligence.....	11
Section 7.5. Property Insurance.....	11
Section 7.6. Worker's Compensation Insurance.....	11

Section 7.7. Other Insurance and Requirements for All Insurance .....	11
Section 7.8. Advances .....	12
Section 7.9. Liens .....	12
ARTICLE VIII DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS .....	13
Section 8.1. Damage, Destruction and Condemnation.....	13
Section 8.2. Cooperation of Lessor .....	13
Section 8.3. Condemnation of Other Property Owned by Lessee.....	13
ARTICLE IX LESSEE’S EQUIPMENT; WARRANTIES .....	14
Section 9.1. Installation of Lessee’s Equipment .....	14
Section 9.2. Reserved .....	14
Section 9.3. Reserved .....	14
Section 9.4. Warranties .....	14
Section 9.5. Disclaimer of Warranties .....	14
ARTICLE X OPTION TO PURCHASE.....	15
Section 10.1. When Available.....	15
Section 10.2. Exercise of Option.....	15
Section 10.3. Release of Lessor’s Interest.....	15
Section 10.4. Defeasance .....	15
ARTICLE XI ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING .....	16
Section 11.1. Assignment by Lessor .....	16
Section 11.2. Assignment and Subleasing by Lessee.....	16
Section 11.3. Restriction on Mortgage or Sale of Real Property by Lessee .....	16
ARTICLE XII EVENTS OF DEFAULT AND REMEDIES.....	17
Section 12.1. Events of Default Defined.....	17
Section 12.2. Remedies on Default .....	18
Section 12.3. Return of Real Property.....	18
Section 12.4. Delay; Notice.....	18
Section 12.5. No Remedy Exclusive.....	18
Section 12.6. Agreement to Pay Attorneys’ Fees and Expenses.....	18
Section 12.7. No Additional Waiver Implied By One Waiver.....	19
ARTICLE XIII TITLE.....	20
Section 13.1. Title to Real Property .....	20
Section 13.2. Security Interest.....	20
ARTICLE XIV ISSUANCE OF THE BONDS.....	21

Section 14.1. Agreement to Issue Bonds; Application of Bond Proceeds .....	21
ARTICLE XV ADMINISTRATIVE PROVISIONS .....	22
Section 15.1. Notices.....	22
Section 15.2. Binding Effect .....	22
Section 15.3. Severability.....	22
Section 15.4. Amendments, Charges and Modifications .....	22
Section 15.5. Further Assurances and Corrective Instruments .....	22
Section 15.6. Execution in Counterparts .....	22
Section 15.7. Applicable Law .....	22
Section 15.8. Lessor and Lessee Representatives .....	22
Section 15.9. Captions.....	22

Exhibit A – A legal description of the Real Property.

Exhibit B – The schedule of Rental Payments to be paid by Lessee to Lessor, showing the date and amount of each Rental Payment.

## LEASE-PURCHASE AGREEMENT

This LEASE-PURCHASE AGREEMENT (the Lease) is executed as of June 1, 2018, between the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF LAKE ELMO, MINNESOTA, as lessor (together with its successors and assigns, Lessor), whose address is 3800 Laverne Avenue N., Lake Elmo, Minnesota 55042, and the CITY OF LAKE ELMO, MINNESOTA, as lessee (Lessee), whose address is 3800 Laverne Avenue N., Lake Elmo, Minnesota 55042.

### RECITALS

WHEREAS, the Lessee is authorized by Minnesota Statutes to acquire real and personal property by entering into lease-purchase agreements;

WHEREAS, the Lessor has authorized the issuance of its \$933,000 Taxable Public Project Lease Revenue and Limited Tax Bonds, Series 2018A (the Bonds), for the purpose of (i) acquiring certain the Real Property (as defined herein), and (ii) paying costs associated with the issuance of the Bonds (collectively, the Project);

WHEREAS, upon issuance of the Bonds, good and marketable title to the Real Property will be in the Lessor; and

WHEREAS, to secure payment of the Bonds, the Lessor hereby leases to the Lessee, and the Lessee hereby hires and takes from the Lessor, the Real Property, and for such purpose the Lessor grants to the Lessee for the term of this Lease all rights necessary for the Lessee to lease and purchase the Real Property.

NOW, THEREFORE, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:



## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified.

*Code* means the Internal Revenue Code of 1986, as now or hereafter amended, and the regulation and revenue rulings and procedures issued pursuant thereto from time to time.

*Fiscal Year* means each twelve month fiscal period of Lessee commencing on January 1 of any year and ending on the following December 31.

*Indenture* means the Trust Indenture entered into between Lessor and Trustee, dated as of the date hereof.

*Independent Counsel* means an attorney duly admitted to the practice of law before the highest court of any state who is not an officer or a full-time employee of Lessor, Lessee or an assignee thereof.

*Lessee Representative* means the City Administrator of Lessee, or any other person authorized to act on behalf of Lessee under or with respect to this Lease, as evidenced by a certificate conferring such authority executed by the City Administrator, given to the Trustee and the Lessor.

*Lessor Representative* means the President or Secretary of Lessor, or any other person authorized to act on behalf of Lessor under or with respect to this Lease, as evidenced by a certificate conferring such authority executed by the President, given to the Trustee and the Lessee.

*Net Proceeds* means any insurance proceeds or condemnation award paid with respect to the Real Property, remaining after payment therefrom of all expenses incurred in the collection thereof.

*Payment Date* means the date upon which any Rental Payment is due and payable as provided in the attached Exhibit B.

*Permitted Encumbrances* means, as of any particular time, (i) liens for taxes and assessments not then delinquent, or which Lessee may, pursuant to provisions of Article VII hereof, permit to remain unpaid; (ii) this Lease; (iii) any mechanic's, laborer's, materialmen's, supplier's or vendor's lien or right not filed or perfected in the manner prescribed by law, or which Lessee may, pursuant to provisions of Article VII hereof, permit to remain unpaid; (iv) minor defects and irregularities in the title to the Real Property which do not in the aggregate materially impair the use of the Real Property for the purposes for which it is or may reasonably be expected to be held; (v) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of the Real Property for the purposes for which

it is or may reasonably be expected to be held; (vi) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Real Property which do not materially impair the use of the Real Property for the purposes for which it is or may reasonably be expected to be held; (vii) present and future valid zoning laws and ordinances; and (viii) any liens or encumbrances of record as of the date hereof.

*Qualified Investments* means only those described in Minnesota Statutes, Section 475.67, Subdivision 8, or any successor statute.

*Real Property* means the real property legally described in Exhibit A which is located at or about 3880 Laverne Avenue N. and 39<sup>th</sup> Street and Laverne Avenue N., in the City of Lake Elmo, County of Washington, Minnesota, including a 2.06 acre parcel with an approximately 18,000 square foot building and a vacant .58 acre parcel.

*Rental Payment* means any payment due from Lessee to Lessor under Section 5.1 of this Lease.

*State* means the State of Minnesota.

*State and Federal Law or Laws* means the Constitution and laws of the State, any ordinance, rule or regulation of any agency or political subdivision of the State and any law of the United States, and any rule or regulation of any federal agency.

*Term of this Lease or Lease Term* means the period during which this Lease remains in effect as specified in Sections 4.1 and 4.2.

*Trustee* means U.S. Bank National Association, as trustee under the Indenture.

Section 1.2. Exhibits.

The following exhibits are attached to and by reference made a part of this Lease:

Exhibit A – A legal description of the Real Property.

Exhibit B – The schedule of Rental Payments to be paid by Lessee to Lessor, showing the date and amount of each Rental Payment.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of Lessee. Lessee represents, covenants and warrants as follows:

- (a) Lessee is a duly formed and validly existing body corporate and political subdivision of the State, governed by the Constitution and laws of the State.
- (b) State and Federal Laws authorize Lessee to acquire, lease, operate and maintain the Real Property; to enter into this Lease and the transactions contemplated hereby; and to carry out its obligations under this Lease.
- (c) The officers of Lessee executing this Lease and the documents contemplated hereby have been duly authorized to execute and deliver this Lease and related documents under the terms and provisions of a resolution of Lessee's governing body or by other appropriate official action.
- (d) Lessee has complied with all open meeting laws, all public bidding laws and all other State and Federal Laws applicable to this Lease and the acquisition of the Real Property by Lessee.
- (e) Except as provided under the terms of this Lease, Lessee will not transfer, lease, assign, mortgage or encumber the Real Property.
- (f) Lessee may accomplish any of its obligations herein by an agent.

Section 2.2. Representations Covenants and Warranties of Lessor. Lessor represents, covenants and warrants as follows:

- (a) Lessor is a public body, corporate and politic duly organized, existing and in good standing under the laws of the State; has full and complete power to issue the Bonds and to enter into this Lease and to enter into and carry out the transactions contemplated hereby, and to carry out its obligations hereunder; is possessed of full power to own and hold real and personal property, and to lease the same; and has duly authorized the issuance and delivery of the Bonds and the execution and delivery of this Lease.
- (b) Neither the issuance and delivery of the Bonds nor the execution and delivery of this Lease, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any law, regulation, restriction or any agreement or instrument to which Lessor is now a party or by which Lessor or its property is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessor, or upon the Real Property, except Permitted Encumbrances.

(c) Upon payment by Lessee of the amounts described in Section 10.1 hereof or the defeasance of Lessee's obligations hereunder pursuant to Article X hereof, Lessor will deliver to Lessee all documents which are or may be necessary to vest all of Lessor's right, title and interest in and to the Real Property in Lessee, and will release all liens and encumbrances created under this Lease.

## ARTICLE III

### AGREEMENT TO LEASE

Section 3.1. Lease. Lessor hereby leases, with an option to purchase, the Real Property to Lessee, and Lessee hereby leases, with an option to purchase, the Real Property from Lessor, upon the terms and conditions set forth in this Lease.

Section 3.2. Possession and Enjoyment. Lessor hereby covenants with respect to the Real Property to provide Lessee during the Term of this Lease with quiet use and enjoyment of the Real Property, and Lessee shall during such Lease Term peaceably and quietly have and hold and enjoy the Real Property, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Lease. Lessor will, at the request of Lessee and at Lessee's cost, join in any legal action in which Lessee asserts its right to such possession and enjoyment to the extent Lessor may lawfully do so.

Section 3.3. Lessor Access to Real Property. Lessee agrees that Lessor shall have the right during Lessee's normal working hours on Lessee's normal working days to enter on and examine and inspect the Real Property for the purpose of assuring that the Real Property is being properly maintained, preserved and kept in good repair and condition. Lessee further agrees that Lessor shall have such rights of access to the Real Property as may be reasonably necessary to cause the proper maintenance of the Real Property in the event of failure by Lessee to perform its obligations hereunder.

## ARTICLE IV

### TERM OF LEASE

Section 4.1. Term of Lease. This Lease shall be and remain in effect with respect to the Real Property for a Lease Term commencing on the date of execution hereof and continuing until terminated as provided in Section 4.2.

Section 4.2. Termination of Lease Term. The Term of this Lease will terminate upon the occurrence of the first of the following events:

- (a) the termination by Lessee of its obligation to make any further Rental Payments in accordance with Section 6.1;
- (b) the exercise by Lessee of its option to purchase Lessor's interest in the Real Property or to defease its obligations hereunder pursuant to Article X;
- (c) a default by Lessee and termination of this Lease pursuant to Article XII; or
- (d) the payment by Lessee of all Rental Payments required to be paid by Lessee hereunder.

## ARTICLE V

### RENTAL PAYMENTS

Section 5.1. Rental Payments. Lessee shall pay semiannual Rental Payments with respect to the Real Property on each Payment Date, as set forth in Exhibit B, three business days prior to the dates that payments are due on the Bonds, as further described in the Indenture, which Rental Payments are sufficient to pay the principal of, premium, if any, on and interest on the Bonds when due. The Rental Payments shall be payable to the Trustee, as assignee of the Lessor's right, title and interest in such Rental Payments, at its address specified in Section 14.08 of the Indenture.

Section 5.2. Current Expense. The obligations of Lessee under this Lease, including its obligation to pay the Rental Payments due with respect to the Real Property in any Fiscal Year for which this Lease is in effect, shall constitute a current expense of Lessee for such Fiscal Year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State. Nothing herein shall constitute a pledge by Lessee of any taxes or other moneys, other than moneys lawfully appropriated from time to time by or for the benefit of Lessee in its annual budget, the proceeds or Net Proceeds of the Real Property, to the payment of any Rental Payment or other amount coming due hereunder.

Section 5.3. Rental Payments to be Unconditional. Except as provided in Section 6.1, the obligation of Lessee to make Rental Payments due with respect to the Real Property or any other payments required hereunder shall be absolute and unconditional in all events. Notwithstanding any dispute between Lessee and Lessor or any other person, Lessee shall make all Rental Payments and other payments required hereunder when due and shall not withhold any Rental Payment or other payment pending final resolution of such dispute nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such Rental Payments or other payments required under this Lease. Lessee's obligation to make Rental Payments or other payments during the Lease Term shall not be abated through accident or unforeseen circumstances. However, nothing herein shall be construed to release Lessor from the performance of its obligations hereunder, and if Lessor should fail to perform any such obligation, Lessee may institute such legal action against Lessor as Lessee may deem necessary to compel the performance of such obligation or to recover damages therefor.

Section 5.4. Reserved.

Section 5.5. Intent to Continue Rental Payments; Appropriations. Lessee presently intends to continue this Lease for the entire Term of this Lease and to pay all Rental Payments required hereunder. Lessee reasonably and in good faith believes that amounts sufficient to pay all Rental Payments due hereunder can and will lawfully be appropriated or budgeted and made available for this purpose during the Lease Term.

## ARTICLE VI

### NONAPPROPRIATION

Section 6.1. Termination of Lease. Lessee shall have the right to cancel and terminate this Lease, in whole but not in part, effective at the end of any Fiscal Year of Lessee, in the manner and subject to the terms specified in this Section and Section 6.3, if Lessee is not authorized by law to appropriate or does not appropriate moneys sufficient to pay the Rental Payments coming due in the next Fiscal Year. Lack of a sufficient appropriation shall be evidenced by a specific provision in Lessee's budget for the Fiscal Year in question so stating. Lessee may effect such termination by giving to Lessor a written notice of nonappropriation and termination and by paying to Lessor any Rental Payments which are due and have not been paid at or before the end of its then current Fiscal Year. Lessee shall endeavor to give notice of termination not less than 120 days prior to the end of such Fiscal Year, and shall notify Lessor of any anticipated termination.

Section 6.2. Return of Real Property. In the event of termination of this Lease as provided in Section 6.1, Lessee shall surrender possession of the Real Property to Lessor in accordance with Section 12.3, and release its interest in the same, as granted under this Lease, within 10 days after the termination of this Lease.

Section 6.3. Effect of Termination. Upon termination of Lessee's obligation to make Rental Payments as provided in Section 6.1, Lessee shall not be responsible for the payment of any additional Rental Payments coming due with respect to succeeding Fiscal Years, but if Lessee has not surrendered possession of the Real Property to Lessor in accordance with Sections 6.2 and 12.3, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments thereafter coming due under Exhibit B which are attributable to the number of days during which Lessee fails to take such actions.

Section 6.4. Reserved.



## ARTICLE VII

### MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

Section 7.1. Maintenance and Modification of Real Property by Lessee. Lessee shall, at its own expense, maintain, preserve and keep the improved portions of the Real Property in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep the improved portions of the Real Property in such condition. Lessor shall have no responsibility for any of these repairs, replacements or improvements. In addition, Lessee shall, at its own expense, have the right to remodel the improved portions of the Real Property or to make additions, modifications and improvements thereto. All such additions, modifications and improvements shall thereafter comprise part of the Real Property and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage the improved portions of the Real Property nor cause the Real Property to be used for purposes other than those authorized under the provisions of State law, and the Real Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value not less than the value of the Real Property immediately prior to the making of such additions, modifications and improvements. Any property for which a substitution or replacement is made pursuant to this Section may be disposed of by Lessee in such manner and on such terms as are determined by Lessee. Lessee will not permit any mechanic's or other lien to be established or remain against the Real Property for labor or material furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by Lessee pursuant to this Section; provided that if any such lien is established and Lessee shall first notify Lessor of Lessee's intention to do so, Lessee may in good faith contest any lien filed or established against the Real Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of such item the interest of Lessor in the Real Property will be materially endangered or the Real Property or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide Lessor with full security against any such loss or forfeiture, in form satisfactory to Lessor. Lessor will cooperate fully with Lessee in any such contest, upon the request and at the expense of Lessee.

Section 7.2. Taxes, Other Government Charges and Utility Charges. Lessee shall also pay when due all gas, water, steam, electricity, heat, power, telephone, and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Real Property. Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Real Property or any part thereof, and which become due during the Term of this Lease with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Real Property; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

Lessee may, at Lessee's expense and in Lessee's name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the

taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such items the interest of Lessor in the Real Property will be materially endangered or the Real Property or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay such taxes, assessments or charges or provide Lessor with full security against any loss which may result from nonpayment, in form satisfactory to Lessor.

Section 7.3. Liability Insurance. Upon receipt of possession of the Real Property, the Lessee shall take such measures as may be necessary to ensure that any liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or the operation of the Real Property or any part thereof, is covered by a blanket or other general liability insurance policy maintained by the Lessee. The Net Proceeds of all such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which any Net Proceeds may be paid.

Section 7.4. Lessee's Negligence. Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Real Property and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or the property of others, which is proximately caused by the negligent conduct of Lessee, its officers, employees and agents. Lessee hereby assumes responsibility for and agrees to reimburse Lessor and Trustee for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees) whatsoever kind and nature, imposed on, incurred by or asserted against Lessor or Trustee that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of Lessee, its officers, employees and agents, to the maximum extent permitted by law.

Section 7.5. Property Insurance. Upon receipt of possession of the Real Property, the Lessee shall have and assume the risk of loss with respect thereto. The Lessee shall procure and maintain continuously in effect during the Lease Term, all-risk insurance, subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part thereof damaged or destroyed and to pay the applicable purchase price of the Real Property as set forth in Section 10.1. Such insurance may be provided by a rider to an existing policy or under a separate policy. Such insurance may be written with customary deductible amounts. The Net Proceeds of insurance required by this Section shall be applied to the prompt repair, restoration or replacement of the Real Property, or to the purchase of the Real Property, as provided in Section 8.1. Any Net Proceeds not needed for those purposes shall be paid to the Lessee.

Section 7.6. Worker's Compensation Insurance. If required by State law, the Lessee shall carry worker's compensation insurance covering all its employees on, in, near or about the Real Property. Alternatively, the Lessee may self-insure against such liabilities in accordance with applicable law.

Section 7.7. Other Insurance and Requirements for All Insurance. All insurance required by this Article may be carried under a separate policy or a rider or endorsement; shall be

taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State; shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to all parties at least ten (10) days before the cancellation or revision becomes effective; and shall name Lessee and Lessor as insured parties. Lessee shall deposit with Lessor policies evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, Lessee shall furnish to Lessor evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article, unless such insurance is no longer obtainable in which event Lessee shall notify Lessor of this fact.

Section 7.8. Advances. If Lessee shall fail to perform any of its obligations under this Lease, Lessor may, but shall not be obligated to take such action as may be necessary to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand with interest at the maximum rate permitted by law or 12%, whichever is less, from the date of the advance to the date of repayment.

Section 7.9. Liens. Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Real Property, other than the respective rights of Lessor and Lessee as herein provided and Permitted Encumbrances. Except as expressly provided in this Article, Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

## ARTICLE VIII

### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 8.1. Damage, Destruction and Condemnation. If (i) more than 25% of the value of the Real Property or any portion thereof is destroyed or is damaged by fire or other casualty, or (ii) title to or the temporary use of the Real Property or any part thereof, or the interest of Lessee or Lessor in the Real Property or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee, unless it has determined to terminate this Lease in accordance with Section 6.1 hereof, shall be entitled to the Net Proceeds of any insurance or condemnation award and shall apply such Net Proceeds (x) to the prompt repair, restoration, modification or improvement of the Real Property by Lessee, in which event Lessee shall be obligated to continue to pay the Rental Payments due with respect to the Real Property, or (y) to the payment of the applicable prepayment price in accordance with Article X. In the event the Lessee has determined to terminate this Lease in accordance with Section 6.1 hereof, the Lessee shall turn over such Net Proceeds to the Lessor.

Section 8.2. Cooperation of Lessor. Lessor shall cooperate fully with Lessee at the expense of Lessee in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 8.1 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Real Property or any part thereof and will, to the extent it may lawfully do so, permit Lessee to litigate in any proceeding resulting therefrom in the name of and on behalf of Lessor. In no event will Lessor voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Real Property or any part thereof without the written consent of Lessee.

Section 8.3. Condemnation of Other Property Owned by Lessee. Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for destruction of, damage to or taking of its property not included in the Real Property.

## ARTICLE IX

### LESSEE'S EQUIPMENT; WARRANTIES

Section 9.1. Installation of Lessee's Equipment. Lessee may at any time and from time to time, in its sole discretion and its own expense, install items of moveable machinery, standard office partition, railings, doors, lighting fixtures, and such other equipment as may in Lessee's judgment be necessary for its purposes, in or upon the Real Property. All such items shall remain the sole property of Lessee, in which Lessor shall have no interest, and may be modified or removed by Lessee at any time provided that Lessee shall repair and restore any and all damage to the Real Property resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent Lessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease with option to purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Real Property.

Section 9.2. Reserved.

Section 9.3. Reserved.

Section 9.4. Warranties. Lessor hereby assigns to Lessee for and during the Term of this Lease, all of its interest in all warranties and guarantees or other contract rights against any architect, contractor or manufacturer for the Real Property, expressed or implied, issued on or applicable to the Real Property, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense. Lessee's sole remedy for the breach of such warranties and guarantees shall be against the manufacturer or supplier of such portion of the Real Property or such contractor or architect, and not against Lessor, nor shall such matter have any effect whatsoever on the rights of the Lessor with respect to this Lease, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor does not make and has not made any representation or warranty whatsoever as to the existence or availability of such warranties with respect to the Real Property or any portion thereof.

Section 9.5. Disclaimer of Warranties. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE OF THE REAL PROPERTY, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE REAL PROPERTY. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or Lessee's use of any portion of the Real Property provided for in this Lease.

## ARTICLE X

### OPTION TO PURCHASE

Section 10.1. When Available. Lessee shall have the option to purchase Lessor's interest in the Real Property at a price equal to the principal amount of Rental Payments outstanding, plus accrued interest to the date of prepayment, only in the manner provided in this Article, (i) on any date, but only if Lessee is not in default under this Lease, and (ii) on any date pursuant to the events described in Section 8.1 hereof.

Section 10.2. Exercise of Option. Lessee shall give notice to Lessor of its intention to exercise its option not less than forty-five (45) days prior to the date on which the option is to be exercised, and shall deposit with Lessor on the date of exercise an amount equal to all Rental Payments and any other amounts then due or past due. The closing shall be on the date on which the option is to be exercised at the office of Lessor.

Section 10.3. Release of Lessor's Interest. Upon exercise by Lessee of its option to purchase, Lessee shall have no further obligations under this Lease and Lessor and its officers shall take all actions necessary to authorize, execute and deliver to Lessee any and all documents necessary to vest in Lessee, all of Lessor's right, title and interest in and to the Real Property, free and clear of all liens, leasehold interest and encumbrances arising under the provisions of this Lease.

Section 10.4. Defeasance. Lessee shall have the right to defease and satisfy its obligations to pay Rental Payments due under this Lease, in the manner and with the effect provided in this Section; but such right may only be exercised if Lessee is not in default under the Lease, or if the exercise of such right would cure such default. If the whole amount of the Rental Payments due and payable under this Lease shall be paid, or provision shall have been made for the payment of the same by the deposit of cash or Qualified Investments in an amount sufficient (together with interest earnings thereon) to provide for payment of said Rental Payments to the last Payment Date, or earlier date on which the option to purchase of Lessee is exercised, and all administrative expenses related thereto shall have been paid or provided for, then, and in that case, all right, title and interest of Lessor in and to the Real Property, this Lease and the Rental Payments due hereunder shall thereupon cease, terminate and become void; and Lessor shall assign and transfer to or upon the order of Lessee all rights in the Real Property and this Lease then held by Lessor, and shall execute such documents as may be reasonably required by Lessee for this purpose; and thereafter the Rental Payments due hereunder shall be payable solely from the moneys and securities so deposited.

## ARTICLE XI

### ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 11.1. Assignment by Lessor. Lessor shall not assign its obligations under this Lease, and no purported assignment thereof shall be effective. All of Lessor's rights, title and interest in the Rental Payments shall be assigned to the Trustee for the benefit of the holders of the Bonds. No other rights, title and/or interests of the Lessor may be assigned.

Section 11.2. Assignment and Subleasing by Lessee. This Lease may not be assigned by Lessee without the written consent of Lessor and the Trustee. The Lessee may sublease all or any portion of the Real Property and collect reasonable rents from any third-party user of the Real Property without prior written consent of the Lessor or the Trustee.

Section 11.3. Restriction on Mortgage or Sale of Real Property by Lessee. Lessee will not mortgage, sell, assign, transfer or convey the Real Property or any portion thereof during the Term of this Lease without the written consent of Lessor, except as permitted pursuant to Section 7.1 in the event of a permitted substitution or replacement.

## ARTICLE XII

### EVENTS OF DEFAULT AND REMEDIES

Section 12.1. Events of Default Defined. The following shall be “events of default” under this Lease and the terms “events of default” and “default” shall mean, whenever they are used in this Lease, with respect to the Real Property, any one or more of the following events:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder on the due date specified herein and the continuation of said failure for a period of three (3) business days after written notice given by Lessor that the payment referred to in such notice has not been received.

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(c) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its operations at the Real Property, or adjudication of Lessee as a bankrupt, or assignment by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

The provisions of this Section 12.1 and Section 12.2 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or part to carry out its obligations under this Lease with respect to the Real Property, other than the obligation of Lessee to pay Rental Payments with respect thereto which shall be paid when due notwithstanding the provisions of this paragraph, Lessor or Lessee shall not be deemed in default during the continuance of such inability. The term “force majeure” as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or any of its departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause of event not reasonably within the control of Lessee and not resulting from its negligence. Lessee agrees, however, to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations under this Lease; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of Lessee and Lessee shall not be required to make settlement of strikes, lockouts and other industrial



disturbances by acceding to the demands of the opposing party or parties when such course is in its judgment unfavorable to Lessee.

Notwithstanding anything contained in this Section 12.1 to the contrary, a failure by Lessee to pay when due any payment required to be made under this Lease or a failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Lease, resulting from Lessee's termination of the Lease as contemplated by Section 6.1 hereof, shall not constitute an event of default under this Section 12.1.

Section 12.2. Remedies on Default. Whenever any event of default referred to in Section 12.1 hereof shall have happened and be continuing with respect to the Real Property, Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(a) Terminate this Lease, re-enter and take possession of the Real Property and exclude Lessee from using it; or

(b) Terminate this Lease, declare all Rental Payments due or to become due during the Fiscal Year of Lessee in effect when the default occurs to be immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable; or

(c) Terminate this Lease and take whatever action at law or in equity may appear necessary or desirable to collect the Rental Payments then due and thereafter to become due during the then current Fiscal Year of Lessee with respect to the Real Property, or enforce performance and observance of any obligation, agreement or covenant of Lessee under this Lease.

Section 12.3. Return of Real Property. Upon the expiration or termination of this Lease prior to the payment of all Rental Payments in accordance with Exhibit B, Lessee shall deliver possession of the Real Property to Lessor in the condition, repair, appearance and working order required in Section 7.1. Lessor shall take the Real Property subject to any sublease then in effect.

Section 12.4. Delay; Notice. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle any party to exercise any remedy reserved to it in this Lease it shall not be necessary to give any notice, other than such notice as may be required in this Lease.

Section 12.5. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 12.6. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the non-defaulting party should

employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefore pay to the non-defaulting party the reasonable fee of such attorneys and such other expenses so incurred by the non-defaulting party.

Section 12.7. No Additional Waiver Implied By One Waiver. In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## ARTICLE XIII

### TITLE

Section 13.1. Title to Real Property. During the Term of this Lease, legal title to the Real Property and any and all repairs, replacements, substitutions and modifications thereto shall be in Lessor, subject to Lessee's interests under this Lease. Upon termination of this Lease for either of the reasons specified in Section 4.2, Clauses (b) and (d), Lessor shall transfer legal title to the Real Property to Lessee and Lessor shall have no further interest therein. In either of such events, Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence such transfer of legal title to the Real Property to Lessee. Upon termination of this Lease for either of the reasons specified in Section 4.2, Clauses (a) and (c), Lessee shall surrender possession of the Real Property to Lessor and shall have no further interest therein. In either of such events Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the termination of Lessee's interest in the Real Property.

Section 13.2. Security Interest. Lessor shall have and retain a security interest under the Uniform Commercial Code in any portion of the Real Property constituting personal property or fixtures, the proceeds thereof and all repairs, replacements, substitutions and modifications thereto or thereof made pursuant to Section 7.1, in order to secure Lessee's payment of all Rental Payments due during the Term of this Lease and the performance of all other obligations herein to be performed by Lessee.

## ARTICLE XIV

### ISSUANCE OF THE BONDS

Section 14.1. Agreement to Issue Bonds; Application of Bond Proceeds. In order to provide funds for payment of the costs of the Project, the Lessor has, or will have, upon or promptly after the execution of this Lease, issued and delivered to the initial purchaser thereof the Bonds, and the Lessor has or will have deposited proceeds of the Bonds as described in Section 4.01 of the Indenture.

## ARTICLE XV

### ADMINISTRATIVE PROVISIONS

Section 15.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given on the earlier of (i) delivery or (ii) three days following deposit in the United States mail in certified or registered form with postage fully prepaid to the addresses shown in the first paragraph hereof. Lessor and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 15.2. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 15.3. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 15.4. Amendments, Charges and Modifications. This Lease may be amended or any of its terms modified only by written amendment authorized and executed by Lessee and Lessor.

Section 15.5. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, if necessary, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Real Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

Section 15.6. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 15.7. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

Section 15.8. Lessor and Lessee Representatives. Whenever under the provisions of this Lease the approval of Lessor or Lessee is required, or Lessor or Lessee is required to take some action at the request of the other, such approval of such request shall be given for Lessor by a Lessor Representative and for Lessee by a Lessee Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 15.9. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Lease.



Lessee:

CITY OF LAKE ELMO, MINNESOTA

By \_\_\_\_\_  
Mayor

And \_\_\_\_\_  
City Clerk

STATE OF MINNESOTA        )  
  ) ss.  
COUNTY OF WASHINGTON    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Michael Pearson and Julie Johnson, the Mayor and City Clerk, respectively, of the City of Lake Elmo, Minnesota, on behalf of the City.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

[Signature Page – Lease-Purchase Agreement]

## EXHIBIT A

### DESCRIPTION OF REAL PROPERTY

The North 126.89 feet of Lot 1, Block 2, Brookman Addition, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota, lying easterly of the West 199.91 feet thereof.

(PIN: 13.029.21.22.0025)  
(.58 acre parcel)

AND

The North 350.18 feet of Lot 1, Block 2, Brookman Addition, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota, except the West 199.91 feet of the North 126.89 feet of said Lot 1, Block 2, Brookman Addition; also except the North 126.89 feet of said Lot 1, Block 2, Brookman Addition, lying easterly of the West 199.91 feet thereof.

(PIN: 13.029.21.22.0026)  
(2.06 acre parcel)



**EXHIBIT B**

**RENTAL PAYMENT SCHEDULE\***

<b>Date</b>	<b>Principal</b>	<b>Coupon</b>	<b>Interest</b>	<b>Total P+I</b>	<b>Fiscal Total</b>
06/28/2018	-	-	-	-	-
01/15/2019	-	-	22,975.13	22,975.13	22,975.13
07/15/2019	-	-	20,992.50	20,992.50	-
01/15/2020	45,000.00	4.500%	20,992.50	65,992.50	86,985.00
07/15/2020	-	-	19,980.00	19,980.00	-
01/15/2021	47,000.00	4.500%	19,980.00	66,980.00	86,960.00
07/15/2021	-	-	18,922.50	18,922.50	-
01/15/2022	49,000.00	4.500%	18,922.50	67,922.50	86,845.00
07/15/2022	-	-	17,820.00	17,820.00	-
01/15/2023	51,000.00	4.500%	17,820.00	68,820.00	86,640.00
07/15/2023	-	-	16,672.50	16,672.50	-
01/15/2024	53,000.00	4.500%	16,672.50	69,672.50	86,345.00
07/15/2024	-	-	15,480.00	15,480.00	-
01/15/2025	56,000.00	4.500%	15,480.00	71,480.00	86,960.00
07/15/2025	-	-	14,220.00	14,220.00	-
01/15/2026	58,000.00	4.500%	14,220.00	72,220.00	86,440.00
07/15/2026	-	-	12,915.00	12,915.00	-
01/15/2027	61,000.00	4.500%	12,915.00	73,915.00	86,830.00
07/15/2027	-	-	11,542.50	11,542.50	-
01/15/2028	64,000.00	4.500%	11,542.50	75,542.50	87,085.00
07/15/2028	-	-	10,102.50	10,102.50	-
01/15/2029	67,000.00	4.500%	10,102.50	77,102.50	87,205.00
07/15/2029	-	-	8,595.00	8,595.00	-
01/15/2030	70,000.00	4.500%	8,595.00	78,595.00	87,190.00
07/15/2030	-	-	7,020.00	7,020.00	-
01/15/2031	73,000.00	4.500%	7,020.00	80,020.00	87,040.00
07/15/2031	-	-	5,377.50	5,377.50	-
01/15/2032	76,000.00	4.500%	5,377.50	81,377.50	86,755.00
07/15/2032	-	-	3,667.50	3,667.50	-
01/15/2033	80,000.00	4.500%	3,667.50	83,667.50	87,335.00
07/15/2033	-	-	1,867.50	1,867.50	-
01/15/2034	83,000.00	4.500%	1,867.50	84,867.50	86,735.00
<b>Total</b>	<b>\$933,000.00</b>	<b>-</b>	<b>\$393,325.13</b>	<b>\$1,326,325.13</b>	<b>-</b>

**\*The PAYMENT DATE for Rental Payments due under this Lease shall be three business days prior to each bond payment date provided.**



## STAFF REPORT

DATE: June 5, 2018

**REGULAR**

ITEM #: D

**MOTION**

**AGENDA ITEM:** Staggered Terms

**TO:** Economic Development Authority

**SUBMITTED BY:** Kristina Handt, EDA Executive Director

---

### **BACKGROUND:**

The City Council approved Resolution No 2013-05 in February of 2013. This resolution established the Economic Development Authority of the City of Lake Elmo. Under section 2 it states: "Terms shall be staggered as follows: (1) member serves a one-year term; (2) members serve a two-year term; (2) members serve a three-year term."

When appointments were first made later in 2013, there was no indication of how the terms would be staggered. In order to be in compliance with the enabling resolution, staff is suggesting the staggered terms be identified for each commissioner.

### **ISSUE BEFORE COMMITTEE:**

How should the staggered terms be assigned amongst the current members?

### **PROPOSAL DETAILS/ANALYSIS:**

I would propose the following terms based upon feedback, a random draw and the order of appointment following 2013:

<u>Commissioner:</u>	<u>Term Ending:</u>
John Schiltz	12/31/18
John Thompson	12/31/19
Steve Nelson	12/31/19
Dan Raleigh	12/31/2020
Anne Cohen	12/31/2020

After these staggered terms, members would be appointed to serve a six year term.

Mark and Linda were identified as alternates when they were appointed in 2014. Typically the city lets alternates stay until the fill a term. Alternatively, the EDA could ask that alternates also be replaced on a six year term timetable.

The Mayor and Council member Lundgren would serve until their council term expires.

Since Council should have identified the staggered terms at appointment, staff would bring the recommendation of the EDA back to Council for formal adoption.

**FISCAL IMPACT:**

NA

**OPTIONS:**

- 1) Recommend approval of the staggered terms as presented
- 2) Amend the proposed terms and then recommend approval

**RECOMMENDATION:**

*Motion to recommend approval of the staggered terms as presented.*

**ATTACHMENT:**

- None