



**To:** Mayor and City Council

**Agenda Item #:** VII. C.

**From:** Eric Roggeman, Finance Director

**Action**

**Discussion**

**Date:** June 17, 2015

**Information**

**Subject:** Resolution No. 2015-62 Authorizing the Execution of a First Amendment to Lease Agreement

**Action Requested:**

Adopt Resolution No. 2015-62 Authorizing the execution of a first amendment to lease agreement providing for the issuance of revenue refunding bonds by the Edina Housing and Redevelopment Authority, and approving the form of a first amendment to lease agreement, bond resolution and an official statement.

**Information / Background:**

Attached is a resolution authorizing execution of updates to lease agreements the HRA (as lessor) has with City of Edina (as lessee). This lease requires updating to allow the City and HRA to refund the bonds. The resolution and lease agreements were drafted by Dorsey & Whitney.

The \$3,655,000 Public Project Revenue Refunding Bonds, Series 2015 are for a current refunding of the remaining maturities of the \$5,425,000 Public Project Revenue Bonds, Series 2005. The Series 2005 Bonds were originally issued to finance the construction of two gymnasiums. Debt service is paid from annually appropriated funds derived from a tax levy. The refunding is expected to produce debt service savings over the next 11 years.

**ATTACHMENT:**

Resolution 2015-62

First Amendment to Lease-Purchase Agreement between Edina HRA and City of Edina



CERTIFICATION OF MINUTES RELATING TO  
PUBLIC PROJECT REVENUE REFUNDING BONDS, SERIES 2015  
(CITY OF EDINA ANNUAL APPROPRIATION LEASE OBLIGATIONS)  
HOUSING AND REDEVELOPMENT AUTHORITY

Municipality: City of Edina

Governing Body: City Council

Kind, date, time and place of meeting: A regular meeting, held on June 16, 2015, at 7:00 o'clock p.m., at the City Hall, Edina, Minnesota.

Members present:

Members absent:

Documents Attached:

Minutes of said meeting, including:

RESOLUTION NO. 2015-62

RESOLUTION AUTHORIZING THE EXECUTION OF A  
FIRST AMENDMENT TO LEASE AGREEMENT PROVIDING  
FOR THE ISSUANCE OF REVENUE REFUNDING BONDS  
BY THE EDINA HOUSING AND REDEVELOPMENT  
AUTHORITY, AND APPROVING THE FORM OF A FIRST  
AMENDMENT TO LEASE AGREEMENT, BOND  
RESOLUTION AND AN OFFICIAL STATEMENT

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 the corporation in my legal custody, from which they have been transcribed; that the documents are a correct and complete transcript of the minutes of a meeting of the governing body of the corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at the meeting, insofar as they relate to the bonds; and that the 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 on June \_\_, 2015.

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

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

RESOLUTION NO. 2015-62

RESOLUTION AUTHORIZING THE EXECUTION OF A  
FIRST AMENDMENT TO LEASE AGREEMENT PROVIDING  
FOR THE ISSUANCE OF REVENUE REFUNDING BONDS  
BY THE EDINA HOUSING AND REDEVELOPMENT  
AUTHORITY, AND APPROVING THE FORM OF A FIRST  
AMENDMENT TO LEASE AGREEMENT, BOND  
RESOLUTION AND AN OFFICIAL STATEMENT

WHEREAS, pursuant to Minnesota Statutes, Sections 465.71 and 471.64, the City is authorized to enter into leases of real property, with an option to purchase, provided that the City retains the right to cancel said lease-purchase contract at the end of any fiscal year during its term; and,

WHEREAS, the Edina Housing and Redevelopment Authority (the "Authority") previously issued its Public Project Revenue Bonds, Series 2005A (City of Edina Annual Appropriation Lease Obligations" (the "Series 2005 Bonds") in the original aggregate principal amount of \$5,425,000, the proceeds of which were used to finance the construction and furnishing of two gymnasiums (together the "Facilities"); and

WHEREAS, pursuant to said statutory authority, the City has entered into a Lease Agreement, dated as of August 1, 2005 (the "Original Lease"), with the Authority, as lessor, and the City, as lessee, pursuant to which the Authority financed the Facilities (the "Project"), and the City leased the Facilities from the Authority; and,

WHEREAS, the Authority (a) authorized the sale of its \$3,655,000 Public Project Revenue Refunding Bonds, Series 2015 (City of Edina Annual Appropriation Lease Obligations) (the "Bonds"), to refinance the Project through the refunding in full of the Series 2005 Bonds pursuant to action of the Board of Commissioners of the Authority on May 19, 2015, and (b) proposes to adopt a final resolution awarding the sale of the Bonds on June 17, 2015 (the "Bond Resolution);

WHEREAS, the form of a First Amendment to Lease Agreement dated as of July 1, 2015 (the "Amendment"; the Original Lease as amended by the Amendment, the "Lease"), and the Bond Resolution have been submitted to and reviewed by this Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina that the City hereby approves the form of the Amendment and the Mayor and City Manager are authorized and directed to execute, attest and deliver the Amendment on behalf of the City. All of the provisions of the Lease, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The

Amendment shall be substantially in the form submitted to this Council with such necessary and appropriate variations, omissions and insertions as permitted or required, or as the Mayor, in his discretion, shall determine, and the execution thereof by the Mayor shall be conclusive evidence of such determination.

BE IT FURTHER RESOLVED that the City Council hereby approves the form of the Official Statement, relating to the Bonds (the "Official Statement"), a draft of which has been submitted to and received by this Council, and hereby ratifies and confirms its use and distribution to potential purchasers of the Bonds.

BE IT FURTHER RESOLVED that the City hereby approves the terms of the Bond Resolution and the sale of the Bonds pursuant thereto, and approves the terms of the Bonds as set forth in said Bond Resolution and the Indenture (as defined in the Bond Resolution).

BE IT FURTHER RESOLVED AS FOLLOWS:

Continuing Disclosure. (a) Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit the Purchaser and other participating underwriters in the primary offering of the Bonds to comply with amendments to Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the Rule), which will enhance the marketability of the Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the Outstanding Bonds. The City is the only obligated person in respect of the Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made. If the City fails to comply with any provisions of this section, any person aggrieved thereby, including the Owners of any Outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this section, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this section constitute a default under the Bonds or under any other provision of this resolution. As used in this section, Owner or Bondowner means, in respect of a Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any Beneficial Owner (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, Beneficial Owner means, in respect of a Bond, any person or entity which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Bond (including persons or entities holding Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of the Bond for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

- (1) on or before twelve months after the end of each fiscal year of the City, commencing with the fiscal year ending December 31, 2015, the following financial information and operating data in respect of the City (the Disclosure Information):
  - (A) the audited financial statements of the City for such fiscal year, prepared in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Minnesota law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the fiscal officer of the City; and
  - (B) to the extent not included in the financial statements referred to in paragraph (A) hereof, the information for such fiscal year or for the period most recently available of the type contained in the Official Statement under headings: “VALUATIONS—Current Property Valuations,” “DEBT—Direct Debt,” and “TAX RATES, LEVIES AND COLLECTIONS—Tax Levies and Collections” and “GENERAL INFORMATION—US Census Data-Population Trend” and “-Employment / Unemployment Data,” which information may be unaudited.

Notwithstanding the foregoing paragraph, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements. Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been filed with the SEC or have been made available to the public on the Internet Web site of the Municipal Securities Rulemaking Board (MSRB. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The City shall clearly identify in the Disclosure Information each document so incorporated by reference. If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (2) hereof), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations. If the Disclosure Information is

changed or this section is amended as permitted by this paragraph (b)(1) or subsection (d), then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

- (2) In a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events (each a Material Fact):
  - (A) Principal and interest payment delinquencies;
  - (B) Non-payment related defaults, if material;
  - (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
  - (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
  - (E) Substitution of credit or liquidity providers, or their failure to perform;
  - (F) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
  - (G) Modifications to rights of security holders, if material;
  - (H) Bond calls, if material, and tender offers;
  - (I) Defeasances;
  - (J) Release, substitution, or sale of property securing repayment of the securities, if material;
  - (K) Rating changes;
  - (L) Bankruptcy, insolvency, receivership or similar event of the obligated person;
  - (M) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
  - (N) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

As used herein, for those events that must be reported if material, an event is “material” if it is an event as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public. Notwithstanding the foregoing sentence, an event is also “material” if it is an event that would be deemed material for purposes of the purchase, holding or sale of a Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

For the purposes of the event identified in (L) hereinabove, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(3) In a timely manner, notice of the occurrence of any of the following events or conditions:

- (A) the failure of the City to provide the Disclosure Information required under paragraph (b)(1) at the time specified thereunder;
- (B) the amendment or supplementing of this section pursuant to subsection (d), together with a copy of such amendment or supplement and any explanation provided by the City under subsection (d)(2);
- (C) the termination of the obligations of the City under this section pursuant to subsection (d);
- (D) any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information are prepared; and
- (E) any change in the fiscal year of the City.

(c) Manner of Disclosure.

- (1) The City agrees to make available to the MSRB, in an electronic format as prescribed by the MSRB from time to time, the information described in subsection (b).
- (2) All documents provided to the MSRB pursuant to this subsection (c) shall be accompanied by identifying information as prescribed by the MSRB from time to time.

(d) Term; Amendments; Interpretation.

- (1) The covenants of the City in this section shall remain in effect so long as any Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this section shall terminate and be without further effect as of any date on which the City delivers to the Registrar an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the requirements of this section

will not cause participating underwriters in the primary offering of the Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successory thereto or amendatory thereof.

- (2) This section (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (c)(3) hereof) or the consent of the Owners of any Bonds, by a resolution of this Council filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the City or the type of operations conducted by the City, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this section as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondowners under the Rule.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

- (3) This section is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

BE IT FINALLY RESOLVED that this resolution shall be in full force and effect from and after its passage and that a certified copy hereof be provided to the Authority.

Upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon the resolution was declared duly passed and adopted.

FIRST AMENDMENT TO LEASE-PURCHASE AGREEMENT

BETWEEN

EDINA HOUSING AND REDEVELOPMENT AUTHORITY

As Lessor

and

CITY OF EDINA, MINNESOTA

As Lessee

Dated as of July 1, 2015

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FIRST AMENDMENT TO LEASE-PURCHASE AGREEMENT

Table of Contents

	<u>Page</u>
ARTICLE I DEFINITIONS .....	2
Section 1.1. Definitions of Terms .....	2
ARTICLE II REPRESENTATIONS .....	2
Section 2.1. Representations Covenants and Warranties of Authority .....	2
Section 2.2. Representations, Covenants and Warranties of City .....	3
ARTICLE III AMENDMENTS .....	4
Section 3.1. Amendment of Original Agreement.....	4
Section 3.2. Governing Law.....	5
Section 3.3. Binding Effect .....	5
Section 3.4. Severability.....	5
Section 3.5. Execution in Counterparts.....	5

FIRST AMENDMENT TO LEASE-PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE-PURCHASE AGREEMENT, dated as of July 1, 2015 (the “First Amendment”), between EDINA HOUSING AND REDEVELOPMENT AUTHORITY, a body corporate and politic of the State of Minnesota, having its principal office and address at Edina City Hall, Edina, Minnesota (the “Authority”), and CITY OF EDINA, a political subdivision of the State of Minnesota having its main office at the Edina City Hall, Edina, Minnesota (the “City”),

WITNESSETH:

WHEREAS, by a Lease Agreement dated as of August 1, 2005 (the “Original Lease Agreement”), the Authority has leased to the City the gymnasium facilities described in Exhibit B attached thereto.

WHEREAS, the Authority and U.S. Bank National Association have heretofore entered into an Indenture of Trust, dated as of August 1, 2005 (the “Original Indenture”), as supplemented and amended by a First Supplemental Indenture of Trust (collectively, the “Indenture”), pursuant to which the Authority issued its Public Project Revenue Bonds, Series 2005 (City of Edina Annual Appropriation Lease Obligations), in the aggregate principal amount of \$5,425,000 (the “Series 2005 Bonds”); and

WHEREAS, the Authority has determined to issue its Public Project Revenue Refunding Bonds, Series 2015 (City of Edina Annual Appropriation Lease Obligations), dated, as originally issued, as of July 15, 2015, in the aggregate principal amount of \$\_\_\_\_\_ (the “Series 2015 Bonds”), to be used to refund the 2016 through 2026 maturities of the Series 2005 Bonds (the “Refunded Bonds”) pursuant to a resolution adopted by the Authority on June 17, 2015; and

WHEREAS, pursuant to Section 2.10 of the Indenture, authorizing Additional Bonds, the Authority and City are required to deliver an amendment to the Original Lease Agreement providing for additional Rental Payments;

WHEREAS, pursuant to the foregoing, the Authority and the City desire to amend the Agreement upon the terms and conditions hereinafter set forth (the Original Lease Agreement as amended hereby, the “Lease Agreement”); and

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Authority and the City do hereby represent, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.1. Definitions of Terms. In addition to any terms defined elsewhere in this First Amendment, capitalized words and terms used in this First Amendment shall have the meanings given to such words and terms in the Lease Agreement and Indenture, as amended (which definitions are hereby incorporated by reference).

## ARTICLE II

### REPRESENTATIONS

Section 2.1. Representations Covenants and Warranties of Authority. The Authority represents and covenants as follows:

(a) The Constitution and the laws of the State authorize the Authority to enter into this First Amendment and the transactions contemplated hereby, and to carry out its obligations under the Lease.

(b) The officers of the Authority executing this First Amendment are duly authorized to execute and deliver this First Amendment under the Constitution and laws of the State.

(c) The Authority has complied and will comply with all open meeting laws, all public bidding laws and all other State and Federal Laws applicable to this First Amendment.

(d) So long as any of the Bonds remain Outstanding, the Authority will not enter into any lease, use agreement, management agreement or other contract which would cause the Bonds to be considered “private activity bonds” or “private loan bonds” pursuant to Section 141 of the Code if the result would be that interest payable on the Bonds would become includable in gross income for federal income tax purposes.

(e) So long as any of the Bonds remain Outstanding, the Authority will not take or permit any of its officers to take any action with respect to the Lease or the Facilities which would cause interest on the Bonds to become includable in gross income of the recipient for federal income tax purposes under the Code, and will take all actions necessary to ensure that interest on the Bonds remains not includable in gross income of the recipient under the Code, insofar as it has the power and authority to take such actions.

(f) The execution and delivery of this First Amendment and the other agreements contemplated hereby to which the Authority is a party and the consummation of the transactions contemplated hereby and thereby and the fulfillment of the terms hereof and thereof will not conflict with, or constitute on the part of the Authority a

breach of, or a default under, any existing (i) law, or (ii) provisions of any legislative act or other proceeding establishing or relating to the establishment of the Authority or its affairs or its resolutions, or (iii) agreement, indenture, mortgage, lease or other instrument to which the Authority is subject or is a party or by which it is bound.

(g) No officer of the Authority who is authorized to take part in any manner in making this First Amendment or any contract contemplated hereby has a personal financial interest in or has personally and financially benefitted from the Lease or any such contract.

(h) There is not pending or threatened any suit, action or proceeding against or affecting the Authority before or by any court, arbitrator, administrative agency or other governmental authority which materially and adversely affects the validity, as to the Authority, of the Lease, any of the obligations of the Authority hereunder or any of the transactions contemplated hereby.

Section 2.2. Representations, Covenants and Warranties of City. The City represents and covenants as follows:

(a) The Constitution and the laws of the State authorize the City to enter into this First Amendment and the transactions contemplated hereby, and to carry out its obligations under the Lease.

(b) The officers of the City executing this First Amendment are duly authorized to execute and deliver this Lease under the Constitution and laws of the State.

(c) The City has complied and will comply with all open meeting laws, all public bidding laws and all other State and Federal Laws applicable to this First Amendment.

(d) The City will use the Facilities during the Lease Term only to perform essential governmental functions of the City, and will not enter into any sublease, use agreement, management agreement or other contract which would cause the Bonds to be considered “private activity bonds” or “private loan bonds” pursuant to Section 141 of the Code if the result would be that interest payable on the Bonds would become includable in gross income for federal income tax purposes.

(e) During the Term of the Lease, the City will not take or permit any of its officers to take any action with respect to the Lease or the Facilities which would cause interest on the Bonds to become includable in gross income of the recipient for federal income tax purposes under the Code, and will take all actions necessary to ensure that interest on the Bonds remains excludable from gross income of the recipient under the Code, insofar as it has the power and authority to take such actions.

(f) The execution and delivery of this First Amendment and the other agreements contemplated hereby to which the City is a party and the consummation of

the transactions contemplated hereby and thereby and the fulfillment of the terms hereof and thereof will not conflict with, or constitute on the part of the City a breach of, or a default under, any existing (i) law, or (ii) provisions of any legislative act or other proceeding establishing or relating to the establishment of the City or its affairs or its resolutions, or (iii) agreement, indenture, mortgage, lease or other instrument to which the City is subject or is a party or by which it is bound.

(g) No officer of the City who is authorized to take part in any manner in making this First Amendment or any contract contemplated hereby has a personal financial interest in or has personally and financially benefitted from the Lease or any such contract.

(h) There is not pending or overtly threatened any suit, action or proceeding against or affecting the City before or by any court, arbitrator, administrative agency or other governmental authority which materially and adversely affects the validity, as to the City, of the Lease, any of the obligations of the City hereunder or any of the transactions contemplated hereby.

(i) No event of nonappropriation or other financing lease termination has occurred in connection with any prior lease financing by the City.

### ARTICLE III

#### AMENDMENTS

Section 3.1. Amendment of Original Agreement. Section 5.1 of the Original Lease is hereby amended to provide as follows:

The City shall, by wire transfer or ACH (automated clearing house) in immediately available funds, pay Rental Payments with respect to the Facilities as follows:

(a) On or before November 1, 2015, and semiannually thereafter on or before each May 1 and November 1, the City shall pay an amount equal to the interest, and principal, if any, due on the Bonds on the next succeeding Interest Payment Date.

(b) As a credit against the first interest payment otherwise required to be paid by the City to the Trustee pursuant to (a) of this Section 5.1, there shall be applied the proceeds of the Series 2015 Bonds initially deposited into the Bond Fund.

(c) On each May 1 and November 1, so long as no Event of Default has occurred and is continuing, the City shall have a credit against the Rental Payment otherwise due on said date to the extent of any investment profits or earnings which have been transferred or are otherwise available in the Bond Fund for such purpose.

(d) In the event the City shall have paid Rental Payments with respect to an Interest Payment Date, but the funds on deposit in the Bond Fund are nevertheless

insufficient to pay such principal, premium (if any) and interest on the Bonds then due or to become due on such Interest Payment Date, the City will forthwith pay as Rental Payments the amount of the deficiency.

The Rental Payments provided for in this Section 5.1 shall be paid directly to the Trustee at its corporate trust office for the account of the City for deposit in the Bond Fund as provided in the Indenture.

The Original Lease, as amended, is further amended as provided herein, effective as of July 1, 2015. Except as amended hereby, the Original Lease, as amended, remains in full force and effect, and from and after the date of this First Amendment, the Original Lease, as amended to and including this First Amendment shall be construed as one instrument and shall be referred to together as the Lease.

Section 3.2. Governing Law. This First Amendment shall be construed in accordance with and governed by the laws of the State of Minnesota.

Section 3.3. Binding Effect. This First Amendment shall be binding upon and shall inure to the benefit of the Trustee and the Lessee and their respective successors and assigns.

Section 3.4. Severability. If for any reason any provision of this First Amendment shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 3.5. Execution in Counterparts. This First Amendment may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

EDINA HOUSING AND REDEVELOPMENT  
AUTHORITY

By \_\_\_\_\_  
Chair

Attest: \_\_\_\_\_  
Secretary

CITY OF EDINA, MINNESOTA

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

And \_\_\_\_\_  
City Manager

