

Pursuant to due call and notice thereof, a regular meeting of the North Mankato City Council was held in the Municipal Building Council Chambers on November 18, 2019. Mayor Dehen called the meeting to order at 7:00 p.m., asking that everyone join in the Pledge of Allegiance. The following were present for roll call: Council Members Whitlock, Steiner, Norland, Oachs, and Mayor Dehen, City Administrator Harrenstein, City Attorney Kennedy, Finance Director McCann, Community Development Director Fischer, Public Works Director Host, and City Clerk Van Genderen.

Approval of Agenda

Council Member Norland moved, seconded by Council Member Steiner, to approve the agenda. Vote on the motion: Whitlock, Steiner, Norland, Oachs, and Dehen aye; no nays. Motion carried.

Approval of Council Meeting Minutes November 4, 2019

Council Member Steiner moved, seconded by Council Member Norland, to approve the minutes of the Council meeting of November 4, 2019. Vote on the motion: Whitlock, Steiner, Norland, Oachs, and Dehen aye; no nays. Motion carried.

Consent Agenda

Council Member Norland moved, seconded by Council Member Steiner, to approve the Consent Agenda.

- A. Bills and Appropriations.
- B. Res. No. 85-19 Approving Donations/Contributions/Grants.
- C. Res. No. 86-19 Declaring Costs to be Assessed for Municipal Charges.
- D. Res. No. 87-19 Authorizing Application for MNDOT Landscape Partnership Application.

Vote on the motion: Whitlock, Steiner, Norland, Oachs, and Dehen aye; no nays. Motion carried.

Public Comments Concerning Business Items on the Agenda

None.

Business Items

Res. No. 88-19 Revoking and Establishing Municipal State Aid Streets.

City Engineer Dan Sarff appeared before Council and reported Municipal State Aid, or MSA is a network of streets that is eligible for Municipal State Aid Funds. The resolution recommends Pleasant View Drive from Rockford Road to North Ridge Drive and North Ridge Drive from Lookout Drive to Pleasant View Drive be revoked as a Municipal State Aid Street and that Lor Ray Drive from Timm Road to Somerset Lane and Somerset Lane from Lookout Drive to Lor Ray Drive be designated as a Municipal State Aid Street. City Engineer Sarff reported the exchange is necessary because only 20% of City streets are eligible for Municipal State Aid. City Administrator Harrenstein noted that the change would help the City improve Lor Ray Drive and accommodate the growth occurring in the area. He noted that Pleasant View Drive will not be neglected and may become a Municipal State Aid Road in the future. Council Member Whitlock requested clarification on if the areas could still receive Safe Routes to School funding. City Engineer Sarff reported staff would continue to look at opportunities to pursue grant money and work to ensure the safety of pedestrians.

Council Member Norland moved, seconded by Council Member Steiner, to Adopt Res. No. 88-19 Revoking and Establishing Municipal State Aid Streets. Vote on the motion: Whitlock, Steiner, Norland, Oachs, and Dehen aye; no nays. Motion carried.

Open Forum

Barb Church, 102 Wheeler Avenue, appeared before Council and requested clarification on the conduit bond public hearing notice, which included a signature from the City of Mankato.

Elvis Weichel, 419 Webster Avenue, appeared before Council and stated he believes residents are tired of taxes, and the City should look to build revenue by building hotels. He stated the City should put emergency routes back in place because it is hard for emergency vehicles and snowplows to go through the streets, he stated the City should stay up on sewer inspections, and his property value keeps rising increasing his taxes.

City Administrator and Staff Comments

City Administrator Harrenstein reported the City of Mankato must resolve that the funds obtained from the Conduit Bond are being used in accordance with their land use.

City Administrator Harrenstein reported leaf pick-up continues.

City Administrator Harrenstein noted the City has a new Public Alert System, and residents can visit the City website or call City hall to learn more about opportunities to receive notice of snow emergency declarations. Mayor Dehen noted residents could choose to receive emails, texts, or phone calls.

City Administrator Harrenstein congratulated Caswell Sports Director Tostenson and Caswell Park for receiving the James Farrell Award for the third straight year! The award is given for hosting outstanding national tournaments.

Finance Director McCann reported the Council had received their Proposed 2020 Budget Books, and the Truth in Taxation hearing will be held on December 2, 2019, at 7:00 p.m. with Council adopting the Tax Levy on December 16, 2019. He noted the tax rate has decreased by over 1% this year.

Mayor and Council Comments

Council Member Norland thanked the donors and recognized Jo Robbins for her faithful giving to the North Mankato Taylor Library.

Council Member Oachs thanked all those who came out for the Whose Line Is It Mankato event hosted by MRCI, and commented it was a great cause.

Council Member Oachs wished everyone a Happy Thanksgiving and invited everyone to participate in Shop Small Saturday on November 30, 2019.

Mayor Dehen reported MRCI is a vital part of the Greater Mankato Area and thanked everyone who came out and supported them at Whose Line Is It Mankato event.

Mayor Dehen also wished everyone a Happy Thanksgiving and invited everyone to participate in Shop Small Saturday on November 30, 2019.

At 7:20 p.m. on a motion by Council Member Steiner, seconded by Council Member Norland, the Council Meeting was adjourned.

Mayor

City Clerk



City of North Mankato, MN

Claims List - Regular

By Vendor Name

Date Range: 12-2-19

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: APBNK-APBNK						
00009	A-1 KEY CITY LOCKSMITHS, INC	12/02/2019	Regular	0	32.00	91988
00029	AG SPRAY EQUIPMENT	12/02/2019	Regular	0	213.81	91989
03180	BECK, HANNA	12/02/2019	Regular	0	100.00	91990
00137	BENCO ELECTRIC COOPERATIVE	11/19/2019	Regular	0	1,650.00	91983
00164	BOBHOLZ, JACOB	11/22/2019	Regular	0	589.69	91987
00189	BRAUN INTERTEC CORPORATION	12/02/2019	Regular	0	236.25	91991
00202	BROWN-NICOLLET ENVIRONMENTAL HEALTH	11/19/2019	Regular	0	768.00	91984
00202	BROWN-NICOLLET ENVIRONMENTAL HEALTH	11/21/2019	Regular	0	75.00	91985
00206	BRUNTON, COREY	12/02/2019	Regular	0	213.02	91992
03181	BULTMAN, LAURA	12/02/2019	Regular	0	210.00	91993
02757	CINTAS	12/02/2019	Regular	0	180.84	91994
00255	CITY OF MANKATO	12/02/2019	Regular	0	3,868.78	91995
02380	EVERGREEN COMPANIES	12/02/2019	Regular	0	1,207.50	91996
00401	EXPRESS SERVICES, INC.	12/02/2019	Regular	0	2,100.21	91997
00404	FASTENAL COMPANY	12/02/2019	Regular	0	42.64	91998
00409	FERGUSON ENTERPRISES, INC	12/02/2019	Regular	0	2,993.80	91999
00432	FLEETPRIDE	12/02/2019	Regular	0	25.45	92000
00479	GM CONTRACTING, INC.	12/02/2019	Regular	0	78,738.27	92001
00772	LITTLE FALLS MACHINE, INC.	12/02/2019	Regular	0	1,683.81	92002
00846	MATCO TOOLS	12/02/2019	Regular	0	47.20	92003
00916	MINNESOTA CHIEFS OF POLICE ASSOCIATION	12/02/2019	Regular	0	278.00	92004
00920	MINNESOTA DEPARTMENT OF HEALTH	12/02/2019	Regular	0	8,326.00	92005
00283	MINNESOTA DEPARTMENT OF TRANSPORTATION	12/02/2019	Regular	0	500.43	92006
00995	MSCIC	12/02/2019	Regular	0	625.00	92007
01037	NICOLLET COUNTY	11/19/2019	Regular	0	21,461.62	91977
01071	NUSS TRUCK & EQUIPMENT, INC.	12/02/2019	Regular	0	244.62	92008
01106	PETTY CASH	12/02/2019	Regular	0	121.80	92009
03178	R & R EXCAVATING INC	12/02/2019	Regular	0	79,189.14	92010
03014	RUBY RIDE	11/15/2019	Regular	0	160.00	91970
03014	RUBY RIDE	11/18/2019	Regular	0	2,615.25	91975
03182	SHIELD SECURITY SYSTEMS	12/02/2019	Regular	0	3,398.06	92011
01402	TIRE ASSOCIATES	12/02/2019	Regular	0	661.79	92012
01414	TOWMASTER	12/02/2019	Regular	0	2,139.00	92013
02833	VALLEY ASPHALT PRODUCTS, INC.	12/02/2019	Regular	0	1,248.06	92014
01523	WENZEL AUTO ELECTRIC CO	12/02/2019	Regular	0	139.00	92015
02959	ARTIFACT	11/19/2019	Bank Draft	0	702.00	DFT0003584
02754	ASCAP	11/26/2019	Bank Draft	0	364.89	DFT0003609
00101	AT&T MOBILITY	11/18/2019	Bank Draft	0	28.96	DFT0003580
02058	CONSOLIDATED COMMUNICATIONS	11/25/2019	Bank Draft	0	61.16	DFT0003593
02058	CONSOLIDATED COMMUNICATIONS	11/25/2019	Bank Draft	0	63.71	DFT0003594
02058	CONSOLIDATED COMMUNICATIONS	11/25/2019	Bank Draft	0	1,497.99	DFT0003595
02058	CONSOLIDATED COMMUNICATIONS	11/25/2019	Bank Draft	0	42.94	DFT0003596
02058	CONSOLIDATED COMMUNICATIONS	11/25/2019	Bank Draft	0	37.75	DFT0003597
02058	CONSOLIDATED COMMUNICATIONS	11/25/2019	Bank Draft	0	141.08	DFT0003598
02058	CONSOLIDATED COMMUNICATIONS	11/25/2019	Bank Draft	0	209.70	DFT0003599
02750	DPS MEDIA	11/20/2019	Bank Draft	0	178.47	DFT0003588
00447	FREE PRESS	11/22/2019	Bank Draft	0	45.39	DFT0003590
00447	FREE PRESS	11/25/2019	Bank Draft	0	38.08	DFT0003607
00506	GREATER MANKATO GROWTH, INC.	11/20/2019	Bank Draft	0	25.00	DFT0003586
00608	INGRAM LIBRARY SERVICES	11/26/2019	Bank Draft	0	1,975.60	DFT0003616
00733	LAKES GAS CO #10	11/18/2019	Bank Draft	0	132.50	DFT0003581
00815	MANKATO CLINIC, LTD.	11/25/2019	Bank Draft	0	1,836.45	DFT0003606
00923	MINNESOTA DEPARTMENT OF LABOR & INDUSTRY	11/25/2019	Bank Draft	0	10.00	DFT0003600
00923	MINNESOTA DEPARTMENT OF LABOR & INDUSTRY	11/25/2019	Bank Draft	0	10.00	DFT0003601
00923	MINNESOTA DEPARTMENT OF LABOR & INDUSTRY	11/25/2019	Bank Draft	0	10.00	DFT0003602
00923	MINNESOTA DEPARTMENT OF LABOR & INDUSTRY	11/25/2019	Bank Draft	0	20.00	DFT0003603
00923	MINNESOTA DEPARTMENT OF LABOR & INDUSTRY	11/25/2019	Bank Draft	0	20.00	DFT0003604
00923	MINNESOTA DEPARTMENT OF LABOR & INDUSTRY	11/25/2019	Bank Draft	0	30.00	DFT0003605

00936	MINNESOTA POLLUTION CONTROL AGENCY	11/20/2019	Bank Draft	0	23.00	DFT0003587
01322	SPRINT	11/22/2019	Bank Draft	0	36.24	DFT0003591
01335	STAPLES ADVANTAGE	11/20/2019	Bank Draft	0	119.00	DFT0003585
01335	STAPLES ADVANTAGE	11/21/2019	Bank Draft	0	116.22	DFT0003592
01335	STAPLES ADVANTAGE	11/25/2019	Bank Draft	0	159.00	DFT0003608
01352	STREICHER'S, INC	11/18/2019	Bank Draft	0	436.93	DFT0003582
00105	AUTO VALUE MANKATO	12/04/2019	EFT	0	248.21	2372
00172	BOHRER, TOM	12/04/2019	EFT	0	255.00	2373
00176	BORDER STATES ELECTRIC SUPPLY	12/04/2019	EFT	0	54.97	2374
00216	C & S SUPPLY CO, INC.	12/04/2019	EFT	0	450.96	2375
02706	CORE & MAIN LP	12/04/2019	EFT	0	6,370.30	2376
00310	CRYSTEEL TRUCK EQUIPMENT, INC	12/04/2019	EFT	0	740.78	2377
02294	D & K POWDER COATING	12/04/2019	EFT	0	180.00	2378
00439	FORSTER, DANIEL	12/04/2019	EFT	0	195.00	2379
00463	G & L AUTO SUPPLY, LLC	12/04/2019	EFT	0	129.00	2380
00544	HENDRICKSON, CHRISTOPHER	12/04/2019	EFT	0	45.47	2381
00743	LARKSTUR ENGINEERING & SUPPLY, INC.	12/04/2019	EFT	0	4.61	2382
00776	LLOYD LUMBER CO.	12/04/2019	EFT	0	94.58	2383
00874	MENARDS-MANKATO	12/04/2019	EFT	0	384.67	2384
02532	MIKE'S LLC	12/04/2019	EFT	0	130.00	2385
00910	MINNESOTA VALLEY TESTING LAB, INC.	12/04/2019	EFT	0	221.00	2386
00975	MORGAN, SHAWN	12/04/2019	EFT	0	195.00	2387
00997	MTI DISTRIBUTING CO	12/04/2019	EFT	0	68.99	2388
01036	NICOLLET COUNTY RECORDER/ABSTRACTER	12/04/2019	EFT	0	46.00	2389
01052	NORTH CENTRAL INTERNATIONAL	12/04/2019	EFT	0	2,436.20	2390
01078	OLYMPIC FIRE PROTECTION CORP.	12/04/2019	EFT	0	180.00	2391
01099	PET EXPO DISTRIBUTORS	12/04/2019	EFT	0	1,449.98	2392
01160	QUALITY OVERHEAD DOOR CO, INC	12/04/2019	EFT	0	779.00	2393
01211	RIVER BEND BUSINESS PRODUCTS	12/04/2019	EFT	0	737.63	2394
02182	RYAN, JESSICA	12/04/2019	EFT	0	103.34	2395
01411	TOSTENSON, PHILLIP	12/04/2019	EFT	0	83.52	2396
01466	VANGENDEREN, APRIL	12/04/2019	EFT	0	75.00	2397
01552	WW BLACKTOPPING, INC	12/04/2019	EFT	0	216,382.75	2398
02003	MINNESOTA DEPT OF REVENUE	11/14/2019	Bank Draft	0	8,918.00	DFT0003564
02003	MINNESOTA DEPT OF REVENUE	11/18/2019	Bank Draft	0	1,792.81	DFT0003569
02003	MINNESOTA DEPT OF REVENUE	11/20/2019	Bank Draft	0	592.02	DFT0003575
02003	MINNESOTA DEPT OF REVENUE	11/20/2019	Bank Draft	0	5,475.00	DFT0003577
01477	VIKING ELECTRIC SUPPLY, INC.	11/14/2019	Bank Draft	0	1,198.51	DFT0003565
					474,474.40	96

Authorization Signatures

All Council

The above manual and regular claims lists for 12-2-19 are approved by:

MARK DEHEN- MAYOR

DIANE NORLAND- COUNCIL MEMBER

WILLIAM STEINER- COUNCIL MEMBER

SANDRA OACHS- COUNCIL MEMBER

JAMES WHITLOCK- COUNCIL MEMBER

CITY OF NORTH MANKATO

REQUEST FOR COUNCIL ACTION



Agenda Item # 8C	Dept: City Clerk	Council Meeting Date: 12/2/19																																															
TITLE OF ISSUE: License Renewals for 2020.																																																	
BACKGROUND AND SUPPLEMENTAL INFORMATION: Attached is a memo listing the liquor license renewals including on-sale liquor, off-sale liquor, club on-sale liquor, pints-on-premise and off-sale intoxicating (growler). The Police Chief has reviewed these licenses and recommends approval and issuance of the 2020 licenses. All property taxes are current on all liquor license premises. Other licenses to be renewed include soft drink, cigarette, mechanical amusement devices, cabaret, refuse haulers, mobile home park, 3.2 beer off-sale and taxi.																																																	
<i>If additional space is required, attach a separate sheet</i>																																																	
REQUESTED COUNCIL ACTION: Approve license renewals for 2020.																																																	
For Clerk's Use: Motion By: _____ Second By: _____ Vote Record: <table style="margin-left: 40px; border: none;"> <tr> <td style="text-align: center;">Aye</td> <td style="text-align: center;">Nay</td> <td></td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Whitlock</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Steiner</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Norland</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Oachs</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Dehen</td> </tr> </table>	Aye	Nay		_____	_____	Whitlock	_____	_____	Steiner	_____	_____	Norland	_____	_____	Oachs	_____	_____	Dehen	SUPPORTING DOCUMENTS ATTACHED <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Resolution</td> <td style="text-align: center;">Ordinance</td> <td style="text-align: center;">Contract</td> <td style="text-align: center;">Minutes</td> <td style="text-align: center;">Map</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td colspan="2" style="text-align: center;">Other (specify) _____</td> <td colspan="3" style="text-align: center;">Memo _____</td> </tr> <tr><td colspan="5"> </td></tr> <tr><td colspan="5"> </td></tr> <tr><td colspan="5"> </td></tr> </table>	Resolution	Ordinance	Contract	Minutes	Map	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other (specify) _____		Memo _____																	
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MEMORANDUM

TO: Honorable Mayor and City Council

FROM: April Van Genderen, City Clerk

DATE: December 2, 2019

SUBJECT: Liquor License Renewals

This year the following listing of liquor license applications are presented for renewal. The Police Department recommends approval and issuance of the renewal applications for 2020. I have verified that all property taxes are current on all liquor license premises.

ON-SALE LIQUOR (*INCLUDES SUNDAY)

- *Nakato Bar & Grill, Inc., d/b/a Nakato Bar & Grill, 253 Belgrade Avenue
- *Big Dog Restaurants, Inc. d/b/a Big Dog Sports Café, 1712 Commerce Drive
- *O2 LLC, d/b/a Spinners Bar, 301 Belgrade Avenue
- *Dino's Gourmet Pizzeria, 239 Belgrade Avenue
- *J.T.S. Enterprise Inc. d/b/a Roadhouse 169, 1006 N. River Drive
- *Circle Inn, of North Mankato, 232 Belgrade Avenue

OFF-SALE LIQUOR

- Nakato Bar & Grill, Inc., d/b/a Nakato Bar & Grill, 253 Belgrade Avenue
- Dembouski, Inc., d/b/a M.G.M. Liquor Warehouse, 1755 Commerce Drive
- BL Worldwide Investments, Inc., d/b/a PJ's Liquor Emporium, 407 1/2 Belgrade Avenue
- Lor Ray Drive Enterprise, d/b/a Range Street Liquor, 1105 Range Street
- Circle Inn of North Mankato, 232 Belgrade Avenue

CLUB ON-SALE LIQUOR (*INCLUDES SUNDAY)

- *American Legion Post 518, 256 Belgrade Avenue

PINTS-ON-PREMISE AND OFF-SALE INTOXICATING (GROWLER) (*INCLUDES SUNDAY AND SUNDAY OFF-SALE)

- *Mankato Brewery, LLC d/b/a Mankato Brewery, 1119 Center Street

2020 LICENSE RENEWALS

Included is a list of all licenses to be renewed for 2020. Staff would recommend approval and issuance of all licenses, conditioned upon receipt of appropriate insurance certificates and license fees.

SOFT DRINK

- American Legion Post 518, 256 Belgrade Avenue
- Nakato Bar & Grill, Inc., d/b/a Nakato Bar & Grill, 253 Belgrade Avenue
- Walgreen, 1705 Commerce Drive

Dembouski, Inc., d/b/a M.G.M. Liquor Warehouse, 1755 Commerce Drive
BL Worldwide Investments, Inc., d/b/a PJ's Liquor Emporium, 407 Belgrade Avenue
Northern Tier Retail LLC, d/b/a Speedway 201 Webster Avenue
Big Dog Restaurants, Inc. d/b/a Big Dog Sports Café, 1712 Commerce Drive
Sub Line Corporation, d/b/a Subway, 1102 N. River Drive
Sub Line Corporation, d/b/a Subway, 1750 Commerce Drive
Casey's General Stores, Inc., 1375 Lookout Drive
Freyberg Management, d/b/a Shell on LorRay, 1711 Commerce Drive
Duehring Enterprises, d/b/a Culver's, 1680 Commerce Drive
O2 LLC, d/b/a Spinners Bar, 301 Belgrade Avenue
Dino's Gourmet Pizzeria, 239 Belgrade Avenue
Hunan Garden, 408 Belgrade Avenue
Steindl Busines Development Inc. d/b/a Erbert & Gerbert's Sandwich Shop
J.T.S. Enterprise Inc. d/b/a Roadhouse 169, 1006 N. River Drive
Kwik Trip, Inc. d/b/a Kwik Trip #615, 1740 Commerce Drive
New Great Wall, Inc. d/b/a New Great Wall, 1814 Commerce Drive
Mankato Brewery, LLC d/b/a Mankato Brewery, 1119 Center Street
Lor Ray Drive Enterprise, d/b/a Range Street Liquor, 1105 Range Street
Curiosi-Tea House, 1745 Commerce Drive
Circle Inn of North Mankato, 232 Belgrade Avenue

CIGARETTE

Dembouski, Inc., d/b/a M.G.M. Liquor Warehouse, 1755 Commerce Drive
BL Worldwide Investments, Inc., d/b/a PJ's Liquor Emporium, 407 Belgrade Avenue
Northern Tier Retail LLC, d/b/a Speedway 201 Webster Avenue
Casey's General Stores, Inc., 1375 Lookout Drive
Freyberg Management, d/b/a Shell on LorRay, 1711 LorRay Drive
Walgreen, 1705 Commerce Drive
Kwik Trip, Inc. d/b/a Kwik Trip #615, 1740 Commerce Drive
Tip Top Tobacco, LLC, 1710 Commerce Drive Suite 130

3.2 BEER OFF-SALE

Kwik Trip, Inc. d/b/a Kwik Trip #615, 1740 Commerce Drive
Northern Tier Retail LLC, d/b/a Speedway 201 Webster Avenue

MECHANICAL AMUSEMENT DEVICES

Nakato Bar & Grill, Inc., d/b/a Nakato Bar & Grill, 253 Belgrade Avenue
Big Dog Restaurants, Inc., d/b/a Big Dog Sports Café, 1712 Commerce Drive
O2 LLC, d/b/a Spinners Bar, 301 Belgrade Avenue
Circle Inn of North Mankato, 232 Belgrade Avenue

REFUSE HAULERS

Hansen Sanitation, 34426 470th Street, Kasota, MN 56050
Waste Management, P.O. Box 336, Mankato, MN 56002
LJP Enterprises, Inc., 31745 410th Street, St. Peter, MN 56082
West Central Sanitation, P.O. Box 796, 4089 Abbott Drive, Willmar, MN 56201

CABARET (LIVE MUSIC)

O2 LLC, d/b/a Spinners Bar, 301 Belgrade Avenue

American Legion Post 518, 256 Belgrade Avenue

Nakato Bar & Grill, Inc., d/b/a Nakato Bar & Grill, 253 Belgrade Avenue

Mankato Brewery, LLC d/b/a Mankato Brewery, 1119 Center Street

Circle Inn of North Mankato, 232 Belgrade Avenue

RESOLUTION NO.

RESOLUTION SETTING COUNCIL MEETING DATES
FOR YEAR 2020

WHEREAS, the City Council of the City of North Mankato meets on the first and third Monday of each month; and

WHEREAS, since certain federal holidays fall on these appointed meeting dates;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH MANKATO, MINNESOTA, that the following meetings will be held on the dates listed:

Second January meeting -	Tuesday, January 21, 2020
Second February meeting -	Tuesday, February 18, 2020
First September meeting-	Tuesday, September 8, 2020

Adopted by the City Council this 2nd day of December 2019.

Mayor

City Clerk

CITY OF NORTH MANKATO

REQUEST FOR COUNCIL ACTION



Agenda Item # 8E	Dept: City Engineer	Council Meeting Date: 12/2/19																											
TITLE OF ISSUE: Set Public Hearing -7 p.m. on December 16, 2019 Annual Stormwater Pollution Prevention Program (SWPPP) Review.																													
BACKGROUND AND SUPPLEMENTAL INFORMATION: MS4 annual reporting requires that the City provide an opportunity each year for the public to provide input on the adequacy of the Stormwater Pollution Prevention Program (SWPPP).																													
<i>If additional space is required, attach a separate sheet</i>																													
REQUESTED COUNCIL ACTION: Set Public Hearing -7 p.m. on December 16, 2019 Annual Stormwater Pollution Prevention Program (SWPPP) Review.																													
For Clerk's Use: Motion By: _____ Second By: _____ Vote Record: <table style="margin-left: 40px; border: none;"> <tr> <td style="text-align: center;">Aye</td> <td style="text-align: center;">Nay</td> <td></td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Whitlock</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Steiner</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Norland</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Oachs</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Dehen</td> </tr> </table>	Aye	Nay		_____	_____	Whitlock	_____	_____	Steiner	_____	_____	Norland	_____	_____	Oachs	_____	_____	Dehen	SUPPORTING DOCUMENTS ATTACHED <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Resolution</td> <td style="text-align: center;">Ordinance</td> <td style="text-align: center;">Contract</td> <td style="text-align: center;">Minutes</td> <td style="text-align: center;">Map</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> Other (specify) _____ <u>Notice of Hearing</u> _____ _____ _____ _____	Resolution	Ordinance	Contract	Minutes	Map	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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**NOTICE OF PUBLIC HEARING ON STORMWATER AND ANNUAL
STORMWATER POLLUTION PREVENTION PROGRAM (SWPPP) REVIEW**

NOTICE IS HEREBY GIVEN that the City Council of the City of North Mankato, Minnesota, will meet in the Council Chambers of the Municipal Building, 1001 Belgrade Avenue, North Mankato, Minnesota at 7 p.m. on the 16th day of December 2019, to hold a public hearing to provide an opportunity for the public to provide input on the adequacy of the City's Stormwater Pollution Prevention Program (SWPPP).

Such persons as desire to be heard with reference to the Stormwater Pollution Prevention Program will be heard at this meeting.

Dated this 2nd day of December 2019

April Van Genderen
City Clerk
City of North Mankato



1001 Belgrade Avenue
North Mankato, MN 56003
507-625-4141 Fax: 507-625-4151
www.northmankato.com

Audio Permit _____ 2019
Park Permit _____ 2019

Audio Permit

About:

An audio permit is required for anyone operating outdoor amplified sound (i.e., a loudspeaker, public address system, or sound amplifying equipment). All Audio Permits must be approved by the Council. The sound system cannot be operated before 7:00 am or after 10:00 pm. There is a \$25 fee.

Audio Permit Responsibilities:

- An onsite event coordinator must be available by mobile during the event.
- An applicant will provide a schedule of any music or entertainment proposed to occur during the event.
- A beginning and end time must be supplied on the application, and the event coordinator must ensure compliance.
- Applicants must comply with City Code Ordinance 90.045 and Minnesota Rules Chapter 7030, which limits noise.
- Noise levels cannot exceed 60 dBA more than 50 percent of the time.

What happens if there is a noise complaint?

- A North Mankato Patrol Officer will meet with the complainant and evaluate and measure the noise using a decibel reader at the location of the complainant.
- If the noise is found out of compliance, the Patrol Officer will contact the onsite event coordinator, and the amplified sound must be turned down.
- If the onsite event coordinator does not comply, the event will be immediately terminated, and the group will be disbursed.
- Failure to comply will affect future ability to obtain an audio permit.

AMPLIFIED SOUND: ☐ LIVE MUSIC/BAND ☐ DJ/KARAOKE MACHINE ☒ OTHER: Punisher
(Alpha Media's Music truck)
DATE OF EVENT: 5/2/20
BEGIN TIME: 8:00 am
END TIME: 11:30 am
LOCATION / SHELTER: Spring Lake Park, Shelter 1 Parking Lot / Webster Ave area
EVENT NAME: 12th Annual Girls on the Run 5K
ONSITE COORDINATOR: _____ PRINT NAME: Kim Danger
MOBILE NUMBER: 507-995-0692

☒ I, THE UNDERSIGNED, HAVE RECEIVED THE AUDIO PERMIT AND UNDERSTAND THAT FAILURE TO COMPLY WITH THE AUDIO POLICY MAY TERMINATE THE EVENT AND PREVENT FUTURE ABILITY TO OBTAIN AN AUDIO PERMIT.

SIGNATURE: Kim Danger DATE: 11-13-2019

CITY CLERK: _____

☐ BOOK ☒ POLICE ☐ ONLINE ☐ \$25.00 FEE

☐ DENIED ☒ APPROVED

STAFF INITIALS _____



1001 Belgrade Ave., PO Box 2055
North Mankato, MN 56003
507-625-4141 Fax: 507-625-4252
www.northmankato.com

For Office Use Only

APPROVED _____

DENIED _____

☐ PARK USE ☐ AUDIO USE

Application For PARADE PERMIT

REQUIRED INFORMATION:

- Application for Parade Permit
- Map of Parade Route
- \$35 Application Fee

Thirty (30) days in advance of the parade date.

Name of Applicant	Address	Phone	Email
Kim Danger	127 S. 2nd St. Mankato	507-386-2181	gptr@ywcamankato.org
Sponsoring Organization Name	Address	Phone	
YWCA Mankato	127 S. 2nd St. Mankato	507-345-4629	
Contact during event		Phone	
Kim Danger		507-995-0692	
Event Location	Date	From	Time To
Spring Lake Park + Surrounding Roadways	5-2-20	8:00am	11:30am
Occasion for Parade	Annual Girls on the Run 5K		
Parade Description / Composition			
GOTR Run/Walk 5K is a community event which includes pre-race activities and a Kids K run			

Estimated Number of Participants: _____

700-800 racers, 200 volunteers, 300+ spectators

As duly authorized representative or agent of the parade sponsoring organization, I hereby make application for a permit to parade in the City of North Mankato, Minnesota. I hereby certify that, to the best of my knowledge, the above is an accurate and true description of the parade. I agree to execute the parade according to this permit and subject to the provisions and conditions which may be necessary to provide for the safety of parade participants and the orderly and safe movement of public traffic.

Kim Danger
Applicant

11-13-2019
Date

Pursuant to Section 70.21 of the North Mankato City Code, I hereby authorize a parade permit for the applicant organization. This permit shall be valid only under the conditions recommended by the City of North Mankato and only for the date and time indicated.

Mr. Sullivan
Chief of Police

11/14/19
Date

Caswell Sports Director

Date

Audio Permit

About:

An audio permit is required for anyone operating outdoor amplified sound (i.e., a loudspeaker, public address system, or sound amplifying equipment). All Audio Permits must be approved by the Council. The sound system cannot be operated before 7:00 am or after 10:00 pm. There is a \$25 fee.

Audio Permit Responsibilities:

- An onsite event coordinator must be available by mobile during the event.
- An applicant will provide a schedule of any music or entertainment proposed to occur during the event.
- A beginning and end time must be supplied on the application, and the event coordinator must ensure compliance.
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- If the onsite event coordinator does not comply, the event will be immediately terminated, and the group will be disbursed.
- Failure to comply will affect future ability to obtain an audio permit.

AMPLIFIED SOUND:



LIVE MUSIC/BAND
DJ/KARAOKE MACHINE
OTHER: _____

DATE OF EVENT:

Dec 6th 2019

BEGIN TIME:

12pm

END TIME:

6pm

LOCATION / SHELTER:

200 Block of Belgrade

EVENT NAME:

Bells on Belgrade

ONSITE COORDINATOR:

PRINT NAME:

Katie Heintz

MOBILE NUMBER:

507 327 0627

☒ I, THE UNDERSIGNED, HAVE RECEIVED THE AUDIO PERMIT AND UNDERSTAND THAT FAILURE TO COMPLY WITH THE AUDIO POLICY MAY TERMINATE THE EVENT AND PREVENT FUTURE ABILITY TO OBTAIN AN AUDIO PERMIT.

SIGNATURE:

Katie Heintz

DATE:

11/22/19

CITY CLERK:

☐ DENIED ☐ APPROVED

☐ BOOK

☒ POLICE

☐ ONLINE

☐ \$25.00 FEE

STAFF INITIALS

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of North Mankato, Minnesota, will hold a Public Hearing on Monday, January 6, 2020, at 7 p.m. in the Council Chambers of the Municipal Building, 1001 Belgrade Avenue, to consider Annexation of Land containing 3.28 acres owned by Burnett Farms, Inc.:

That part of the West Half of the West Half of the Southwest Quarter of Section 3 that part of the Southeast Quarter of the Southeast Quarter of Section 4 and that part of the Northeast Quarter of the Northeast Quarter of Section 9, all in Township 108 North Range 27 West, Nicollet County, Minnesota. A full legal description is available at the North Mankato City Hall.

Dated this 2nd day of December 2019.

April Van Genderen
City Clerk
City of North Mankato

PETITION FOR ANNEXATION BY ORDINANCE

IN THE MATTER OF THE PETITION FOR ANNEXATION OF
ALL THAT PART OF THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF
SECTION 3 AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, ALL
IN TOWNSHIP 108 NORTH, RANGE 27 WEST
BY THE CITY OF NORTH MANKATO
FOR ANNEXATION PURSUANT TO MINNESOTA STATUTES 414.033, SUBD. 2 (3)

Petitioners state that the property owner or a majority of the property owners in number are required to commence a proceeding under M.S. 415.033, Subd. 2 (3).

It is hereby requested by:

- ☒ the sole property owner; or
- ☐ all of the property owners; or
- ☐ a majority of the property owners of the area proposed for annexation to annex certain property described herein lying in the Township of Belgrade to the City of North Mankato, County of Nicollet, Minnesota.

The area proposed for annexation is described as follows:

That part of the West Half of the West Half of the Southwest Quarter of Section 3 and that part of the Southeast Quarter of the Southeast Quarter of Section 4 and that part of the Northeast Quarter of the Northeast Quarter of Section 9, all in Township 108 North Range 27 West, Nicollet County, Minnesota, described as:

Beginning at the northeasterly corner of Lot 1, Block 5, Burnett's Ravine Ridge No. 3, according to the plat thereof on file and of record with the Nicollet County Recorder; thence North 71 degrees 23 minutes 29 seconds West, (Minnesota County Coordinate System - Nicollet County Zone - HARN NAD83 - 1996), along the northerly line of said Lot 1, a distance of 134.14 feet to the northwesterly corner of said Lot 1; thence North 18 degrees 36 minutes 31 seconds East, a distance of 140.00 feet; thence North 37 degrees 44 minutes 16 seconds East, a distance of 63.51 feet; thence North 32 degrees 11 minutes 09 seconds East, a distance of 512.00 feet; thence North 17 degrees 34 minutes 52 seconds East, a distance of 209.11 feet to a point on the southerly line of Parcel 9N5 according to Nicollet County Right Of Way Plat No. 26, on file and of record with the Nicollet County Recorder; thence South 81 degrees 44 minutes 09 seconds East, along said southerly line, a distance of 150.00 feet to the southeasterly corner of said Parcel 9N5, said point being on the westerly line of Raymond Drive as per Burnett's Ravine Ridge No. 4, according to the plat thereof on file and of record with the Nicollet County Recorder; thence South 05 degrees 48 minutes 27 seconds West, along said westerly line, a distance of 53.94 feet; thence southwesterly, a distance of 184.16 feet, along a circular curve to the right, having a radius of 400.00 feet and a central angle of 26 degrees 22 minutes 42 seconds; thence South 32 degrees 11 minutes 09 seconds West, along the tangent of said curve, a distance of 636.38 feet; thence southwesterly a distance of 80.98 feet, along a circular curve to the left, having a radius of 460.00 feet and a central angle of 10 degrees 05 minutes 11 seconds to the point of beginning. Containing 3.28 acres.

Said parcel contains 3.28 acres, subject to any and all easements of record.

1. There is one property owner in the area proposed for annexation.
2. The property owner has signed this petition. (If the land is owned by both husband and wife, both must sign the petition to represent all owners.)
3. The population of the annexation area is 0.
4. Said property is unincorporated, abuts on the City's boundary, and is not included within any other municipality.
5. The area of land to be annexed, in acres, is 3.28
Platted 0 Unplatted 3.28 Total 3.28
6. The reason for the requested annexation is residential development.
7. All of the annexation area is or is about to become urban or suburban in character.
8. The area proposed for annexation is not included in any area that has already been designated for orderly annexation pursuant to M.S. 414.0325.

The Petitioner requests that pursuant to M.S. 414.033, the property described herein be annexed to and included within the City of North Mankato, Minnesota.

Date

11-19-19

Burnett Farms
Steven R. Burnett President
Burnett Farms, Inc.
Steven R. Burnett, President

Legend

- City Limits
- Medians
- Roadways
- Parcels (6-7-2018)
- Lakes & Ponds
- Minnesota River
- Nman_cty19_3inch.sid
- Red: Band_1
- Green: Band_2
- Blue: Band_3

Map Name



Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of North Mankato is not responsible for any inaccuracies herein.



**BOLTON
& MENK**
Real People. Real Solutions.

0 527 Feet

NOTICE OF PUBLIC HEARING ON VACATION OF UTILITY EASEMENTS

NOTICE IS HEREBY GIVEN that a hearing will be held before the North Mankato City Council on the 16th day of December, 2019, in the City Hall located at 1001 Belgrade Avenue at 7:00 p.m. to consider a proposed vacation of utility easements described as:

All of the utility easements lying within Lot 3 and Lot 4, Block Three, Section C of Culhane Addition, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

All of the utility easements lying within Putnam Subdivision, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

All of the utility easements lying within Enggren Subdivision, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

All of the utility easements lying within Duehring Subdivision, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

Dated this 2nd day of December 2019.

April Van Genderen

City Clerk

PETITION FOR VACATION

The undersigned property owner hereby petitions the City Council of the City of North Mankato, Minnesota, to vacate the following described utility easements:

All of the utility easements lying within Lot 3 and Lot 4, Block Three, Section C of Culhane Addition, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

All of the utility easements lying within Putnam Subdivision, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

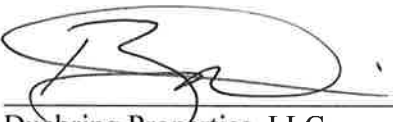
All of the utility easements lying within Enggren Subdivision, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

All of the utility easements lying within Duehring Subdivision, as dedicated per the recorded plat thereof, City of North Mankato, Nicollet County, Minnesota.

Upon the recording of this vacation document, the platted utility easements that will remain are all of those dedicated per the recorded plat of Duehring Subdivision No. 2.

Dated this 26th day of November 2019.


Witness


Duehring Properties, LLC

Received by City Clerk:

11/26/19
Date


City Clerk

CITY OF NORTH MANKATO

REQUEST FOR COUNCIL ACTION



Agenda Item # 10A	Dept: Community Dev.	Council Meeting Date: 12/2/19
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TITLE OF ISSUE: Consider Request to Amend the North Mankato Policy for Rezoning of Residential Properties Affected by 2005 City-Wide Down Zoning.

BACKGROUND AND SUPPLEMENTAL INFORMATION: Please review the Planning Commission Report. On November 14, 2019, the Planning Commission approved the amendment to the North Mankato Policy for Rezoning of Residential Properties Affected by 2005 City-Wide Down Zoning. Community Development Director Fischer will be present to answer questions.

If additional space is required, attach a separate sheet

REQUESTED COUNCIL ACTION: Approve Request to Amend the North Mankato Policy for Rezoning of Residential Properties Affected by 2005 City-Wide Down Zoning.

For Clerk's Use:

Motion By: _____
 Second By: _____

Vote Record:	Aye	Nay	
	_____	_____	Whitlock
	_____	_____	Steiner
	_____	_____	Norland
	_____	_____	Oachs
	_____	_____	Dehen

SUPPORTING DOCUMENTS ATTACHED

Resolution	Ordinance	Contract	Minutes	Map
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify) _____				
Report _____				

<input type="checkbox"/> Workshop <input checked="" type="checkbox"/> Regular Meeting <input type="checkbox"/> Special Meeting	
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<input type="checkbox"/>	Refer to: _____
<input type="checkbox"/>	Table until: _____
<input type="checkbox"/>	Other: _____

AMENDMENTS TO REZONING POLICY

THE CITY OF NORTH MANKATO

SUBJECT: Amendment to Rezoning Policy

APPLICANT: City of North Mankato

LOCATION: City Wide

EXISTING ZONING: -

DATE OF HEARING: November 14, 2019

DATE OF REPORT: October 31, 2019

REPORTED BY: Mike Fischer, Community Development Director

APPLICATION SUBMITTED

Request to amend Rezoning Policy

COMMENT

In August of 2019, the Planning Commission considered a request to rezone a property R-1 to R-2 for a two-family dwelling which was affected by the down zoning which occurred in 2005.

In response to the conversion of one-family dwellings into two-family dwellings, in May of 2005 the City Council adopted ordinances which down zoned residential areas within the City from R-2, One-and Two-Family Dwelling to R-1, One-Family Dwelling. As a result, due to the presence of multi-family dwellings in R-1 zoning districts, non-conforming uses were created which can pose challenges for refinancing and resale of certain properties. For the reason, the attached policy shown as Exhibit A was created in 2012 to accommodate zoning changes for certain non-conforming uses.

As stated in the policy, for properties which are considered non-conforming due to the down zoning in 2005, rezoning approval will be granted by the City if the owner can demonstrate the following:

1. The dwelling was originally permitted and constructed as a multi-family dwelling
2. The dwelling was originally located in a zoning district which allowed such use
3. The dwelling has been continually used and licensed as a multiple family dwelling

As part of the review of the previous rezoning request, the Planning Commission discussed the rezoning policy and the criteria required to qualify for rezoning. As a result, it was recommended that an amendment to the policy be drafted whereby rezoning consideration would be given to dwellings which had been constructed as multiple-family but not used or licensed for rental purposes.

Attached as Exhibit B is an amended rezoning policy including language recommended by the Planning Commission.

RECOMMENDATION

Staff recommends approval of the amended rezoning policy

**CITY OF NORTH MANKATO
POLICY FOR REZONING OF RESIDENTIAL PROPERTIES
AFFECTED BY 2005 CITY-WIDE DOWN ZONING**

In response to the conversion of one-family dwellings into two-family dwellings, in May of 2005 the City Council adopted ordinances which down zoned residential areas within the City from R-2, One- and Two-Family Dwelling to R-1, One-Family Dwelling. As a result, due to the presence of multi-family dwellings in R-1 zoning districts, non-conforming uses were created which can pose challenges for refinancing or resale of certain properties. For this reason, this policy is created to accommodate zoning changes for certain non-conforming uses.

For properties which are considered non-conforming due to the down zoning in 2005, rezoning approval for City-approved districts will be granted by the City of North Mankato if the owner can demonstrate the following:

1. The dwelling was originally permitted and constructed as a multiple-family dwelling.
2. The dwelling was originally located in a zoning district which allowed such use.
3. The dwelling has been continually used and licensed as a multiple-family dwelling.

Approval will be granted by both the Planning Commission and City Council at regular scheduled meetings including proper public notification. The rezoning application fee will be waived; however, the fee for required neighborhood notifications will apply.

This policy was adopted by the Planning Commission on 12/13/12 and by the City Council on 12/17/12.

PLANNING COMMISSION


Chair

CITY COUNCIL


Mayor

CITY OF NORTH MANKATO
POLICY FOR REZONING OF RESIDENTIAL PROPERTIES
AFFECTED BY 2005 CITY-WIDE DOWN ZONING

In response to the conversion of one-family dwellings into two-family dwellings, in May of 2005 the City Council adopted ordinances which down zoned residential areas within the City from R-2, One-and Two-Family Dwelling to R-1, One-Family Dwelling. As a result, due to the presence of multi-family dwellings in R-1 zoning districts, non-conforming uses were created which can pose challenges for refinancing or resale of certain properties. For this reason, this policy is created to accommodate zoning changes for certain non-conforming uses.

For properties which are considered non-conforming due to the down zoning in 2005, rezoning approval for City-approved districts will be granted by the City of North Mankato if the owner can demonstrate the following:

1. The dwelling was originally permitted and constructed as a multiple-family dwelling.
2. The dwelling was originally located in a zoning district which allowed such use.
3. The dwelling has been continually used and licensed as a multiple-family dwelling or originally designed and built as a multiple-family dwelling.

Approval will be granted by both the Planning Commission and City Council at regular scheduled meetings including proper public notification. The rezoning application fee will be waived; however, the fee for required neighborhood notifications will apply.

This policy was adopted by the Planning Commission on _____ and by the City Council on _____.

PLANNING COMMISSION

CITY COUNCIL

Chair

Mayor

CITY OF NORTH MANKATO

REQUEST FOR COUNCIL ACTION



Agenda Item # 10B	Dept: Community Dev.	Council Meeting Date: 12/2/19																											
TITLE OF ISSUE: Consider Z-1-19 Request to Rezone 1253/1255 Lake Street from R-1 to R-2, and Consider Ordinance No. 122, Fourth Series Rezoning 1253/1255 Lake Street from R-1 to R-2.																													
BACKGROUND AND SUPPLEMENTAL INFORMATION: Please review the Planning Commission Report. On November 14, 2019, the Planning Commission approved the request to rezone 1253/1255 Lake Street. Community Development Director Fischer will be present to answer questions.																													
<i>If additional space is required, attach a separate sheet</i>																													
REQUESTED COUNCIL ACTION: Approve Z-1-19 Request to Rezone 1253/1255 Lake Street from R-1 to R-2, and Adopt Ordinance No. 122, Fourth Series Rezoning 1253/1255 Lake Street from R-1 to R-2.																													
For Clerk's Use: Motion By: _____ Second By: _____ Vote Record: <table style="margin-left: 40px; border: none;"> <tr> <td style="text-align: center;">Aye</td> <td style="text-align: center;">Nay</td> <td></td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Whitlock</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Steiner</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Norland</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Oachs</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td>Dehen</td> </tr> </table>	Aye	Nay		_____	_____	Whitlock	_____	_____	Steiner	_____	_____	Norland	_____	_____	Oachs	_____	_____	Dehen	SUPPORTING DOCUMENTS ATTACHED <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Resolution</td> <td style="text-align: center;">Ordinance</td> <td style="text-align: center;">Contract</td> <td style="text-align: center;">Minutes</td> <td style="text-align: center;">Map</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> Other (specify) _____ <u>Report</u> _____ _____ _____ _____	Resolution	Ordinance	Contract	Minutes	Map	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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ORDINANCE NO. 122, FOURTH SERIES
AN ORDINANCE OF THE CITY OF NORTH MANAKTO, MINNESOTA
AMENDING NORTH MANKATO CITY CODE, CHAPTER 156, ENTITLED "ZONING CODE",
BY CHANGING THE ZONING DISTRICT MAP AND, BY ADOPTING BY REFERENCE NORTH
MANKATO CITY CODE, CHAPTER 10 AND SECTION 10.99 WHICH,
AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS

THE CITY COUNCIL OF THE CITY OF NORTH MANKATO, MINNESOTA, ORDAINS:

Section 1. North Mankato City Code, Section 156.021, entitled "Zoning District Map," is hereby amended by changing the zoning as follows:

A. To Re-Zone the property addressed as 1253/1255 Lake Street from R-1 to R-2.

Section 2. North Mankato City Code, Chapter 10, entitled "General Provisions" are hereby adopted in their entirety, by reference, as though repeated verbatim herein.

Section 3. After adoption, signing, and attestation, this Ordinance shall be published once in the official newspaper of the City and shall be in effect on or after the date following such publication.

Adopted by the Council this 2nd day of December 2019.

Mayor

ATTEST:

City Clerk

Published in the Mankato Free Press on _____.

Z-1-19

REZONE 1253/1255 LAKE STREET FROM R-1 TO R-2
A REQUEST FROM COLE HALVORSON

THE CITY OF NORTH MANKATO

SUBJECT: Z-1-19

APPLICANT: Cole Halvorson

LOCATION: 1253/1255 Lake Street

EXISTING ZONING: R-1, One-Family Dwelling

DATE OF HEARING: November 14, 2019

DATE OF REPORT: November 6, 2019

REPORTED BY: Mike Fischer, Community Development Director

APPLICATION SUBMITTED

Request to rezone property from R-1, One-Family Dwelling to R-2, One-and Two-Family Dwelling

COMMENT

In September of 2019, the applicant made a request to rezone the property addressed as 1253/1255 Lake Street from R-1 to R-2. The dwelling is a duplex which was rezoned from R-2 to R-1 in 2005. Attached as Exhibit A is the applicants rezoning request which was considered in September. Originally, staff believed that the rezoning policy used to address properties affected by the City-wide down zoning in 2005 was applicable. However, the request did not conform to all the conditions required to qualify for rezoning. After review of the request by the Planning Commission, the request was denied and staff was directed to prepare and amendment to the rezoning policy for consideration. Attached as Exhibit B is the amended rezoning policy. Pending approval of the amendment, the rezoning request would conform to the policy. Attached as Exhibit C is a zoning map which shows the location of the request.

RECOMMENDATION

Staff recommends approval of Z-1-19 which conforms to the Rezoning Policy

8-21-19

1255 Lake Street

Re-zoning

EXHIBIT A

Hello, Mike my name is Cole Halvorson, I am the owner of both 1255 and 1253 Lake Street, I am looking to get my properties re-zoned. From my understanding when my duplex was built in 2004 it was zoned as R2. I understand that the city re-zoned for good reasons at one point in time, my duplex was re-zoned to an R, which I believe should be changed. I am trying to get my house re-zoned so that I can get my duplex refinanced to a much lower interest rate.

In order for my mortgage officer to do this he asked that I looked into getting my duplex re-zoned. So I am asking just that because I would save close to \$100,000 dollars over my loan time if the city were to allow me to get it re-zoned. We talked earlier on the phone and you agreed that I meet your criteria to make re-zoning my property a reality. I hope we can make that happen.
-Thank you, Cole Halvorson

CITY OF NORTH MANKATO
POLICY FOR REZONING OF RESIDENTIAL PROPERTIES
AFFECTED BY 2005 CITY-WIDE DOWN ZONING

In response to the conversion of one-family dwellings into two-family dwellings, in May of 2005 the City Council adopted ordinances which down zoned residential areas within the City from R-2, One-and Two-Family Dwelling to R-1, One-Family Dwelling. As a result, due to the presence of multi-family dwellings in R-1 zoning districts, non-conforming uses were created which can pose challenges for refinancing or resale of certain properties. For this reason, this policy is created to accommodate zoning changes for certain non-conforming uses.

For properties which are considered non-conforming due to the down zoning in 2005, rezoning approval for City-approved districts will be granted by the City of North Mankato if the owner can demonstrate the following:

1. The dwelling was originally permitted and constructed as a multiple-family dwelling.
2. The dwelling was originally located in a zoning district which allowed such use.
3. The dwelling has been continually used and licensed as a multiple-family dwelling or originally designed and built as a multiple-family dwelling.

Approval will be granted by both the Planning Commission and City Council at regular scheduled meetings including proper public notification. The rezoning application fee will be waived; however, the fee for required neighborhood notifications will apply.

This policy was adopted by the Planning Commission on _____ and by the City Council on _____.

PLANNING COMMISSION

CITY COUNCIL

Chair

Mayor



Legend

- City Limits
- Medians
- Roadways
- Parcels (6-7-2018)
- Lakes & Ponds
- Minnesota River
- Zoning
 - R-A Residential Agricultural
 - R-1 One Family Living
 - R-1S One Family Dwelling Small
 - R-2 One and Two Family Dwelling
 - R-3 Limited Multiple Dwelling
 - R-4 Multiple Dwelling
 - OR-1 Office Residential
 - CBD Central Business
 - B-1 Neighborhood Business
 - B-3 General Commercial
 - B-2 Community Business
 - M-2 Heavy Industrial
 - M-1 Light Industrial
 - I-1 Planned Industrial
 - TUD Transitional Unzoned District
 - P-1 Public Park
- Nman_cy19_3inch.sid
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3

Map Name



Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of North Mankato is not responsible for any inaccuracies herein contained.



Real People. Real Solutions.

0 527 Feet

Extract of Minutes of a Meeting of the
City Council of the City of North Mankato

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of North Mankato was duly held in the City Hall of the City of North Mankato, Minnesota, on Monday, December 2, 2019, at 7:00 o'clock P.M.

The following members were present:

and the following were absent:

During said meeting _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING THE ISSUANCE AND SALE OF AN
EDUCATIONAL FACILITY REVENUE REFUNDING NOTE AND AUTHORIZING
THE EXECUTION OF DOCUMENTS RELATING THERETO
(BETHANY LUTHERAN COLLEGE PROJECT)

WHEREAS,

(a) The purpose of Minnesota Statutes, Sections 469.152 to 469.165, as amended (the "Act"), as found and determined by the legislature, is to promote the welfare of the state by the active attraction and encouragement and development of economically sound industry and commerce to prevent so far as possible the emergence of obligated and marginal lands and areas of chronic unemployment;

(b) The City of North Mankato, Minnesota (the "Issuer") desires to facilitate the selective development of the community, retain and improve the tax base and help to provide the range of services and employment opportunities required by the population, including such opportunities as offered by the Borrower (as defined herein); and the refinancing of the Project (as defined herein) will assist the Issuer, and the City of Mankato, Minnesota (the "City"), in achieving those objectives and will enhance the image and reputation of the community;

(c) Bethany Lutheran College, Inc. (the "Borrower"), a Minnesota nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), has proposed that the Issuer undertake a program to refinance the Project through the issuance of revenue notes or other obligations, in one or more series (the "Note"), pursuant to the Act and in an aggregate principal amount not to exceed \$5,750,000;

(d) The "Project" consists of the repayment in part of prior obligations of the Borrower, the proceeds of which were used to finance the acquisition, construction, and equipping of two of the Borrower's academic facilities known as Honsey Hall and Meyer Hall (the "Facilities"), located on the Borrower's campus, 700 Luther Drive, in the City. The Facilities are owned and operated by the Borrower;

(e) The Issuer has been advised by representatives of the Borrower that conventional, commercial refinancing of the Project is available only on a limited basis and at such high costs of borrowing that the economic feasibility of refinancing the Project would be significantly reduced;

(f) Based on representations of the Borrower, no public official of the Issuer has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project;

(g) The Note, as and when issued, will not constitute a charge, lien or encumbrance upon any property of the Issuer or the City, and will not be a charge against the general credit or taxing powers of the Issuer or the City;

(h) As required by the Act and Section 147(f) of the Code, a notice of public hearing was published in the Issuer's official newspaper and newspaper of general circulation, for a public hearing on the proposed issuance of the Note by the Issuer and the proposal of the Borrower to refinance the Project;

(i) As required by the Act and Section 147(f) of the Code, the Board of Commissioners of the Port Authority of the City of North Mankato, Minnesota (the "Authority") held a public hearing on Monday, November 25, 2019, on the issuance of the Note by the Issuer and the proposal by the Borrower to refinance the Project, at which hearing all those appearing who desired to speak were heard and written comments were accepted;

(j) In accordance with Section 147(f) of the Code, the City Council of the City had designated the Authority to hold a public hearing on the City's behalf regarding the Project, and such hearing was held on Monday, November 25, 2019, and at which hearing all those appearing who desired to speak were heard and written comments were accepted;

(k) In accordance with Section 147(f) of the Code, the City Council of the City has given its approval of the Project and the issuance of the Note by the Issuer, at a meeting held on Monday, November 25, 2019; and

BE IT RESOLVED by the City Council of the City of North Mankato, Minnesota (the "Issuer"), as follows:

SECTION 1. LEGAL AUTHORIZATION AND FINDINGS.

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

(a) The Issuer is a municipal corporation and political subdivision of the State of Minnesota and is authorized under the Act to assist in the refinancing of the Project

referred to herein, and to issue and sell the Note for the purpose, in the manner, and upon the terms and conditions set forth in the Act and in this Resolution.

(b) The issuance and sale of the Note by the Issuer, pursuant to the Act, is in the best interest of the Issuer, and the Issuer hereby determines to issue the Note and to sell the Note to Bremer Bank, National Association, in Mankato, Minnesota (the "Lender"). The Issuer will loan the proceeds of the Note (the "Loan") to the Borrower in order to refinance the Project.

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

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

(e) Payments due under the Loan Agreement and Note shall be secured pursuant to a Security Agreement (the "Security Agreement") given by the Borrower to the Lender by granting a security interest in the property described therein. A draft of the Security Agreement has been submitted to the City Council.

(f) As further security for payments due under the Loan Agreement and Note, the Borrower will grant a security interest to the Lender in the real property as described in, and pursuant to, a Mortgage, Security Agreement and Fixture Financing Statement (the "Mortgage"). A draft of the Mortgage has been submitted to the City Council.

(g) The Note will be a special, limited obligation of the Issuer. The Note shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the Issuer or City be subject to any liability thereon. No holder of the Note shall ever have the right to compel any exercise of the taxing power of the City or the Issuer to pay the Note or the interest thereon, nor to enforce payment thereof against any property of the Issuer or the City. The Note shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

(h) On the basis of information available to the Issuer it appears, and the Issuer hereby finds, that the Facilities constitute properties, real and personal, used or useful in connection with a revenue producing enterprise and the provision of educational services within the meaning of the Act; that the Project furthers the purposes stated in the Act; that the availability of the refinancing under the Act and the willingness of the Issuer to furnish

such refinancing will be a substantial inducement to the Borrower to refinance the Project, and that the effect of the Project, has been and will continue to assist in the prevention of the emergence of blighted and marginal land, to help prevent chronic unemployment, to help the surrounding area retain and eventually improve the tax base, to provide the range of service and employment opportunities required by the population, to help prevent the movement of talented and educated persons out of the State and to areas within the State where their services may not be as effectively used, and to promote more intensive development and use of land within the City and surrounding communities, and to provide available adequate educational services to residents of the State at a reasonable cost.

(i) It is desirable, feasible, and consistent with the objects and purposes of the Act to issue the Note, for the purpose of refinancing the costs of the Project.

(j) The Issuer has determined to proceed with the refinancing of the Project as required by Section 469.154 Subd. 4 of the Act and authorizes application to the Department of Employment and Economic Development ("DEED") for the approval of the refinancing of the Project.

SECTION 2. THE NOTE.

2.1 Authorized Amount and Form of Note. The Note is hereby approved and shall be issued pursuant to this Resolution in substantially the form submitted to the City Council with such appropriate variations, omissions, and insertions as are necessary and appropriate and are permitted or required by this Resolution, and in accordance with the further provisions hereof; and the total aggregate principal amount of the Note that may be outstanding hereunder is expressly limited to \$5,750,000, unless a duplicate Note is issued pursuant to Section 2.7. The Note shall bear interest at a rate or rates as set forth therein.

2.2 The Note. The Note shall be dated as of the date of delivery to the Lender, shall be payable at the times and in the manner, shall bear interest at the rate, and shall be subject to such other terms and conditions as are set forth therein.

2.3 Execution. The Note shall be executed on behalf of the Issuer by the signatures of its Mayor and the City Administrator and shall be sealed with the seal of the Issuer; provided that the seal may be intentionally omitted as provided by law. In case any officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if had remained in office until delivery. In the event of the absence or disability of the Mayor or the City Administrator such officers of the Issuer as, in the opinion of the Issuer's Attorney, may act in their behalf, shall without further act or authorization of the City Council execute and deliver the Note.

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

- (1) an executed copy of each of the following documents:
 - (a) the Loan Agreement;

- (b) the Pledge Agreement;
 - (c) the Security Agreement; and
 - (d) the Mortgage.
- (2) an opinion of Counsel for the Borrower;
 - (3) the opinion of Bond Counsel as to the validity and tax exempt status of the Note;
 - (4) evidence that the Borrower is an organization described in Section 501(c)(3) of the Code and is exempt from income taxation under Section 501(c)(3) of the Code;
 - (5) approval of the refinancing of the Project from DEED; and
 - (6) such other documents and opinions as Bond Counsel may reasonably require for purposes of rendering its opinion required in subsection (3) above or that the Lender may reasonably require for the closing.

2.5 Disposition of Proceeds of the Note. Upon delivery of the Note to Lender, the Lender shall, on behalf of the Issuer, disburse the proceeds of the Note for the refinancing of the Project in accordance with the terms of the Loan Agreement.

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

For value received _____ hereby sells, assigns and transfers unto _____ the within Note of the City of North Mankato, Minnesota, and does hereby irrevocably constitute and appoint _____ to transfer said Note on the books of said City with full power of substitution in the premises. The undersigned certifies that the transfer is made in accordance with the provisions of Section 2.9 of the Resolution authorizing the issuance of the Note.

Dated: _____

Registered Owner

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

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

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

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

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

SECTION 3. GENERAL COVENANTS.

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

3.2 Performance of and Authority for Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Resolution, in the Note executed, authenticated, and delivered hereunder and in all proceedings of the City Council pertaining thereto; that it is duly authorized under the Constitution and laws of the State of Minnesota including particularly and without limitation the Act, to issue the Note authorized hereby, pledge the revenues and assign the Loan Agreement in

the manner and to the extent set forth in this Resolution, the Note, the Loan Agreement and the Pledge Agreement; that all action on its part for the issuance of the Note and for the execution and delivery thereof has been duly and effectively taken; and that the Note in the hands of the Lender is and will be a valid and enforceable special limited obligation of the Issuer according to the terms thereof.

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

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

3.5 Qualified Tax Exempt Obligation. In order to qualify the Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), the Issuer hereby makes the following factual statements and representations:

(a) the Note is not treated as a "private activity bond" under Section 265(b)(3) of the Code;

(b) the Issuer hereby designates the Note as a qualified tax-exempt obligation for purposes of Section 265(b)(3) of the Code;

(c) the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code) which will be issued by the Issuer during the calendar year 2019 will not exceed \$10,000,000;

(d) not more than \$10,000,000 of obligations issued by the Issuer during the calendar year 2019 have been designated for purposes of Section 265(b)(3) of the Code; and

(e) the aggregate face amount of the Note does not exceed \$10,000,000.

SECTION 4. MISCELLANEOUS.

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

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

4.3 Authorization to Execute Agreements. The forms of the proposed documents listed in Section 2.4(1) of this Resolution, and the form of the Note, are hereby approved in substantially the forms presented to the City Council, together with such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by Bond Counsel prior to the execution of the documents. The Mayor and the City Administrator of the Issuer are authorized to execute the Loan Agreement, the Pledge Agreement, and such other documents as Bond Counsel considers appropriate in connection with the issuance of the Note, in the name of and on behalf of the Issuer. In the event of the absence or disability of the Mayor or the City Administrator such officers of the Issuer as, in the opinion of the Issuer's Attorney, may act on their behalf, shall without further act or authorization of the City Council do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers. The execution of any instrument by the appropriate officer or officers of the Issuer herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

Adopted by the City Council of the City of North Mankato, Minnesota, this 2nd day of December, 2019.

Mayor

ATTEST:

Clerk

The motion for the adoption of the foregoing resolution was duly seconded by Member _____, and after full discussion thereof 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.

STATE OF MINNESOTA
COUNTIES OF BLUE EARTH AND NICOLLET
THE CITY OF NORTH MANKATO

I, the undersigned, being the duly qualified and acting Clerk of the City of North Mankato,
DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with
the original thereof on file in my office, and that the same is a full, true and complete transcript of
the minutes of a meeting of the City Council duly called and held on the date therein indicated,
insofar as such minutes relate to a resolution authorizing the issuance of the Note.

WITNESS my hand this ____ day of _____, 2019.

Clerk

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTIES OF BLUE EARTH AND NICOLLET
CITY OF NORTH MANKATO, MINNESOTA

Educational Facility Revenue Refunding Note, Series 2019
(Bethany Lutheran College, Inc. Project)

\$5,300,000

FOR VALUE RECEIVED the City of North Mankato, Minnesota, (the "City") hereby promises to pay to the order of Bremer Bank, National Association, a national banking association, in Mankato, Minnesota, its successors or registered assigns (the "Lender"), from the source and in the manner hereinafter provided, the principal sum of FIVE MILLION THREE HUNDRED THOUSAND DOLLARS (\$5,300,000), or so much thereof as has been advanced and remains unpaid from time to time (the "Principal Balance"), with interest thereon from the date hereof until paid or otherwise discharged as set forth in Paragraph 1 below, in any coin or currency which at the time or times of payment is legal tender for the payment of public or private debts in the United States of America, in accordance with the terms hereinafter set forth.

1. Commencing on the date of this Note and continuing through January 1, 2030 (the "Final Maturity Date") interest shall accrue on the outstanding Principal Balance at a rate of 2.50% per annum (the "Interest Rate").

Principal and interest on this Note shall be payable in 119 equal monthly installments on the 1st day of each month commencing January 1, 2020 and continuing thereafter until December 1, 2029 in such amounts as are required to amortize the Principal Balance, together with accrued interest thereon, over twenty (20) years, with a final balloon payment to be paid on the Final Maturity Date in an amount to pay the remaining principal amount due plus accrued interest. Payments shall be applied first to amounts which are neither principal nor interest, next to interest due on the Principal Balance, and, thereafter, to reduction of the Principal Balance. Interest shall be computed on the basis of **[a 360 day year, actual days elapsed]**.

Upon an "Event of Default" as defined in the Loan Agreement and the exercise by the Lender of certain rights thereunder, this Note shall bear a default rate of interest that is 5% per annum over the interest rate otherwise applicable hereto, as provided in Section 6.7 of the Loan Agreement. This Note is subject to acceleration of maturity upon an "Event of Default" as defined in the Loan Agreement.

2. In any event, the payments hereunder shall be sufficient to pay all principal and interest due, as such principal and interest becomes due, and to pay any premium or service charge, at maturity, upon prepayment, or otherwise.

3. Principal and interest and premium, if any, due hereunder shall be payable at the principal office of the Lender, or at such other place as the Lender may designate in writing.

4. This Note is issued by the City to provide funds pursuant to a Loan Agreement dated as of the date hereof (the "Loan Agreement") by and between the City and Bethany Lutheran College, Inc., a Minnesota nonprofit corporation and 501(c)(3) organization (the

"Borrower"), for refinancing in part, of certain debt associated with the acquisition, construction, and equipping of two academic facilities (the "Refinancing") known as Honsey Hall and Meyer Hall (the "Facilities"), located on the Borrower's campus, 700 Luther Drive, in the City of Mankato, Minnesota. This Note is further issued pursuant to and in full compliance with the Constitution and laws of the State of Minnesota, particularly Minnesota Statutes, Section 469.152 to 469.165, and pursuant to a resolution of the City Council of the City duly adopted on December 2, 2019 (the "Resolution").

5. This Note is secured by a Pledge Agreement dated as of the date hereof between the City and the Lender (the "Pledge Agreement"), a Security Agreement dated as of the date hereof between the Borrower and the Lender (the "Security Agreement"), a Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents dated as of the date hereof granted by the Borrower, in favor of the Lender (the "Mortgage"), and is further secured by certain other assignments, security agreements, guaranties, financing statements, and other instruments evidencing or securing the Loan as may be required by the Lender.

6. The City, for itself, its successors and assigns, hereby waives demand, presentment, protest and notice of dishonor; and to the extent permitted by law, the Lender may extend interest and/or principal of or any service charge or premium due on this Note, including the Final Maturity Date, or release any part or parts of the property and interest subject to the Mortgage or to any other security document from the same, all without notice to or consent of any party liable hereon or thereon and without releasing any such party from such liability and whether or not as a result thereof the interest on the Note is no longer exempt from the federal or state income tax. In no event, however, may the Final Maturity Date of the Note be extended beyond 30 years from the date hereof.

7. This Note is subject to prepayment in immediately available funds on any date at the option of the Borrower, in whole or in part as provided in Section 5.1 of the Loan Agreement. The prepayment price is equal to the outstanding principal amount of this Note to be prepaid plus accrued interest. Any prepayment by the Borrower made on or prior to the 5th anniversary of this Note will be subject to a prepayment premium equal to the percentages set forth below applied to the prepaid amounts of the Principal Balance of this Note, or the entire outstanding Principal Balance in the event such amount is prepaid in full:

- (a) five percent (5%) as of any date prior to or on the 1st anniversary of this Note;
- (b) four percent (4%) as of any date after the 1st anniversary and prior to or on the 2nd anniversary of this Note;
- (c) three percent (3%) as of any date after the 2nd anniversary and prior to or on the 3rd anniversary of this Note;
- (d) two percent (2%) as of any date after the 3rd anniversary and prior to or on the 4th anniversary of this Note;
- (e) one percent (1%) as of any date after the 4th anniversary and prior to or on the 5th anniversary of this Note; and

(f) after the 5th anniversary of this Note, this Note may be prepaid in whole or in part on any date without premium.

In the event of any partial prepayment of this Note, the Lender shall apply any such prepayment first against amounts which are neither principal nor interest, including any collection costs, late fees or prepayment or termination fees, then against the accrued interest on the Principal Balance and then against the outstanding principal amount of this Note in the inverse order of maturities. The monthly payments due under Paragraph 1 hereof, shall continue to be due and payable in full until the entire Principal Balance and accrued interest due on this Note have been paid. However, the Note shall be reamortized by the Lender upon the request of the Borrower if the Borrower is in compliance with all terms of the Loan Agreement.

8. Upon a Determination of Taxability, as defined in the Loan Agreement, this Note shall convert to a taxable obligation and the interest rate for interest accruing from the Date of Taxability, as defined in the Loan Agreement, shall be adjusted to an interest rate per annum equal to the then current interest rate payable hereunder, divided by ____ (the "Taxable Rate"). Any interest accruing from the Date of Taxability which is retroactively due as a result of the interest rate adjustment shall be payable on the 1st day of the following month along with regularly scheduled principal payment and interest accruing from the previous payment date at the Taxable Rate.

9. As provided in the Resolution and subject to certain limitations set forth therein, this Note is only transferable upon the books of the City at the office of the City Administrator, by the Lender in person or by its agent duly authorized in writing, at the Lender's expense, upon surrender hereof together with a written instrument of transfer satisfactory to the City Administrator, duly executed by the Lender or its duly authorized agent. Upon such transfer the City Administrator will note the date of registration and the name and address of the new registered owner in the registration blank appearing below. The City may deem and treat the person in whose name the Note is last registered upon the books of the City with such registration noted on the Note, as the absolute owner hereof, whether or not overdue, for the purpose of receiving payment of or on the account of the Principal Balance, redemption price or interest and for all other purposes, and all such payments so made to the Lender or upon his order shall be valid and effective to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid, and the City shall not be affected by any notice to the contrary.

10. All of the agreements, conditions, covenants, provisions and stipulations contained in the Resolution, the Loan Agreement, and the Pledge Agreement are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein.

11. This Note and interest thereon and any service charge or premium, if any, due hereunder are payable solely from the revenues and proceeds derived from the Loan Agreement and any security agreements related hereto and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation, are not payable from or a charge upon any funds other than the revenues and proceeds pledged to the payment thereof, and do not give rise to a pecuniary liability of the City or any of its officers, agents or employees, and no Holder of this Note shall ever have the right to compel any exercise of the taxing power of the City to pay

this Note or the interest thereon, or to enforce payment thereof against any property of the City, and this Note does not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, and the agreement of the City to perform or cause the performance of the covenants and other provisions herein referred to shall be subject at all times to the availability of revenues or other funds furnished for such purpose in accordance with the Loan Agreement, sufficient to pay all costs of such performance or the enforcement thereof.

12. If an Event of Default (as that term is defined in the Loan Agreement) shall occur, then the Lender shall have the right and option, among other things, to declare the Principal Balance and accrued interest thereon immediately due and payable, whereupon the same, plus any premiums or service charges, shall be due and payable, but solely from sums made available under the Loan Agreement and any security agreements related hereto. Failure to exercise such option at any time shall not constitute a waiver of the right to exercise the same at any subsequent time.

13. The remedies of the Lender, as provided herein and in any security agreements related hereto, the Loan Agreement, and the Pledge Agreement, are not exclusive and shall be cumulative and concurrent and may be pursued singly, successively or together, at the sole discretion of the Lender, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

14. The Lender shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Lender and, then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

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

16. This Note is a "qualified tax-exempt obligation" under Section 265(b) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts and things required to exist to happen and to be performed precedent to or in the issuance of this Note do exist, have happened and have been performed in regular and due form as required by law.

IN WITNESS WHEREOF, the City has caused this Note to be duly executed in its name by the manual signatures of the Mayor and City Administrator, the seal of the City having been intentionally omitted as permitted by law, and has caused this Note to be dated as of _____, 2019.

**CITY OF NORTH MANKATO,
MINNESOTA**

By _____
Its Mayor

And By _____
Its City Administrator

PROVISIONS AS TO REGISTRATION

The ownership of the unpaid Principal Balance of this Note and the interest accruing thereon is registered on the books of the City of North Mankato, Minnesota in the name of the holder last noted below.

<u>Date of Registration</u>	<u>Name and Address Registered Owner</u>	<u>Signature of City Administrator</u>
_____, 2019	Bremer Bank, National Association 1290 Raintree Road <u>Mankato, MN 56001</u>	_____
_____	_____	_____
_____	_____	_____

LOAN AGREEMENT
BETWEEN
CITY OF NORTH MANKATO, MINNESOTA
AND
BETHANY LUTHERAN COLLEGE, INC., OF MANKATO, MINNESOTA

Dated as of December 1, 2019

Except for certain reserved rights, the interest of the City of North Mankato, Minnesota, in this Agreement has been pledged and assigned to Bremer Bank, National Association, pursuant to a Pledge Agreement of even date herewith.

This instrument was drafted by:

Briggs and Morgan, Professional Association
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-2157

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THIS LOAN AGREEMENT dated as of December 1, 2019, between the City of North Mankato, Minnesota, a municipal corporation and political subdivision of the State of Minnesota (the "City"), and Bethany Lutheran College, Inc., of Mankato, Minnesota, a Minnesota nonprofit corporation (the "Borrower"),

WITNESSES that the City and the Borrower each in consideration of the representations, covenants and agreements of the other as set forth herein, mutually represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS, EXHIBITS AND RULES OF INTERPRETATION

Section 1.1 Definitions. In this Agreement the following terms have the following respective meanings unless the context hereof clearly requires otherwise:

Act: collectively, Minnesota Statutes, Sections 469.152 to 469.165, as amended;

Affiliate: of any specified person or entity means any other person or entity controlling, controlled by or under common control with such specified person or entity;

Agreement: this Agreement between the City and the Borrower as the same may from time to time be amended or supplemented as herein provided;

Authority: the Port Authority of the City of North Mankato, Minnesota;

Bond Counsel: the firm of Briggs and Morgan, Professional Association, of Minneapolis, Minnesota, or other firm of nationally recognized bond counsel retained by the Borrower and acceptable to the City and the Lender, and any opinion of Bond Counsel shall be a written opinion signed by such Bond Counsel;

Borrower: Bethany Lutheran College, Inc., of Mankato, Minnesota, a Minnesota nonprofit corporation and a 501(c)(3) organization, its successors and assigns, and any surviving, resulting or transferee business entity which may assume its obligations in accordance with the provisions of this Agreement;

Capital Campaign: A specific fundraising program of the Borrower, other than the Current Capital Campaign, with a purpose of raising funds to repay the Loan, as distinct from other contributions to, or collected by the Borrower.

Capital Campaign Receipts: Contributions received by the Borrower from any Capital Campaign including both pledges to donate and monies actually received, or either, as specified in the Loan Agreement.]

City: the City of North Mankato, Minnesota, its successors and assigns;

Closing: the date there is physical delivery of the Note to the Lender and payment therefor;

Code: the Internal Revenue Code of 1986, as amended and the temporary, final or proposed regulations promulgated thereunder;

Collateral: all collateral on which a lien has been granted to the Lender by the Borrower pursuant to this Agreement and the Security Agreement;

Counsel: an attorney duly admitted to practice law before the highest court of any state;

[Current Capital Campaign: Borrower's fundraising program, ongoing as of the date of this Agreement, with the purpose of raising funds to pay for a portion of the costs of the Loan;]

Date of Taxability: this term shall have the meaning ascribed to it in Section 4.5(2) hereof;

Debt Service Coverage Ratio: means the Borrower's (A) change in unrestricted net assets, plus depreciation, amortization and interest expense, plus (less) unrealized losses (gains), divided by (B) prior year current maturities of long-term debt plus current year cash interest expense, all determined in accordance with generally accepted accounting principles, consistently applied;

Default Rate: has the meaning defined in Section 6.7 hereof;

Determination of Taxability: this term shall have the meaning ascribed to it in Section 4.5(2) hereof;

Event of Default: any of the events described in Section 6.1 hereof;

Exempt Organization: a governmental unit, an entity described in Section 501(c)(3) of the Code or a limited liability company that is a disregarded entity for federal income tax purposes and whose sole member (or, if different, beneficial owner for federal income tax purposes) is an entity described in Section 501(c)(3) of the Code;

Facilities: the academic facilities known as Honsey Hall and Meyer Hall located on the Borrower's campus at 700 Luther Drive, Mankato, Minnesota;

Fiscal Year: with respect to the Borrower, the period commencing on the first day of January of any year and ending on the last day of December of that same year or any other twelve (12) month period specified by the Borrower as its fiscal year;

Host City: the City of Mankato, Minnesota;

Independent Counsel: an attorney duly admitted to practice law before the highest court of any state and who is not a full-time employee, director or shareholder of the City, the Borrower, or Lessee;

Issuance Expenses: shall mean any and all costs and expenses relating to the issuance, sale and delivery of the Note, including, but not limited to, any fees of the Lender, all fees and

expenses of legal counsel, financial consultants, feasibility consultants and accountants, any fee to be paid to the City, the preparation and printing of this Loan Agreement, the Mortgage, the Security Agreement, the Disbursing Agreement, the Resolution, the Pledge Agreement, the Note and all other related documents, and all other expenses relating to the issuance, sale and delivery of the Note and any other costs which are treated as "issuance costs" within the meaning of Section 147(g) of the Code;

Land: means the real estate described in Exhibit A to the Mortgage subject to Permitted Encumbrances identified on Exhibit B to the Mortgage, and any additional real estate or leasehold interest therein which may be included within the lien of the Mortgage;

Lender: Bremer Bank, National Association, a national banking association, its successors and assigns;

Loan: the loan of proceeds of the Note from the City to the Borrower described in Section 3.1 of this Agreement;

Loan Documents: collectively, the documents listed in Section 3.2, items (1) – (5) hereof;

Mortgage: the Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents dated as of the date hereof, from the Borrower, as mortgagor, to the Lender, as mortgagee, together with any amendment or modification thereto;

Note: the \$5,300,000 Educational Facility Revenue Refunding Note, Series 2019 (Bethany Lutheran College Project) to be issued by the City pursuant to the Resolution, together with any amendment, modification, restatement, replacement, or renewal thereof;

Pledge Agreement: the Pledge Agreement of even date herewith between the City and the Lender pledging and assigning the City's interest in the Loan Agreement to the Lender to the extent provided therein;

Principal Balance: so much of the principal sum on the Note as from time to time and remains unpaid;

Prior Obligations: _____

Project: the refinancing, in part, of certain debt associated with the acquisition, construction, and equipping of the Facilities. The Project specifically does not include any facilities that may be used as a chapel or primarily used for religious instruction or worship, which sectarian facilities have been financed with other funds available to the Borrower and not from Note proceeds;

Project Costs: all direct costs authorized by the Act and paid or incurred by the Borrower for the Project;

Resolution: the resolution of the City, adopted December 2, 2019, authorizing the issuance of the Note together with any supplement or amendment thereto;

Security Agreement: the Security Agreement dated as of the date hereof, between the Borrower, as mortgagor, and the Lender, as mortgagee, together with any amendment or modification thereto;

State: the State of Minnesota;

Treasury Regulations: all proposed, temporary or permanent federal income tax regulations then in effect and applicable.

Section 1.2 Rules of Interpretation.

(1) This Agreement shall be interpreted in accordance with and governed by the laws of the State of Minnesota.

(2) The words "herein" and "hereof" and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than to any particular section or subdivision hereof.

(3) References herein to any particular section or subdivision hereof are to the section or subdivision of this instrument as originally executed.

(4) Where the Borrower is permitted or required to do or accomplish any act or thing hereunder, the City may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Borrower.

(5) The Table of Contents and titles of articles and sections herein are for convenience only and are not a part of this Agreement.

(6) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

(7) Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Agreement.

(8) References to the Note as "tax exempt" or to the "tax exempt status of the Note" are to the exclusion of interest on the Note from gross income pursuant to Section 103(a) of the Code.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations by the City. The City makes the following representations as the basis for its covenants herein:

(1) The City is a duly organized and existing municipal corporation and political subdivision pursuant to the laws of the State of Minnesota and is authorized to issue the Note to provide funds for the Project pursuant to the Act;

(2) In authorizing the Project, the City's purpose is, and in its judgment the effect thereof will be, to promote the public welfare by providing necessary educational services;

(3) In authorizing the Project the City's purpose is, and in its judgment the effect thereof will be, to promote the public welfare by: the attraction, encouragement and development of economically sound industry and commerce so as to prevent, so far as possible, the emergence of blighted and marginal lands and areas of chronic unemployment and to aid in the redevelopment of areas of existing blight, marginal land and persistent unemployment; the development of industry to use the available resources of the community, in order to retain the benefit of the community's existing investment in educational facilities; providing accessible employment opportunities for residents in the area; providing educational facilities and the expansion of an adequate tax base to finance the increase in the amount and cost of governmental services;

(4) On December 2, 2019, after due publication of notice of hearing in the City's official newspaper, a newspaper of general circulation in the City, the Authority held a public hearing on the Project, on behalf of the City, prepared pursuant to the Act and Section 147(f) of the Code in connection with the issuance of the Note, and the City duly adopted a resolution approving the issuance of the Note.

(5) The Project has been approved by the Commissioner of the Department of Employment and Economic Development of the State of Minnesota, or his/her duly delegated designee, as tending to further the purposes and policies of the Act;

(6) The issuance and sale of the Note, the execution and delivery of this Agreement, the Pledge Agreement, and the performance of all covenants and agreements of the City contained in this Agreement, the Note, the Pledge Agreement, and of all other acts and things required under the Constitution and laws of the State of Minnesota to make this Agreement, the Pledge Agreement, and Note valid and binding obligations of the City in accordance with their terms, are authorized by the Act and have been duly authorized by a resolution of the governing body of the City adopted at a meeting thereof duly called and held on December 2, 2019, by the affirmative vote of not less than a majority of its members;

(7) Pursuant to the Resolution, the City has authorized and directed the Lender to disburse the proceeds of the Note directly to the Borrower and such other parties as

may be entitled to payment for the Project, upon receipt of such supporting documentation as the Lender may deem reasonably necessary or as required by this Agreement;

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

Section 2.2 Representations and Warranties by the Borrower. The Borrower makes the following representations and warranties as the basis for its covenants herein:

(1) The Borrower is a Minnesota nonprofit corporation duly organized and in good standing under the laws of the State of Minnesota, duly authorized to conduct its business in all states where its activities require such authorization, has power to enter into this Agreement, the Mortgage, and the Security Agreement and to own and use the Facilities for the purpose set forth in this Agreement, and by proper corporate action has authorized the execution and delivery of this Agreement, the Mortgage, and the Security Agreement;

(2) The Borrower is an organization described in Section 501(c)(3) of the Code and is exempt from tax under Section 501(a) of the Code. Not more than five percent (5%) of the proceeds of the Note will be used, directly or indirectly, to finance or refinance property used in an unrelated trade or business of the Borrower determined by applying Section 513(c) of the Code or in the trade or business of any person other than an organization described in Section 501(c)(3) of the Code. There is no action, proceeding or investigation pending or threatened by the Internal Revenue Service or authorities of the State of Minnesota which, if adversely determined, might result in a modification of the status of the Borrower as a Section 501(c)(3) corporation.

(3) [Intentionally omitted.]

(4) The execution and delivery of this Agreement, the Mortgage, and the Security Agreement, and the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof do not and will not conflict with or result in a breach of any of the terms or conditions of the Borrower's articles of incorporation, its bylaws, any restriction or any agreement or instrument to which the Borrower is now a party or by which it is bound or to which any property of the Borrower is subject, and do not and will not constitute a default under any of the foregoing or a violation of any order, decree, statute, rule or regulation of any court or of any state or federal regulatory body having jurisdiction over the Borrower or its properties, including the Facilities, and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement to which the Borrower is a party or by which it is bound;

(5) As of the date hereof, the use of the Facilities as designed and operated complies, in all material respects, with all presently applicable development, pollution control, water conservation and other laws, regulations, rules and ordinances of the federal government and the State of Minnesota and the respective agencies thereof and the political subdivisions in which the Facilities are located and that are applicable to Borrower. The Borrower has obtained, or will obtain in a timely manner, all necessary and material approvals of and licenses, certificates, permits, consents and franchises from federal, state, county, municipal or other governmental authorities having jurisdiction over the Facilities to operate the Facilities and to enter into, execute and perform its obligations under this Agreement, the Mortgage, and the Security Agreement; and no violation of any local ordinance, laws, regulation or requirement, which are applicable to Borrower, exists with respect to the Facilities;

(6) The proceeds of the Note, together with any other funds available under the documents or to be contributed to the Project by the Borrower or otherwise in accordance with this Agreement, will be sufficient to finance the Project and all costs and expenses incidental thereto, and the proceeds of the Note will be used only for the purposes contemplated hereby and allowable under the Act;

(7) Comparable private financing for the Project was not found by the Borrower to be reasonably available, and the Project is economically more feasible with the availability of the financing herein authorized;

(8) The Borrower is not in the trade or business of selling properties such as the Facilities and undertook the acquisition, construction, and equipping of the Facilities for use by the Borrower in its charitable purpose, and therefore the Borrower has no intention now or in the foreseeable future to voluntarily sell, surrender or otherwise transfer, in whole or part, its interest in the Facilities;

(9) Except as otherwise disclosed in writing to Lender, there are no actions, suits, or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any property of the Borrower in any court, arbitrator, or administrative agency or before any federal, state, municipal or other governmental authority, which, if decided adversely to the Borrower, would have a material adverse effect upon the Borrower or upon the business, properties, assets, or condition (financial or otherwise) of the Borrower, or the validity of any of the transactions contemplated by this Agreement, the Mortgage, or any documents related thereto; and the Borrower is not in default with respect to any order of any court, arbitrator, administrative agency, or other federal, state, or municipal governmental authority;

(10) The Borrower is not in default in the payment of the principal of or interest on any indebtedness for borrowed money nor in default under any instrument or agreement under and subject to which any indebtedness for borrowed money has been issued;

(11) The Borrower has filed all federal and state income tax returns which are required to be filed and has paid all taxes shown on said returns and all assessments, fees, and other governmental charges upon the Borrower or upon any property or assets of the Borrower to the extent that they have become due;

(12) To the knowledge of the Borrower, no public official of the City has either a direct or indirect financial interest in this Agreement nor will any public official either directly or indirectly benefit financially from this Agreement;

(13) The Borrower has approved the terms and conditions of the Note;

(14) The Borrower intends to operate the Facilities to carry out its charitable purposes until the date on which the entire Principal Balance of the Note has been fully paid and is no longer outstanding;

(15) The financial statements of the Borrower and other financial information/documentation that the Borrower is required to prepare, along with any third-party reports or financial statements and/or financial control procedures, heretofore furnished to the Lender, are complete and correct in all material respects and fairly present the financial condition of the Borrower at and as of the date thereof, and as of said date, there were no material liabilities of the Borrower, direct or indirect, fixed or contingent, which were not reflected in said financial statements and financial information/documentation. Since the most recent set of financial statements delivered by the Borrower to the Lender, there have been no material adverse changes in the financial condition of the Borrower;

(16) No consent, approval, order, or authorization of, or permit or license from, or registration, declaration or filing with, or notice to, any federal, state, municipal, or other governmental authority or any third party is required in connection with the execution and delivery of this Agreement, or any of the agreements or instruments herein mentioned or related hereto to which the Borrower is a party or the carrying out or performance of any of the transactions required or contemplated hereby or thereby on the part of the Borrower or, if required, such consent, approval, order, authorization, permit, or license has been (or, with respect to the filing of the Form 8038 with the Internal Revenue Service and the Notice of Issue with the Minnesota Department of Employment and Economic Development will be) obtained or such registration, declaration or filing has been or will be accomplished or such notice has been or will be given;

(17) The Borrower has good fee title to the Facilities and the Land, free and clear of all mortgages, liens and encumbrances, except the Permitted Encumbrances (as described in the Mortgage). When timely and properly recorded, the Mortgage will constitute a valid and perfected first mortgage lien on the Facilities and the Land;

(18) The Facilities are in substantial compliance with the accessibility guidelines set forth in Title III of The Americans with Disabilities Act of 1990, as the same may be amended from time to time, and any rules and regulations promulgated thereunder (the "ADA"); and

(19) This Agreement, the Mortgage, and the Security Agreement, and the documents and agreements relating to the foregoing, when executed and delivered by the Borrower, constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms (subject, as to enforceability, to limitations resulting from bankruptcy, insolvency, and other similar laws affecting creditors' rights generally);

(20) No proceeds of the Note will be used to finance portions of the Project used for any religious purpose;

(21) That, for so long as the Note is outstanding:

(a) the Borrower shall not impose any qualifications related to religious beliefs on any of its teaching faculty or staff and shall not consider an applicant's religious beliefs when hiring teaching faculty or staff (except to the extent based on a bona fide occupational qualification);

(b) the Borrower shall maintain a policy of open enrollment of students without regard to race, religion, color, sex or national or ethnic origin and a policy of hiring of faculty and staff without regard to race, religion (except to the extent based on a bona fide occupational qualification), color, sex or national or ethnic origin; and

(c) the Borrower shall not require students to participate in religious services;

(22) The Borrower is not in default of a material provision under any material agreement, instrument, decree, or order to which the Borrower is a party or to which the Borrower or any of the Borrower's property is bound or affected;

(23) To the best of the Borrower's knowledge, there does not exist in or under the Land any pollutant, toxic, or hazardous waste or substance, or any other material the release or disposal of which is regulated by any law, regulation, ordinance, or code related to pollution or environmental contamination and, that no part of the Land was ever used for any industrial or manufacturing purpose or as a dump or sanitary landfill, and that there exists on the Land no storage tanks, electrical transformers, or other equipment containing PCBs or material amounts of asbestos other than limited amounts of asbestos containing materials which are properly contained in accordance with all applicable environmental laws, regulations, and ordinances. The Borrower represents that the Borrower has not received any summons, citations, directives, letters, or other communications, written or oral, from any federal, state, or local agency or department concerning the storing, releasing, pumping, pouring, emitting, emptying, or dumping of any pollutant, toxic, or hazardous waste or substance on the Land;

(24) The Borrower shall not, nor shall the Borrower permit others to, use the Land in violation of law for the business of generating, transporting, storing, treating, or disposing of any pollutant, toxic, or hazardous waste or substance nor shall the Borrower either take or fail to take any action which may result in a release of any hazardous substance from or onto the Land in violation of law;

(25) The Borrower agrees to indemnify and to hold the Lender harmless from any and all claims, causes of action, damages, penalties, and costs (including, but not limited to, attorney's fees, consultant's fees, and related expenses) arising from the negligence or fault of the Borrower or any of its officers, employees, or volunteers, which may be asserted against, or incurred by, the Lender resulting from or due to release of any hazardous substance or waste on the Land or arising out of any injury to human health or the environment by reason of the condition of or past activity upon the Land. The Borrower's duty to indemnify and hold harmless includes, but is not limited to, proceedings or actions commenced by any person (including, but not limited to, any federal, state, or local governmental agency or entity) before any court or administrative agency. The Borrower further agrees that pursuant to the Borrower's duty to indemnify under this section, the Borrower shall indemnify the Lender against all reasonable expenses incurred by the Lender, without the need to wait for the ultimate outcome of the litigation or administrative proceeding. The Borrower's obligations to indemnify and hold the Lender harmless hereunder shall survive repayment of the Loan and satisfaction or foreclosure of the Mortgage;

(26) To the best of the Borrower's knowledge, the Project and the Borrower's operations at the Facilities always have been and now are in compliance with all applicable federal, state, and local statutes, laws, and regulations. No notice has been served on the Borrower from any entity, governmental body, or individual claiming any violation of any law, regulation, ordinance, or code, or requiring compliance with any law, regulation, ordinance, or code, or demanding payment or contribution for any environmental damage or injury to natural resources, or any injury to human health; and

(27) The Borrower agrees that the foregoing representations and warranties shall be continuing in nature and shall remain in full force and effect until such time as the Loan shall be paid in full.

ARTICLE III

THE LOAN

Section 3.1 Amount and Source of Loan. The City has authorized the issuance of the Note in the principal amount of \$5,300,000 to provide funds to the Borrower for its use in the Project. The Borrower agrees to use such funds to for the Project and the City agrees to lend the Borrower, upon payment of the City's administrative fee of \$13,250 and the other terms and conditions set forth herein, the proceeds received from the Note by causing such sums to be advanced and disbursed in accordance with the terms of this Agreement.

Section 3.2 Documents Required Prior to Disbursement of the Loan. Prior to any advance of the proceeds, the Borrower shall deliver to the Lender the following:

- (1) The Note;
- (2) The Loan Agreement;
- (3) The Pledge Agreement;
- (4) The Mortgage;
- (5) The Security Agreement;
- (6) A title policy acceptable in all respects to the Lender;
- (7) An opinion of Counsel for the Borrower as prescribed by the Lender and Bond Counsel;
- (8) An Opinion of Bond Counsel, to the effect that the City has duly authorized the Note and that the interest thereon is exempt from federal income taxation and subject to other conditions acceptable to the Lender;
- (9) Evidence from the Internal Revenue Service that the Borrower is exempt from income taxation under Section 501(c)(3) of the Code and such other documents and opinions as Bond Counsel may reasonably require for purposes of rendering its opinion required in subsection (11) above;
- (10) Such other assignments, security agreements, guaranties, financing statements, indemnities, opinions, certificates, and other instruments evidencing or securing the Loan as may be required by the Lender; and
- (11) Any certification, instrument, financing statement, assignment or other document referenced in or required by any of the foregoing.

Section 3.3 Disbursement of the Loan. Pursuant to this Agreement and the Act, the City has authorized the Borrower to provide funds directly for the Project and hereby authorizes

the Lender to advance the proceeds of the Note directly to the Borrower to be disbursed for the payment of Project Costs.

At Closing, \$_____ of Note proceeds will be applied to the payment of Issuance Expenses. Upon Borrower's satisfaction of the terms and conditions of this Agreement, the Lender will disburse the remainder of the Note proceeds to _____, the holder of the Prior Obligations, as payment in part of the Prior Obligations.

Section 3.4 Repayment. Subject to the prepayment provisions set forth in the Note and in Section 5.1 of this Agreement, the Borrower agrees to repay the Loan by making all payments of principal, interest and any premium, penalty or charge that are required to be made by the City under the Note at the times and in the amounts provided therein. All payments shall be made directly to the Lender as provided in the Note for the account of the City. The Borrower represents and covenants that the source of payment of the Note is from revenues derived from the operation of the Facilities and other revenues of the Borrower obtained pursuant to its tax-exempt purposes **[and from Capital Campaign Receipts]**.

Section 3.5 Fee Payments. In addition to the repayments required by Section 3.4 hereof, the Borrower shall pay to the City, as fee payments, the following amounts, in each case promptly after receipt of an appropriate invoice stating the basis and amount of the charge: all costs and expenses of the City incurred in the issuance and payment of the Note and the making, administration and collection of the Loan, including (i) all costs incurred in connection with the purchase, transfer, registration, exchange or redemption of the Note, (ii) the reasonable fees and other costs incurred for services of such engineers, attorneys, management consultants, accountants and other consultants as are employed by the City to make examinations and reports, provide services and render opinions required under this Agreement, and (iii) amounts advanced by the City under the provisions of this Agreement and which the Borrower is obligated to repay.

Section 3.6 Borrower Obligations Unconditional. All payments required of the Borrower hereunder shall be paid without notice or demand and without setoff, counterclaim, abatement, deduction or defense. The Borrower will not suspend or discontinue any payments, and will perform and observe all of its other agreements in this Agreement, and, except as expressly permitted herein, will not terminate this Agreement for any cause, including, but not limited to, any acts or circumstances that may constitute failure of consideration, destruction or damage to the Facilities, eviction by paramount title, commercial frustration of purpose, bankruptcy or insolvency of the City or the Lender, change in the tax or other laws or administrative rulings or actions of the United States of America or of the State of Minnesota or any political subdivision thereof, or failure of the City to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement.

ARTICLE IV

BORROWER'S COVENANTS

Section 4.1 Indemnity. The Borrower will, to the extent arising from the negligence or fault of the Borrower or any of its officers, employees, or volunteers, and permitted by law, pay, and will protect, indemnify and save the City, the Lender, and their respective officers, agents and employees harmless from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), causes of action, suits, claims, demands and judgments of any nature arising from the following:

(1) any injury to or death of any person or damage to property in or upon the Facilities or growing out of or connected with the use, non-use, condition or occupancy of the Facilities or a part thereof;

(2) violation of any agreement or condition of this Agreement, except by the City or Lender or their assignees;

(3) violation of any contract, agreement or restriction by the Borrower relating to the Facilities;

(4) violation of any law, ordinance or regulation affecting the Facilities or a part thereof or the ownership, occupancy or use thereof, or arising out of this Agreement, the Note or the transactions contemplated thereby, including any disclosure or registration requirements imposed on the City by any federal or state securities law; and

(5) any statement or information relating to the expenditure of the proceeds of the Note contained in the non-arbitrage certificate or similar document furnished by the Borrower to the City which, at the time made, is misleading, untrue or incorrect in any material respect; and

(6) the Borrower's use and occupancy of the Facilities.

Section 4.2 Continuing Existence and Qualification. The Borrower is and throughout the term of this Agreement will remain duly qualified to do business as a nonprofit corporation in Minnesota and an organization described in Section 501(c)(3) of the Code, whose income is exempt from taxation under Section 501(a) of the Code. The Borrower will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another corporation or other business entity or permit any other corporation or other business entity to consolidate with or merge into it unless (1) the surviving, resulting or transferee corporation, or other business entity, as the case may be, shall be a nonprofit corporation operating under the laws of the United States, any state or the District of Columbia, and an organization described in Section 501(c)(3) of the Code (provided the Project will not constitute an unrelated trade or business within the meaning of Section 513(a) of the Code) or a governmental unit under Section 145 of the Code; (2) the surviving, resulting or transferee corporation, or other business entity, as the case may be, if other than the Borrower, assumes in writing all of the obligations of the Borrower under this Agreement, the Mortgage, and the Security Agreement, and shall deliver that instrument to the Lender, (3) the surviving,

resulting or transferee corporation or other business entity, as the case may be, is duly qualified to do business in Minnesota, and (4) the Borrower first obtains the written consent of the Lender to such merger, transfer or consolidation. At least 60 days before any proposed merger, transfer or consolidation would become effective, the Borrower shall deliver to the Lender a written request seeking the Lender's approval of such merger, transfer or consolidation, and shall thereafter promptly furnish to the Lender such information pertaining to the proposed merger, transfer, or consolidation as the Lender shall request. If the Lender approves the proposed merger, transfer or consolidation, the Borrower shall be released from its obligations hereunder and the surviving, resulting or transferee corporation and other entity referred to in this Section 4.2 shall be bound by all of the covenants and agreements of the Borrower herein with respect to any further consolidation, merger, sale or transfer.

Section 4.3 Reports to Governmental Agencies. The Borrower will furnish to agencies of the State of Minnesota, such periodic reports or statements as are required under the Act, or as they may otherwise reasonably require of the City or the Borrower throughout the term of this Agreement in connection with the transaction contemplated herein. Copies of such reports will be provided to the City and the Lender, upon written request.

Section 4.4 Security for the Loan. As additional security for the Lender, and to induce the City to issue and deliver the Note, the Borrower agrees to execute and deliver (or cause to be executed and delivered) the documents described in Section 3.2 hereof and agrees to meet all its obligations under such documents, which documents shall remain in effect until all payments required hereunder have been made; and the Borrower will direct Bond Counsel or the Lender to cause to be recorded and filed the Mortgage and such other documents requested by Bond Counsel or the Lender, in such places and in such manner as Bond Counsel or the Lender deems necessary or desirable to perfect or protect the security interest of the Lender in and to the Facilities and other collateral referred to in said documents. Except as otherwise provided in the Mortgage, the Borrower will not further encumber the property pledged therein without the Lender's prior written consent.

Section 4.5 Preservation of Tax Exemption.

(1) The Borrower covenants and agrees that, in order to assure that the interest on the Note shall at all times be free from federal income taxation, the Borrower represents and covenants with the City and the Lender that it will comply with the applicable provisions of Section 103 and Section 141 through 150 of the Code and as follows:

(a) The Facilities are and will continue to be owned and operated by the Borrower and no portion of the Facilities are managed by anyone other than the Borrower or a governmental entity or an organization described in Section 501(c)(3) of the Code or pursuant to a "qualified management agreement" within the meaning of all pertinent provisions of law, including all relevant provisions of the Code and regulations, rulings and revenue procedures thereunder, including Revenue Procedure 2017-13.

(b) The Facilities will not be used by the Borrower in an unrelated trade or business, determined by the application of Section 513(a) of the Code except to an extent which does not adversely affect the tax-exempt status of the interest on the Note.

(c) No more than 5% of the net proceeds of the Note is to be used for any private business use as defined in Section 141(b)(6) of the Code.

(d) The payment of the principal of, or interest on, no more than 5% of the net proceeds of the Note is (under the terms of the Note or any underlying arrangement) directly or indirectly (a) secured by any interest in (i) property used or to be used for a private business use, or (ii) payments in respect of such property, or (b) to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a private business use.

(e) The aggregate authorized face amount of the Note (when increased by any outstanding tax-exempt "qualified 501(c)(3) bonds" issued prior to 1997, other than "qualified hospital bonds," of the Borrower, or any organization with which the Borrower is under common management or control and is a test-period beneficiary determined in accordance with Section 145(b) of the Code) does not exceed \$150,000,000 or, alternatively, at least 95% of the net proceeds of the Note will be used for capital expenditures.

(f) The weighted average maturity of the Note will not exceed the estimated economic life of the Facilities refinanced by the Note by more than 20%, all within the meaning of Section 147(b) of the Code.

(g) While the Note remains outstanding, no portion of the proceeds of the Note will be used to provide any airplane, skybox or other private luxury box, any Facilities primarily used for gambling, or a store, the principal business of which is the sale of alcoholic beverages for consumption off premises.

(h) Not more than 2% of the proceeds of the Note will be used to finance Issuance Expenses.

(i) The Borrower agrees it will not use the proceeds of the Note in such a manner as to cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Code and applicable Treasury Regulations. The Borrower shall, as applicable:

(i) maintain records identifying all "gross proceeds" and "replacement proceeds" (as defined in Section 148(f)(6)(B) of the Code attributable to the Note, the yield at which such gross proceeds or replacement proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the Note) and any earnings derived from the investment of such arbitrage profit;

(ii) make, or cause to be made as of the end of each fifth bond year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States, unless the Borrower obtains an Opinion of Bond Counsel to the effect that such calculations need not be made (the "Rebate Amount");

(iii) pay, or cause to be paid, to the United States at least once every fifth bond year the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the Note is paid in full;

(iv) not invest, or permit to be invested, "gross proceeds" of the Note in any acquired nonpurpose obligations so as to deflect arbitrage otherwise payable to the United States as a "prohibited payment" to a third party; and

(v) if applicable, retain all records of the determination of the foregoing amounts until 6 years after the Note has been fully paid.

Unless the Opinion of Bond Counsel described in (ii) above is provided, the Borrower agrees that, in order to comply with this paragraph (i), it shall determine the Rebate Amount within 30 days after each 5th year of the anniversary of the Closing and upon payment in full of the Note; upon request, the Borrower shall furnish the Lender a certificate showing how such calculation was made.

(j) The Borrower has not leased, sold, assigned, granted or conveyed and will not lease, sell, assign, grant or convey all or any portion of the Facilities or any interest therein to the United States or any agency or instrumentality thereof within the meaning of Section 149(b) of the Code.

(k) In addition to the Note, no other obligations have been or will be issued under Section 103 of the Code which are sold at substantially the same time as the Note pursuant to a common plan of marketing and at substantially the same rate of interest as the Note and which are payable in whole or part by the Borrower or otherwise have with the Note any common or pooled security for the payment of debt service thereon, or which are otherwise treated as the same "issue of obligations" as the Note as described in Treasury Regulations Section 1.150-1(c)(1);

(l) No proceeds of the Note shall be invested in investments which cause the Note to be federally guaranteed within the meaning of Section 149(b) of the Code. If at any time the moneys in such funds exceed, within the meaning of Section 149(b)(3)(B) of the Code, (i) amounts invested for an initial temporary period until the moneys are needed for the purpose for which the Note was issued, (ii) investments of a bona fide debt service fund, and (iii) investments of a reserve which meet the requirement of Section 148(d) of the Code, such excess moneys shall be invested in only those investments, which are (A) obligations issued by the United States Treasury, (B) other investments permitted under regulations, or (C) obligations which are (a) not issued by, or guaranteed by, or insured by, the United States or any agency or instrumentality thereof or (b) not federally insured deposits or accounts, all within the meaning of Section 149(b) of the Code; and

(m) Not otherwise use proceeds of the Note, or take or fail to take any action within its control, the effect of which would be to impair the exemption of interest on the Note from federal income taxation.

(n) Maintain such written procedures as appropriate and applicable to ensure Borrower's principal responsibility for compliance with the post-issuance requirements necessary to maintain the tax-exempt status of the interest on the Note, including requirements that must be continually monitored, including (i) monitoring the investment (pending expenditure) of Note proceeds (and keep detailed records thereof) in order to assure compliance with the arbitrage requirements applicable to the Note, (ii) monitoring the expenditures of the Note proceeds (and keep detailed records thereof), (iii) monitoring the use of the Facilities in order to ensure that the Note continues to qualify as a qualified 501(c)(3) bond within the meaning of Section 145 of the Code, (iv) periodically consulting with Bond Counsel with respect to arbitrage issues and compliance, and (v) consulting with Bond Counsel as necessary to determine whether, and to what extent, any change in the use or purpose of the financed Facilities will require any remedial action under the relevant Treasury Regulations.

(o) The Project is suitable for use in academic instruction and educational and cultural activities, and no part of the Project is designed for use or will be used primarily for religious instruction or as a place for devotional activities or religious worship;

(p) In order to qualify the Note and this Agreement under the "governmental program" provisions of Section 1.148-1(b) of the Treasury Regulations, the Borrower (and any "related person" thereto) will take no action the effect of which would be to disqualify this Loan Agreement as an "acquired program obligation" under said Section 1.148-1(b), including but not limited to entering into any arrangement, formal or informal, for the Borrower to purchase bonds or notes of the City in an amount related to the amount of the Note.

(2) For the purpose of this Section, a "Determination of Taxability" shall mean the issuance of a statutory notice of deficiency by the Internal Revenue Service, or a ruling of the National Office or any District Office of the Internal Revenue Service, or a final decision of a court of competent jurisdiction, or a change in any applicable federal statute, which holds or provides in effect that the interest payable on the Note is includible, for federal income tax purposes under Section 103 of the Code in the gross income of the Lender or any other holder or prior holder of the Note for any reason, if the period, if any, for contest or appeal of such action, ruling or decision by the Borrower or Lender or any other interested party has expired without any such contest or appeal having been properly instituted by the Lender, the Borrower or any other interested party. The expenses of any such contest shall be paid by the party initiating the contest, and neither the Lender nor the Borrower shall be required to contest or appeal any Determination of Taxability. The "Date of Taxability" shall mean that point in time, as specified in the determination, ruling, order, or decision, that the interest payable on the Note becomes includible in the gross income of the Lender or any other holder or prior holder of the Note, as the case may be, for federal income tax purposes.

(3) If the Borrower receives a Determination of Taxability it will promptly give notice of such Determination of Taxability to the City and the Lender and the Note shall convert to a taxable obligation effective as of the Date of Taxability. The interest rate for interest accruing from the Date of Taxability shall be adjusted to the "Taxable Rate" (as defined in the Note) on the date of the Determination of Taxability and the Borrower shall pay any interest

accruing from the Date of Taxability which is retroactively due as a result of the interest rate adjustment on the next payment date along with regularly scheduled principal payment and interest accruing from the previous payment date at the Taxable Rate, as provided in the Note.

Section 4.6 Lease or Sale of Facilities. The Borrower shall not lease, sell, convey or otherwise transfer the Facilities in whole or part, except for leases in the ordinary course of business, nor sell the Facilities in whole or part, without first securing the written consent of the Lender, which consent may be withheld in the Lender's sole and absolute discretion, provided that in no event shall such lease, transfer, assignment or sale be permitted if the effect thereof would otherwise be to impair the validity or the tax exempt status of the Note, nor shall any such transaction release the Borrower of any of its obligations under this Agreement, unless the Facilities are conveyed in whole and such conveyance has been approved by the Lender. The Borrower shall promptly notify the City of any such sale, transfer, assignment or lease.

Section 4.7 Facilities Operation and Maintenance Expenses. The Borrower shall pay all expenses for the operation and maintenance of the Facilities including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the Facilities and payable during the term of this Loan Agreement, all in conformance with the provisions of Section 4.9(19) below and the provisions of the Mortgage. The Borrower shall keep the Facilities, including all of the assets and properties necessary in the Borrower's business and operations, in good working order and condition, subject to ordinary wear and tear.

The Borrower will not use any Note proceeds to pay any costs of, or attributable to, the construction or equipping of any facilities used primarily for religious instruction or worship; all such costs will be paid with the Borrower's funds. The Borrower agrees that it will not use the Project or any part thereof (a) for sectarian instruction or study or primarily as a place for devotional activities or religious worship or as a facility used primarily in connection with any part of a program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or other similar persons in the field of religion or (b) in a manner which would violate the First Amendment to the Constitution of the United States of America, including the decisions of the United States Supreme Court interpreting the same, or any comparable provisions of the Constitution of the State of Minnesota, including the decisions in the Supreme Court of the State interpreting the same.

Section 4.8 Notification of Changes. The Borrower covenants and agrees that it will promptly notify the Lender of:

(1) any and all litigation involving the Borrower which might materially and adversely affect the Borrower or any of its properties where the amount in dispute exceeds \$20,000.00 and is not covered by insurance, and of any and all litigation if the aggregate amount in dispute in connection with such litigation exceeds \$20,000.00 and is not covered by insurance, and of any and all material proceedings commenced against the Borrower by or before any court or governmental or regulatory agency;

(2) the occurrence of any Event of Default under this Agreement or under any other loan agreement, debenture, note, purchase agreement or any other agreement providing for the borrowing of money by the Borrower or any event of which the Borrower has knowledge and which, with the passage of time or giving of notice, or both, would constitute an Event of Default under this Loan Agreement or under such other agreements, such notice to be furnished to the Lender as soon as possible and in any event within ten (10) days after the Borrower has obtained knowledge of the occurrence of such Event of Default, or an event which with the giving of notice or lapse of time or both would constitute an Event of Default, and which notice shall include a statement signed by the Borrower setting forth details of such Event of Default or event and the action which the Borrower has taken, is taking or proposes to take to correct the same;

(3) any future event that would cause the representations and warranties contained in this Agreement to be untrue when applied to the Borrower's circumstances as of the date of such event; and

(4) any material adverse change in the operations, business, properties, assets or conditions, financial or otherwise, of the Borrower.

Section 4.9 Additional Covenants. In addition to the covenants and agreements of the Borrower set forth herein and contained in the Mortgage, the Security Agreement, and the documents related hereto, the Borrower hereby covenants and agrees, so long as the Note remains unpaid, as follows:

(1) Maintain a Debt Service Coverage Ratio of at least 1.25 to 1.00, measured annually at the end of each Fiscal Year based on audited financial statements for such Fiscal Year;

(2) Deliver to the Lender audited financial statements within 120 days of each Fiscal Year end;

(3) Deliver to the Lender internally prepared financial statements within 30 days of the end of each fiscal quarter;

(4) Deliver to the Lender applicable **[capital campaign pledge and/or endowment fund]** reports within 30 days of the end of each fiscal quarter;

(5) Deliver to the Lender an annual compliance certificate substantially in the form of Exhibit A within 120 days of the end of each Fiscal Year;

(6) Deliver to the Lender an annual budget for the upcoming Fiscal Year by June 30 of each year;

(7) That all advances under the Note shall be used solely to pay Issuance Expenses and to pay, in part, the Prior Obligations;

(8) The Facilities shall comply with all applicable restrictions, conditions, ordinances, regulations and laws of governmental departments and agencies having jurisdiction

over the Facilities, and shall not violate any private restrictions or covenants or encroach upon or interfere with easements affecting the Land;

(9) To keep, perform, enforce and maintain in full force and effect all of the terms, covenants, conditions and requirements of this Agreement, the Note, the Mortgage, the Security Agreement, and all documents related thereto for the Project; and, not to amend, modify, supplement, terminate, cancel or waive any of the terms, covenants, conditions or requirements of any of said documents without the prior written consent of the Lender;

(10) Upon the demand of the Lender, from time to time, to deliver to the Lender an updated survey showing the Facilities to be located within applicable lot lines of the Land and the setback lines and not encroaching upon any easements, streets or adjoining property and to deliver to the Lender, from time to time, and at any time, updated and recertified copies of the articles of incorporation and bylaws of the Borrower, corporate resolution(s) authorizing the execution, delivery, and continued performance of this Agreement, the Mortgage, and all other documents and instruments executed and delivered to the Lender in connection therewith for the Project;

(11) Not to create, permit to be created or to allow to exist, liens, charges or encumbrances on the Land (other than "Permitted Encumbrances" as defined in the Mortgage) and the lien of general real estate taxes and the installments of special assessments payable therewith, except for such liens, charges and encumbrances which are being diligently contested in good faith by appropriate proceedings and provided that, if requested by the Lender, the Borrower shall have provided to the Lender security satisfactory to the Lender as set forth in Section 1.03 of the Mortgage;

(12) To furnish to the Lender as soon as possible and in any event within seven (7) days after the Borrower has obtained knowledge of the occurrence of an Event of Default, or an event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement signed by the Borrower setting forth details of such Event of Default or event and the action which the Borrower has taken, is taking or proposes to take to correct the same;

(13) To hold the Lender harmless, and the Lender shall have no liability or obligation of any kind to the Borrower, creditors of the Borrower or any third party, in connection with any defective, improper or inadequate workmanship performed in or about, or materials supplied to, the Land and the Facilities, or any mechanics', suppliers' or materialmen's liens arising as a result of such defective, improper or inadequate workmanship or materials, and upon the Lender's reasonable request, to replace or cause to be replaced, any such defective, improper or inadequate workmanship or materials;

(14) To pay and discharge all real estate taxes prior to the attachment of penalties with respect thereto and installments of special assessments payable therewith, and insurance premiums with respect to the insurance required to be maintained by the Borrower under the terms of any of this Agreement, the Mortgage, the Security Agreement, and all other documents and instruments executed and delivered to the Lender in connection therewith or for the Facilities, and utility charges incurred by the Borrower prior to or during the term of this Agreement, except if such taxes, assessments and premiums are being contested in good faith by

appropriate proceedings and provided that, if requested by the Lender, the Borrower shall have deposited into escrow with the Lender an amount equal to such taxes, assessments or premiums plus penalties accrued thereon;

(15) To comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority, a breach of which would materially and adversely affect the business or credit of the Borrower, except where diligently contested in good faith and by proper proceedings;

(16) To comply with all existing and future registration, notification and other requirements of the Minnesota Petroleum Tank Cleanup Act, including, but not limited to, the notification of the Minnesota Pollution Control Agency of the existence of any underground and above-ground storage tanks and the age, size, type, location, use and content and of any future removal or conveyance of such tanks;

(17) To preserve and maintain all of the Borrower's rights, privileges and franchises necessary or desirable in the normal conduct of the Borrower's business, and not to suspend business operations or convey, transfer, encumber or pledge any of the Borrower's properties or assets;

(18) To keep all of the assets and properties necessary in the Borrower's businesses in good working order and condition, ordinary wear, tear and casualty excepted;

(19) To obtain all necessary state, federal, local and private clearances, authorizations, permits and licenses with respect to the business operations of the Borrower, including, without limitation, any export and other trade licenses or permits required by law for the present or future business operations of the Borrower; and,

(20) Not to undertake or permit without prior written approval of the Lender any other or additional construction on the Land.

(21) To maintain all of the Borrower's operating bank accounts with the Lender or an affiliate of the Lender; provided, however, that the Borrower may maintain and shall be authorized to maintain the following accounts at institutions other than the Lender: **[(i) investment accounts (which the Borrower currently maintains with _____); (ii) agency accounts (an Endowment Fund for the benefit of Bethany Lutheran College, Inc.) and any institutional endowment accounts, which are currently maintained with _____; and (iii) an investment account which is currently maintained with _____ for purposes of receipt of securities as gifts from donors.]** The Borrower may add funds to these accounts consistent with the past practices of the Borrower and its investment policies. The Borrower may transfer to or open additional investment, agency or institutional accounts at other, similar investment or foundation type financial institutions. If the Borrower fails to maintain its other such operating bank accounts with the Lender or an affiliate of the Lender, then the rate of interest charged on the Note shall be automatically increased by an additional **[two percent (2.0%)]** per annum during any period in which the Borrower failed to properly maintain such accounts at the Lender or its affiliates, which increase shall be in addition to any other increase which the Borrower may be subject to as specified in the Note. Notwithstanding the foregoing, the Borrower's failure to properly

maintain its accounts with the Lender or its affiliates shall not, in and of itself, constitute an Event of Default.

(22) To obtain and maintain, or cause to be obtained and maintained, at all times during the term of the Loan, if applicable, and furnish the Lender with proof that the premiums have been paid to a current date, plus timely proof of payment of the subsequent premiums throughout the term of the Loan, the following policies of insurance:

(a) Comprehensive General Public Liability Insurance, providing for limits of coverage of not less than [\$2,000,000.00/\$2,000,000.00] and naming the Lender as an additional insured.

(b) Hazard Insurance, with respect to the Land and the collateral described in the Security Agreement, insuring against loss by fire, lightning, theft, vandalism, malicious mischief and other risks customarily covered by a standard extended coverage endorsement, in an amount not less than the full insurable value thereof and naming the Lender as mortgagee and loss payee.

(c) Workers' Compensation Insurance, with statutory coverage covering all persons engaged in the construction or installation of the Project.

(d) Flood Insurance, if at any time before the closing date or during the term of the Loan, any of the improvements located on the Land are located within a special flood zone hazard area, as determined by the Lender, in the maximum amount obtainable up to the amount of the Note, naming the Lender as loss payee.

All such insurance shall be written by a company or companies acceptable to the Lender licensed to do business in the State of Minnesota. Such policies of insurance shall be subject to the approval of the Lender as to form, substance and (except as expressly designated above) amount, and, without limiting the generality of the foregoing, each such policy shall provide that the insurer shall give the Lender at least thirty (30) days prior written notice of cancellation, termination, amendment or non-renewal thereof. All such policies shall be in an amount sufficient to prevent the insured from becoming a co-insurer thereunder.

In lieu of the above insurance, the Borrower may self-insure for such risks through a self-insurance program.

Section 4.10 **[Capital Campaign Receipts]**. The Borrower covenants and agrees that it will use all Capital Campaign Receipts with respect to the cost of the Project received after the date of this Agreement to be applied solely to the costs of the Project, to the payment of scheduled principal of and interest on the Note when due, or, to the extent not held for payment of future Project Costs or future scheduled debt service on the Note, to the prepayment of principal of the Note. The contributions received from the Current Capital Campaign will be used to pay Borrower's costs and expenses and any excess contributions from the Current Capital Campaign may be used toward the costs of the Project and payment or prepayment of the Note.]

Section 4.11 Matters Related to Management Contracts. The manager under any management contract for the management of the Facilities shall be an organization recognized as exempt under Section 501(c)(3) of the Code or such management contract shall comply with Department of Treasury Revenue Procedure 2017-13 (and any amended or successor rule) and in particular with one of the “safe harbor” limitations thereof.

Section 4.12 Access. The Borrower grants to the Lender and to the Lender’s agents access to the Facilities at any reasonable time during normal business hours in order to inspect the Facilities.

Section 4.13 Access to Books and Inspection. The Borrower shall keep proper books of record and accounts with respect to the use and operation of the Facilities, and, subject to any privacy laws applicable to Borrower, upon request of the Lender, provide the Lender or any duly authorized representative of the Lender, access during normal business hours to, and permit such party to examine, copy or make extracts from, or audit any and all books, records, contracts, plans, drawings, permits, bills, statements of account, and documents relating to the use and operation of the Facilities, the Borrower’s affairs and to inspect the Facilities and/or pertaining to the Project. (The Lender shall only be permitted to disclose the information contained therein to its legal counsel, its independent public accountants, its regulators, any participating lenders, or in connection with any action to collect any indebtedness of the Borrower or to enforce this Agreement and the documents related hereto, or as otherwise permitted or required by law).

Section 4.14 IRS Audit Expenses. The Borrower agrees to pay any reasonable costs incurred by the City, the Host City, or the Lender as a result of the City’s, the Host City’s, or the Lender’s compliance with an audit, random or otherwise, by the Internal Revenue Service or the Minnesota Department of Revenue with respect to the Note or the Project.

Section 4.15 Reports to City. Annually, not later than March 1, in every year while any portion of the Note remains outstanding, the Borrower agrees to provide a report to the City documenting the then-outstanding principal amount of the Note. This provision cannot be enforced by the Lender.

ARTICLE V

PREPAYMENT OF LOAN

Section 5.1 Prepayment at Option of Borrower. The Borrower may, at its option, prepay the Loan, in whole or in part, on any date, by paying the principal amount to be prepaid and accrued interest thereon, with such penalty or premium then due as set forth in the Note. Any partial prepayment shall be applied in the order described in Paragraph 7 of the Note. At the date fixed for prepayment, funds shall be paid to the Lender at its registered address appearing on the Note. In the event the Borrower elects to prepay the Loan, the Borrower shall cause to be given in the name of the City notice of prepayment of the Note to the Lender by first-class mail, addressed to the Lender at its registered address, not less than thirty (30) days prior to the date fixed for prepayment, provided that the Lender may waive or provide alternative reasonable requirements, and shall pay the prepayment price when due to the Lender. The City hereby authorizes the Borrower to give mailed notice of prepayment and, if required by law, published notice of prepayment of the Note in the name of the City, from time to time.

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

Section 6.1 Events of Default. Any one or more of the following events is an Event of Default under this Agreement and the Borrower acknowledges and agrees that the Events of Default with respect to the Borrower contained herein shall apply to each of them respectively:

(1) If the Borrower shall fail to make any payments required under Section 3.4 of this Agreement on the date due.

(2) If the Borrower shall fail to observe and perform any other covenant, condition or agreement on its part under this Agreement for a period of thirty (30) days after written notice, specifying such default and requesting that it be remedied, given to the Borrower by the City or the Lender, unless the default does not consist of the non-payment of money and cannot reasonably be cured within thirty (30) days and the Lender shall agree in writing to an extension of such time prior to its expiration, or for such longer period as may be reasonably necessary to remedy such default provided that the Borrower is proceeding with reasonable diligence to remedy the same, and provided that such longer period does not place the Project at material risk.

(3) Except as elsewhere addressed in this Section 6.1, if the Borrower shall fail to observe and perform any other covenant, condition or agreement on its part under this Agreement for a period of 30 days after written notice, specifying such default and requesting that it be remedied, given to the Borrower by the City or the Lender, unless the Lender shall agree in writing to an extension of such time prior to its expiration.

(4) [Reserved.]

(5) If the Borrower shall file a petition in bankruptcy or for reorganization or for an arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, shall consent to the entry of an order for relief pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall make an assignment for the benefit of its creditors or shall admit in writing its inability to pay its debts generally as they become due, or if a petition or answer proposing the entry of an order for relief of the Borrower under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be filed in any court and such petition or answer shall not be discharged or denied within 90 days after the filing thereof, or a receiver, trustee or liquidator of the Borrower of all or substantially all of the assets of the Borrower, or of the Facilities shall be appointed in any proceeding brought against the Borrower and shall not be discharged within 90 days after such appointment or if the Borrower shall consent to or acquiesce in such appointment, or if the estate or interest of the Borrower in the Facilities or a part thereof shall be levied upon or attached in any proceeding and such process shall not be vacated or discharged within 90 days after such levy or attachment; or if the Borrower shall be dissolved or liquidated or shall be merged with or is acquired by another business entity in violation of Section 4.2.

(6) If the Borrower shall be dissolved or liquidated or take any act to be dissolved or liquidated (other than when a new entity assumes the obligations of the Borrower under the conditions permitting such action contained in Section 4.2).

(7) If any representation or warranty made by the Borrower herein, or by an officer or representative of the Borrower in any document or certificate furnished the Lender or the City in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to be, in any material respect, incorrect or misleading as of the date made.

(8) If the Borrower shall default or fail to perform any covenant, condition or agreement on its part under the Mortgage or any other security document securing the Note, and such failure continues beyond the period set forth in such documents during which the Borrower may cure the default.

(9) Any state or federal tax lien shall be filed against the Borrower and shall remain undischarged for a period of 60 days.

(10) Except as provided in the Mortgage, all or any portion of the Facilities, or the legal, equitable or any other interest therein, shall be sold, transferred, assigned, leased, further encumbered (except as permitted herein) or otherwise disposed of, unless the prior written consent of the Lender is first obtained; provided that nothing in this Agreement prohibits the Borrower from entering into an agreement for sale of the Facilities where the Loan and all other amounts due under this Agreement and the other documents evidencing the Loan will be paid in full at the closing of the sale.

(11) [Reserved.]

(12) If an "Event of Default" as described in the Mortgage shall occur.

(13) If the Borrower fails to pay real estate taxes or any assessments payable with respect to the Land as and when due.

(14) Except if allowed by easement, if a survey shows that any improvements on the Land encroach upon any unvacated street or upon any adjoining property to an extent deemed material by the Lender.

(15) If the Lender shall determine in good faith pursuant to terms of this Agreement, or the Mortgage that additional sums are to be deposited with the Lender and the Borrower shall fail to deposit such sums.

(16) If the Borrower shall be in default with respect to any other indebtedness or liability of the Borrower to the Lender whether now existing or hereafter existing.

(17) If the conditions precedent to the initial advance on the Note as set forth in this Agreement shall not have been satisfied on or before thirty (30) days from the date hereof.

(18) If any document securing the Note ceases to be in full force and effect or shall be judicially declared null and void, or the validity or enforceability thereof shall be contested by Borrower.

Section 6.2 Remedies. Whenever any Event of Default referred to in Section 6.1 hereof shall have happened and be subsisting, any one or more of the following remedial steps to the extent permitted by law may be taken by the City with the prior written consent of the Lender or by the Lender itself:

(1) The Lender may refuse to disburse any undisbursed proceeds of the Loan and may apply such undisbursed proceeds to the payment of principal of, and interest on, the Note and the Loan.

(2) The City, upon written direction of the Lender, or the Lender may declare all installments of the Loan (being an amount equal to that necessary to pay in full the Principal Balance plus accrued interest thereon and any premium of the Note assuming acceleration of the Note under the terms thereof and to pay all other indebtedness thereunder) to be immediately due and payable, whereupon the same shall become immediately due and payable by the Borrower.

(3) The Lender may foreclose the Mortgage and proceed against the collateral described therein.

(4) The City, upon written direction of the Lender (except as otherwise provided in Section 7.9 herein), or the Lender (in either case at no expense to the City) may take whatever action at law or in equity may appear necessary or appropriate to collect the amounts then due and thereafter to become due under this Agreement, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement or the Mortgage.

(5) The City, upon written direction of the Lender, or the Lender may exercise any other remedy permitted under any other instrument evidencing or securing the Loan.

(6) The Borrower grants the Lender a lien and security interest in certain accounts of the Borrower funded with the proceeds of the Borrower's capital campaign in the possession, control or custody of, or in transit to, the Lender. Such lien and security interest secures all present and future debts, obligations and liabilities of the Borrower to the Lender. In addition to all other rights and remedies, when or at any time after an Event of Default under Section 6.1(1) of this Agreement has occurred, Lender may foreclose such lien and security interest, and Lender may offset or charge all or any part of the aggregate amount of such debts, obligations and liabilities against any such property, accounts and claims without notice, regardless of whether such debts, obligations or liabilities are matured or unmatured.

(7) In addition to the remedies set forth in this Agreement, upon the occurrence of any Event of Default and thereafter while the same be continuing, the Borrower hereby irrevocably authorizes the Lender to set off all sums owing by the Borrower to the Lender against all deposits and credits of the Borrower with, and any and all claims of the Borrower against, the Lender.

Section 6.3 Disposition of Funds. Notwithstanding anything to the contrary contained in this Agreement, any amounts collected pursuant to action taken under Section 6.2 hereof, except for any amounts collected solely for the benefit of the City under any of the provisions set forth in Section 7.9, shall, after deducting (a) all expenses incurred in collecting the same and (b) then accrued interest on the Note, the remainder of such amounts, if any, be applied as a prepayment of the Note in accordance with Section 5.1.

Section 6.4 Manner of Exercise. No remedy herein conferred upon or reserved to the City or the Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity by statute. 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 the City or the Lender to exercise any remedy reserved to either of them in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 6.5 Attorneys' Fees and Expenses. In the event the Borrower should default under any of the provisions of this Agreement and the City or the Lender should employ attorneys or incur other expenses for the collection of amounts due hereunder or the enforcement of performance of any obligation or agreement on the part of the Borrower, the Borrower will on demand pay to the City or the Lender the reasonable fees and costs of such attorneys and such other expenses so incurred.

Section 6.6 Effect of Waiver. In the event any agreement contained in this Agreement 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. The Lender shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Lender and, then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

Section 6.7 Default Rate. Following an Event of Default hereunder, and for so long as such Event of Default shall continue, the obligations of the Borrower hereunder shall bear interest at an annual rate equal to 5% per annum over the interest rate on the Note that would otherwise be applicable (the "Default Rate"), for so long as such Event of Default continues.

ARTICLE VII

GENERAL

Section 7.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or received by certified or registered United States mail, return receipt requested, postage prepaid, with proper address as indicated below. The City, the Borrower and the Lender may, by written notice given by each to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Agreement. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the City: City of North Mankato, Minnesota
1001 Belgrade Avenue
P.O. Box 2055
North Mankato, Minnesota 56002-2055
Attn: City Administrator

With a required copy to:

Briggs and Morgan, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Attn: Catherine J. Courtney

To the Borrower: Bethany Lutheran College, Inc., of Mankato, Minnesota
700 Luther Drive
Mankato, Minnesota 56001
Attn: Daniel Mundahl, V.P. of Finance & Administration

With a required copy to:

Best & Flanagan LLP
60 South 6th Street
Suite 700
Minneapolis, MN 55402
Attn: Dan Nelson

To the Lender: Bremer Bank, National Association
1290 Raintree Road
Mankato, Minnesota 56001
Attn: Cory Abels, Senior Business & Ag Banker

Section 7.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the City and the Borrower and their respective successors and assigns.

Section 7.3 Severability. In the event any provision of this Agreement 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 7.4 Amendments, Changes and Modifications. Except as otherwise provided in this Agreement or in the Resolution, subsequent to the Closing Date and before the Note is satisfied and discharged in accordance with its terms, this Agreement may not be effectively amended, changed, modified, altered, or terminated without the written consent of the Lender.

Section 7.5 Execution Counterparts. This Agreement 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 7.6 Limitation of City's Liability. It is understood and agreed by the Borrower and the Lender that no covenant of the City herein shall give rise to a pecuniary liability of the City or a charge against its general credit, or taxing powers. It is further understood and agreed by the Borrower and the Lender that the City shall incur no pecuniary liability hereunder, and shall not be liable for any expenses related hereto, including administrative expenses and fees and disbursements of the City's attorney, Bond Counsel and fiscal consultant retained in connection therewith, all of which expenses the Borrower agrees to pay.

Section 7.7 City's Attorneys' Fees and Costs. If, notwithstanding the provisions of Section 7.6 hereof, the City incurs any expense, or suffers any losses, claims or damages, or incurs any liabilities in connection with the transaction contemplated by this Agreement, the Borrower will indemnify and hold harmless the City from the same and will reimburse the City for any reasonable legal or other expenses incurred by the City in relation thereto. The Borrower shall also reimburse the City for all other costs and expenses, including without limitation reasonable attorneys' fees, paid or incurred by the City in connection with (i) the discussion, negotiation, preparation, approval, execution and delivery of this Agreement, the Note, the Pledge Agreement, and the documents and instruments related hereto or thereto; (ii) any amendments or modifications hereto or to the Note, the Pledge Agreement, and any document, instrument or agreement related hereto or thereto, and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable to effect such amendments or modifications; and (iii) the enforcement by the City during the term hereof or thereafter of any of the rights or remedies of the City hereunder or under the Note, the Pledge Agreement, or any document, instrument or agreement related hereto or thereto, including, without limitation, costs and expenses of collection in the Event of Default, whether or not suit is filed with respect thereto.

Section 7.8 Release. The Borrower hereby acknowledges and agrees that the City shall not be liable to the Borrower, and hereby releases and discharges the City from any liability, for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action, paid, incurred or sustained by the Borrower as a result of or relating to any action, or failure or refusal to act, on the part of the Lender with respect to this Agreement or the documents and transactions related hereto or contemplated hereby, including, without limitation, the exercise by the Lender of any of its rights or remedies pursuant to Article VI, the Note, the Pledge Agreement, the Mortgage, or any collateral security documents. The

Borrower's release of the City pursuant to the preceding sentence does not extend to the Lender following the assignment of the City's rights to the Lender pursuant to the Pledge Agreement.

Section 7.9 Pledge and Assignment by City and Survival of Obligations. The City may pledge and assign its rights under this Agreement and any related documents to the Lender to secure payment of the principal of and interest and premium, if any, on the Note, conditioned upon the Lender's assumption of any obligations of the City to the Borrower hereunder except for the City's obligations in connection with its representations under Section 2.1 hereof which are not being assumed, but any such assignment shall not operate to limit or otherwise affect the following provisions hereof to the extent that they run to the City from the Borrower to which extent they shall survive any such assignment:

Section 3.5	Section 6.5
Section 4.1	Section 7.6
Section 4.3	Section 7.7
Section 4.14	Section 7.8
Section 4.15	

Upon any such pledge and assignment, the provisions immediately above running to the City from the Borrower for the City's benefit shall run jointly and severally to the City and the Lender (if appropriate), provided that the City shall have the right to enforce any retained rights without the approval of the Lender but only upon prior written notice to Lender and if the Lender is not enforcing such rights in a manner to protect the City or is otherwise taking action with respect thereto that brings adverse consequences to the City. The obligations of the Borrower running to the City and the Lender for the purpose of preserving the tax exempt status of the Note or otherwise for the City's or Lender's benefit under the foregoing Sections shall survive repayment of the Note and interest thereon. All other agreements, representations and warranties made in this Agreement shall survive the execution of this Agreement and the making of the Loan, and shall continue until Lender receives payment in full of all indebtedness of Borrower incurred under this Agreement.

Section 7.10 Required Approvals. Consents and approvals required by this Agreement to be obtained from the Borrower, the City or the Lender shall be in writing.

Section 7.11 Termination Upon Retirement of Note. At any time when no Principal Balance on the Note remains outstanding, and arrangements satisfactory to the Lender and the City have been made for the discharge of all other accrued and contingent liabilities, if any, under this Agreement, this Agreement shall terminate, except as otherwise expressly provided in Section 7.9 or otherwise herein, or in a separate writing signed by the Borrower, the City, and the Lender.

Section 7.12 Expenses of Lender. The Borrower shall pay or reimburse the Lender for any and all costs and expenses, including, without limitation, reasonable attorneys' fees, paid or incurred by the Lender in connection with (i) review, negotiation, preparation, and approval of this Agreement and any other document or agreement related hereto or thereto or the transactions contemplated hereby; (ii) the review, negotiation, preparation, and approval of any amendments, modifications or extensions to any of the foregoing documents, instruments or agreements, and the preparation and consummation of any and all documents necessary or desirable to effect such

amendments, modifications or extensions; (iii) any appraisals, surveys, environmental assessments or other reports relating to the Facilities which the Lender is authorized to seek, order or prepare pursuant to this Agreement or any other instrument evidencing or securing the Loan or is required to seek, order or prepare pursuant either to applicable laws or regulations or the Lender's policies or procedures generally applicable to commercial mortgage loans by the Lender; (iv) any reasonable fees or costs charged to the Lender by an architect or other design or inspection professional engaged by the Lender to, among other things, inspect the Facilities or the construction of any approved improvements to the Land, or verify compliance thereof with applicable building and zoning laws; (v) all title insurance premiums, filing and recording fees and mortgage registration tax paid or payable in connection with the consummation of the transaction contemplated hereby; and (vi) the enforcement by the Lender during the term hereof or thereafter of any of the rights or remedies of the Lender under any of the foregoing documents, instruments or agreements or under applicable law, whether or not suit is filed with respect thereto (attorneys' fees and costs are limited to reasonable fees and costs).

Section 7.13 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes any and all prior letters, proposals, contracts and understandings between the parties with respect to the same, including, but not limited to, any proposal or commitment letter, and such letters, proposals, contracts and understandings are hereby terminated.

Section 7.14 Further Assurances. At any time and from time to time, upon request by the Lender, the Borrower will make, execute and deliver or cause to be made, executed and delivered, to the Lender, any and all other further instruments, certificates and other documents as may, in the reasonable opinion of the Lender, be necessary or desirable in order to effectuate, complete, secure, or perfect, or to continue and preserve, the obligations of the Borrower hereunder and under any of the other documents related to the Loan. Upon any failure by the Borrower so to do after ten (10) days written notice from the Lender, the Lender may make, execute and record any and all such instruments, certificates and documents for and in the name of the Borrower at Borrower's expense and the Borrower hereby irrevocably appoints the Lender its agent and attorney-in-fact of the Borrower so to do. The Borrower hereby understands, acknowledges and agrees that the Lender may prepare and file such UCC financing statements or similar instruments as may be necessary to perfect the Lender's security interest in any real or personal property pledged by the Borrower as security for the Loan.

IN WITNESS WHEREOF, the City and the Borrower have caused this Agreement to be executed in their respective names all as of the date first above written.

CITY OF NORTH MANKATO, MINNESOTA

By _____
Mayor

By _____
City Administrator

Loan Agreement between the City of North Mankato, Minnesota and
Bethany Lutheran College, Inc., of Mankato, Minnesota

BETHANY LUTHERAN COLLEGE, INC., OF
MANKATO, MINNESOTA

By _____
Its _____

By _____
Its _____

Loan Agreement between the City of North Mankato, Minnesota and
Bethany Lutheran College, Inc., of Mankato, Minnesota

EXHIBIT A

FORM OF COMPLIANCE CERTIFICATE

The undersigned, certifies as follows to Bremer Bank, National Association (the "Lender"), with reference to that certain Loan Agreement dated as of December 1, 2019 (the "Loan Agreement") between Bethany Lutheran College, Inc. (the "Borrower") and the City of North Mankato, Minnesota (the "City") (any capitalized terms used herein and not defined shall have its respective meaning as set forth in the Loan Agreement):

1. The undersigned has made a review of all activities of the Borrower during the preceding fiscal year ended _____, 20__, for the purpose of determining whether or not the Borrower has complied with all of the terms, provisions and conditions of the Loan Agreement.

2. To the best of the undersigned's knowledge, the Borrower has kept, observed, performed and fulfilled each and every covenant, provision and condition in the Loan Agreement (including, without limitation, those financial covenants set forth in Article IV of the Loan Agreement as calculated below) on their part to be performed and no Event of Default or Default has occurred.

3. Calculation of Financial Covenants:

(a) Debt Service Coverage Ratio

Calculation:

Sum of:

(a) Change in Unrestricted Net Assets _____

(b) Plus depreciation expense _____

(c) Plus amortization expense _____

(d) Plus interest expense _____

(e) Plus unrealized losses _____

(f) Less unrealized gains _____

Total _____

Divided by the sum of:

(x) Prior year current maturities of long-term debt _____

(y) Plus current year interest expense _____

Total _____

Debt Service Coverage Ratio:

_____ to 1.00

Covenant Requirement:

1.25 to 1.00

Compliance? (circle one): YES NO

All amounts and calculations set forth in this Certificate are accurate and complete in all material respects and are made in accordance with the Loan Agreement.

IN WITNESS WHEREOF, the Borrower has executed and delivered this Certificate as of
the _____ day of _____, 20____.

BETHANY LUTHERAN COLLEGE, INC.

By _____
Name _____
Title _____

PLEDGE AGREEMENT

This Pledge Agreement is made as of December 1, 2019 between the City of North Mankato, Minnesota, a municipal corporation (the "Issuer"), and Bremer Bank, National Association, a national banking association (the "Lender").

Recitals

WHEREAS, Bethany Lutheran College, Inc., a Minnesota nonprofit corporation (the "Borrower") and the Issuer have entered into a Loan Agreement (the "Loan Agreement") of even date herewith, pursuant to which the Issuer will lend to the Borrower the proceeds of the \$5,300,000 Educational Facility Revenue Refunding Note, Series 2019 (Bethany Lutheran College, Inc. Project) (the "Note"); and

WHEREAS, the Note is to be payable from and secured by the loan repayments to be made by the Borrower under the Loan Agreement; and the Lender, as a condition to the purchase of the Note, has required the execution of this Pledge Agreement.

NOW THEREFORE, as an inducement to the Lender to purchase the Note, and in consideration of the promises and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties hereby agree as follows:

1. In order to secure the due and punctual payment of the Note and all other sums due the Lender under the Loan Agreement, the Issuer does hereby pledge and assign to the Lender all of the Issuer's right, title and interest in and to the Loan Agreement, subject to the Issuer's rights under the provisions of Section 7.9 thereof.

2. [Reserved.]

3. The Issuer hereby authorizes the Lender to exercise, whether or not a default exists under the Note or an Event of Default has occurred under the Loan Agreement, either in the Issuer's name or the Lender's name, any and all rights or remedies available to the Issuer under the Loan Agreement. The Issuer agrees, on request of the Lender, to execute and deliver to the Lender such other documents or instruments as shall be deemed necessary or appropriate by the Lender at any time to confirm or perfect the security interest hereby granted. The Issuer hereby appoints the Lender its attorney-in-fact to execute on behalf of the Issuer, and in its name, any and all such assignments, financing statements or other documents or instruments which the Lender may deem necessary or appropriate to perfect, protect or enforce the security interest hereby granted.

4. The Issuer will not:

(a) exercise or attempt to exercise any remedies under the Loan Agreement, except as permitted by Sections 6.2 and 7.9 of the Loan Agreement, or terminate, modify or accept a surrender of the same, or by affirmative act, consent to the creation or existence of any security interest or other lien in the Loan Agreement to secure payment of any other indebtedness; or

(b) receive or collect or permit the receipt or collection of any payments, receipts, rentals, profits or other moneys under the Loan Agreement (except as allowed under Section 7.9 thereof) or assign, transfer or hypothecate (other than to the Lender hereunder) any of the same then due or to accrue in the future.

5. The Issuer expressly covenants and agrees that the Lender shall be entitled to receive all payments under the Loan Agreement (except any payments due the Issuer under Section 7.9 thereof), and hereby authorizes and directs the Borrower to make such payments directly to the Lender. The Lender covenants and agrees that all payments received by the Lender pursuant to the Loan Agreement shall be applied as provided in the Loan Agreement.

6. The Lender agrees to advance the purchase price of the Note directly to the Borrower as provided in the Note and the Loan Agreement. In accordance with Section 7.9 of the Loan Agreement the Lender hereby assumes the Issuer's and Lender's obligations to the Borrower thereunder except for the Issuer's obligations in connection with its representations in Section 2.1 of the Loan Agreement which are not being assumed.

7. If an Event of Default (as defined in the Loan Agreement) shall occur, and not cured within an applicable cure period, and be continuing, the Lender may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, in addition to any other remedy at law or in equity or specified in the Loan Agreement, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) The Lender may, without prior notice of any kind declare the principal of and interest accrued and any premium (as described in the Loan Agreement) on the Note immediately due and payable.

(b) The Lender may exercise any rights and remedies and options of a secured party under the Uniform Commercial Code as adopted in the State of Minnesota and any and all rights available to it under the Loan Agreement securing payment of the Note.

8. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Pledge Agreement contained by or on behalf of the Issuer or the Lender shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

9. The unenforceability or invalidity of any provision or provisions of this Pledge Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

10. This Pledge Agreement shall in all respects be construed in accordance with and governed by the laws of the State of Minnesota. This Pledge Agreement may not be amended or modified except in writing signed by the Issuer and the Lender.

11. This Pledge Agreement may be executed, acknowledged and delivered in any number of counterparts and each of such counterparts shall constitute an original but all of which together shall constitute one agreement.

12. The terms used in this Pledge Agreement which are defined in the Loan Agreement shall have the meanings specified therein, unless the context of this Pledge Agreement otherwise requires, or unless such terms are otherwise defined herein.

13. No obligation of the Issuer hereunder shall constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers, but shall be payable solely out of the proceeds and the revenues derived under the Loan Agreement.

IN WITNESS WHEREOF, the Issuer and the Lender have caused this Pledge Agreement to be duly executed as of the day and year first above written.

CITY OF NORTH MANKATO, MINNESOTA

By _____
Mayor

By _____
City Administrator

Signature page to Pledge Agreement

Bremer Bank, National Association

By _____
Vice President

Signature page to Pledge Agreement

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "Agreement") is made and entered into as of December 1, 2019, among BETHANY LUTHERAN COLLEGE, INC., OF MANKATO, MINNESOTA, a Minnesota nonprofit corporation (the "Debtor"), whose address is 700 Luther Drive, Mankato, Minnesota 56001 and BREMER BANK, NATIONAL ASSOCIATION, a national banking association, whose address is 1290 Raintree Road, Mankato, Minnesota 56001 (hereinafter called the "Secured Party").

RECITALS:

- A. The City of North Mankato, Minnesota, a political subdivision of the State of Minnesota (the "Issuer") has agreed to issue its Educational Facility Revenue Note, Series 2019 (Bethany Lutheran College Project) in the original principal amount of \$5,300,000.00 (together with any amendment, modification, replacement or renewal thereof, the "Note") dated as of the date hereof, pursuant to Minnesota Statutes, Sections 469.152 through 469.165, as amended, and the Secured Party has agreed to purchase the Note; and
- B. The Issuer will loan the proceeds of the Note (the "Loan") to the Debtor pursuant to the terms of a Loan Agreement dated as of the date hereof (together with any amendment or modification thereto, the "Loan Agreement"); and
- C. The Note is to be payable from and secured by the loan repayments to be made by the Debtor under the Loan Agreement; and the Secured Party, as a condition to the purchase of the Note, has required that the Issuer pledge to the Secured Party all of the Issuer's right, title and interest in and to the Loan Agreement pursuant to a Pledge Agreement dated as of the date hereof between the Issuer and the Secured Party; and
- D. The Secured Party has also required, as a condition to the purchase of the Note, that the Debtor secure its obligations under the Loan Agreement and the Note with this Agreement. The Note, the Loan Agreement and the other documents evidencing and/or securing the Loan are referred to herein collectively as the "Loan Documents".

NOW, THEREFORE, in consideration of the premises contained herein, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Debtor, the Debtor hereby covenants and agrees with the Secured Party as follows:

- 1. GRANT OF SECURITY INTEREST. The Debtor grants to the Secured Party a first position lien on and security interest in, and acknowledges and agrees that the Secured Party has and shall continue to have a continuing lien on and security interest in, all right, title and interest of the Debtor, whether now owned or existing or hereafter created, acquired or arising, in and to all of the following:

All Assets of the Debtor, including, but not limited to, the following:

- (a) all Fixtures, Equipment (including all software, whether or not the same constitutes embedded software, used in the operation thereof), vehicles and personal property of every kind and nature whatsoever now owned or hereafter owned, including all

extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing **[but excluding therefrom the sacred objects which shall include the following: _____]**;

- (b) all Accounts (including Health-Care Insurance Receivables, if any but specifically excluding gifts, grants, bequests, donations, contributions or pledges designated at the time of the making thereof by the donor(s) as being made for specific purposes which precludes use for payment of the Loan), Chattel Paper, Instruments (including Promissory Notes), Documents, Letter-of-Credit Rights, Supporting Obligations, Deposit Accounts, Investment Property (including certificated and uncertificated Securities, Securities Accounts, Security Entitlements, Commodity Accounts, and Commodity Contracts), Commercial Tort Claims or other claims, General Intangibles (including Payment Intangibles and Software, patents, trademarks, tradestyles, copyrights, and all other intellectual property rights, including all applications, registration, and licenses therefor, and all goodwill of the business connected therewith or represented thereby), rights to merchandise and other Goods (including rights to returned or repossessed Goods and rights of stoppage in transit) which is represented by, arises from, or relates to any of the foregoing, monies, personal property, and interests in personal property of the Debtor of any kind or description now held by the Secured Party or at any time hereafter transferred or delivered to, or coming into the possession, custody, or control of, the Secured Party, or any agent or affiliate of the Secured Party, whether expressly as collateral security or for any other purpose (whether for safekeeping, custody, collection or otherwise), and all dividends and distributions on or other rights in connection with any such property;
- (c) all Inventory now owned or hereafter owned;
- (d) Supporting evidence and documents relating to any of the above-described property, including, without limitation, computer programs, disks, tapes and related electronic data processing media, and all rights of the Debtor to retrieve the same from third parties, written applications, credit information, account cards, payment records, correspondence, delivery and installation certificates, invoice copies, delivery receipts, notes, and other evidences of indebtedness, insurance certificates and the like, together with all books of account, ledgers, and cabinets in which the same are reflected or maintained;
- (e) Accessions and additions to, and substitutions and replacements of, any and all of the foregoing; and
- (f) all insurance, condemnation and other products or proceeds of the foregoing.

The above-described property is hereinafter collectively referred to as the "Collateral".

All terms which are used in this Agreement which are defined in the Uniform Commercial Code of the State of Minnesota as in effect from time to time ("UCC") shall have the same meanings herein as such terms are defined in the UCC, unless this Agreement shall

otherwise specifically provide. For purposes of this Agreement, the term "Receivables" means all rights to the payment of a monetary obligation, whether or not earned by performance, and whether evidenced by an Account, Chattel Paper, Instrument, General Intangible, or otherwise.

2. OBLIGATIONS SECURED. The lien and security interest herein granted and provided for is made and given to secure, and shall secure, the payment and performance of (a) the indebtedness evidenced by the Note, the Loan Agreement and any and all other indebtedness, obligations, and liabilities of whatsoever kind and nature of the Debtor to the Secured Party (whether arising before or after the filing of a petition in bankruptcy and including, without limitation, interest which but for the filing of a petition in bankruptcy would accrue on such obligations), whether direct or indirect, absolute or contingent, due or to become due, and whether now existing or hereafter arising and howsoever held, evidenced, or acquired, and whether several, joint or joint and several (collectively, the "Borrower Debt"), (b) any and all indebtedness, obligations, and liabilities of the Debtor to the Secured Party (whether arising before or after the filing of a petition in bankruptcy and including, without limitation, interest which but for the filing of a petition in bankruptcy would accrue on such obligations) under or related to any part of the Borrower Debt, whether such indebtedness, obligations, and liabilities of the Debtor are due or to become due, and whether now existing or hereafter arising and whether several, joint or joint and several, and (c) any and all expenses and charges, legal or otherwise, suffered or incurred by the Secured Party in collecting or enforcing any of such indebtedness, obligations or liabilities or in realizing on or protecting or preserving any security therefor, including, without limitation, the lien and security interest granted hereby (all of the foregoing being hereinafter referred to collectively as the "Obligations").
3. COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES. The Debtor hereby covenants and agrees with, and represents and warrants to, the Secured Party that:
 - (a) The Debtor is a nonprofit corporation duly organized and validly existing under the laws of the State of Minnesota. The Debtor shall not change the Debtor's jurisdiction of organization without the Secured Party's prior written consent. The Debtor is the sole and lawful owner of the Collateral, and has full right, power and authority to enter into this Agreement and to perform each and all of the matters and things herein provided for. The execution and delivery of this Agreement, and the observance and performance of each of the matters and things herein set forth, will not (i) contravene or constitute a default under any provision of law or any judgment, injunction, order or decree binding upon the Debtor or any provision of the Debtor's corporate or organizational documents (e.g., articles of incorporation, by-laws, articles of organization, operating agreement, or similar organizational documents) or any covenant, indenture or agreement of or affecting the Debtor or any of the Debtor's property or (ii) result in the creation or imposition of any lien or encumbrance on any property of the Debtor except for the lien and security interest granted to the Secured Party hereunder.

- (b) The Debtor shall take all action requested by the Secured Party to maintain the lien and security interest of the Secured Party in the Collateral at all times fully perfected and in full force and effect.
- (c) The Debtor's legal name and jurisdiction of organization is correctly set forth in the first paragraph of this Agreement. The Debtor shall not change its legal name or transact business under any other trade name without first giving sixty (60) days' prior written notice of its intent to do so to the Secured Party.
- (d) The Collateral and every part thereof is and shall be free and clear of all security interests, liens (including, without limitation, mechanics', laborers' and statutory liens), attachments, levies, and encumbrances of every kind, nature and description, whether voluntary or involuntary, except for the lien and security interest of the Secured Party therein. The Debtor shall warrant and defend the Collateral against any claims and demands of all persons at any time claiming the same or any interest in the Collateral adverse to the Secured Party.
- (e) The Debtor shall promptly pay when due all taxes, assessments and governmental charges and levies upon or against the Debtor or any of the Collateral, in each case before the same become delinquent and before penalties accrue thereon, unless and to the extent that the same are being contested in good faith by appropriate proceedings which prevent foreclosure or other realization upon any of the Collateral and preclude interference with the operation of the Debtor's business in the ordinary course, and the Debtor shall have established adequate reserves therefor.
- (f) The Debtor shall not use, manufacture, sell, or distribute any Collateral in violation of any statute, ordinance, or other governmental requirement. The Debtor shall not waste or destroy the Collateral or any part thereof or be negligent in the care or use of any Collateral. The Debtor shall perform its obligations under any contract or other agreement constituting part of the Collateral, it being understood and agreed that the Secured Party has no responsibility to perform such obligations.
- (g) Subject to Sections 4(b), 6(b), 6(c), and 7(c) hereof, the Debtor shall not, without the Secured Party's prior written consent, sell, assign, mortgage, lease or otherwise dispose of the Collateral or any interest therein, except in the ordinary course of the Debtor's operation.
- (h) The Debtor shall at all times insure the Collateral consisting of tangible personal property against such risks and hazards as other persons similarly situated insure against, and including in any event loss or damage by fire, theft, burglary, pilferage, loss in transit and such other hazards as the Secured Party may specify. All insurance required hereby shall be maintained in amounts and under policies and with insurers acceptable to the Secured Party, and all such policies shall contain loss payable clauses naming the Secured Party as loss payee as its interest may appear (and, if the Secured Party requests, naming the Secured Party as an additional insured therein) in a form acceptable to the Secured Party. All premiums

on such insurance shall be paid by the Debtor. Certificates of insurance evidencing compliance with the foregoing shall be provided to the Secured Party in accordance with the terms and conditions of the Loan Agreement. In case of any material loss, damage to, or destruction of the Collateral or any part thereof, the Debtor shall promptly give written notice thereof to the Secured Party generally describing the nature and extent of such damage or destruction. In case of any loss, damage to or destruction of the Collateral or any part thereof, the Debtor, whether or not the insurance proceeds, if any, received on account of such damage or destruction shall be sufficient for that purpose, at the Debtor's cost and expense, shall promptly repair or replace the Collateral so lost, damaged, or destroyed. In the event the Debtor shall receive any proceeds of such insurance, the Debtor shall apply such proceeds to the repair or replacement of the Collateral. Excess insurance proceeds received by the Secured Party under the provisions hereof or under any policy of insurance covering the Collateral or any part thereof shall be applied to the reduction of the Obligations (whether or not then due); provided, however, that the Secured Party may in its sole discretion release any or all such insurance proceeds to the Debtor. All insurance proceeds shall be subject to the lien and security interest of the Secured Party hereunder.

Unless the Debtor provides the Secured Party with evidence of the insurance coverage required by this Agreement, the Secured Party may purchase insurance at the Debtor's expense to protect the Secured Party's interests in the Collateral. This insurance may, but need not, protect the Debtor's interests in the Collateral. The coverage purchased by the Secured Party may not pay any claims that the Debtor makes or any claim that is made against the Debtor in connection with the Collateral. The Debtor may later cancel any such insurance purchased by the Secured Party, but only after providing the Secured Party with evidence that the Debtor has obtained insurance as required by this Agreement. If the Secured Party purchases insurance for the Collateral, the Debtor will be responsible for the costs of that insurance, including interest and any other charges that the Secured Party may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations secured hereby. The costs of the insurance may be more than the cost of insurance the Debtor may be able to obtain on its own.

- (i) The Debtor shall at all times allow the Secured Party and its representatives free access to and right of inspection of the Collateral; provided that, unless the Secured Party believes in good faith an Event of Default exists, or any other event or condition which with the lapse of time or the giving of notice, or both, would constitute an Event of Default, any such access or inspection shall only be required during the Debtor's normal business hours.
- (j) If any Collateral is in the possession or control of any of the Debtor's agents or processors and the Secured Party so requests, the Debtor agrees to notify such agents or processors in writing of the Secured Party's security interest therein and instruct them to hold all such Collateral for the Secured Party's account and subject to the Secured Party's instructions. The Debtor shall, upon the request of the

Secured Party, authorize and instruct all bailees and other parties, if any, at any time processing, labeling, packaging, holding, storing, shipping or transferring all or any part of the Collateral to permit the Secured Party and its representatives to examine and inspect any of the Collateral then in such party's possession and to verify from such party's own books and records any information concerning the Collateral or any part thereof which the Secured Party or its representatives may seek to verify. As to any premises not owned by the Debtor wherein any of the Collateral is located, the Debtor shall, at the Secured Party's request, cause each party having any right, title or interest in, or lien on, any of such premises to enter into an agreement (any such agreement to contain a legal description of such premises) whereby such party disclaims any right, title and interest in, and lien on, the Collateral and allows the removal of such Collateral by the Secured Party and is otherwise in form and substance acceptable to the Secured Party.

- (k) The Debtor shall comply with the terms and conditions of all leases, easements, and other similar agreements binding upon the Debtor or affecting the Collateral or any part thereof, and all orders, ordinances, laws and statutes of any city, state or other governmental entity, department, or agency having jurisdiction with respect to the premises wherein such Collateral is located or the conduct of business thereon.
- (l) The Debtor agrees to execute and deliver to the Secured Party such information requested by the Secured Party, promptly upon becoming aware of any other Commercial Tort Claim held or maintained by the Debtor arising after the date hereof (provided the Debtor's failure to do so shall not impair the Secured Party's security interest therein).
- (m) The Debtor agrees to execute and deliver to the Secured Party such further agreements, assignments, instruments, and documents and to do all such other things as the Secured Party may deem necessary or appropriate to assure the Secured Party its lien and security interest hereunder, including, without limitation, such financing statements and amendments thereof or supplements thereto, and such other instruments and documents as the Secured Party may from time to time require in order to comply with the UCC and any other applicable law. The Debtor hereby agrees that a carbon, photographic or other reproduction of this Agreement or any such financing statement is sufficient for filing as a financing statement by the Secured Party without notice thereof to the Debtor wherever the Secured Party in its sole discretion desires to file the same. The Debtor hereby authorizes the Secured Party to file any and all financing statements covering the Collateral or any part thereof as the Secured Party may require, including financing statements describing the Collateral as "all assets" or "all personal property" or words of like meaning except those sacred objects specified in Section 1(a) of this Agreement and gifts, grants, bequests, donations, contributions or pledges specified in Section 1(b) of this Agreement. The Secured Party may order lien searches from time to time against the Debtor and the Collateral, and the Debtor shall promptly reimburse the Secured Party for all costs and expenses incurred in connection with such lien searches. In the event for any reason the law of any jurisdiction other than Minnesota becomes or is applicable to the Collateral or any part thereof, or to any

of the Obligations, the Debtor agrees to execute and deliver all such instruments and documents and to do all such other things as the Secured Party in its sole discretion deems necessary or appropriate to preserve, protect, and enforce the lien and security interest of the Secured Party under the law of such other jurisdiction.

- (n) On failure of the Debtor to perform any of the covenants and agreements contained herein, the Secured Party may, at its option, perform the same and in so doing may expend such sums as the Secured Party may deem advisable in the performance thereof, including, without limitation, the payment of any insurance premiums, the payment of any taxes, liens and encumbrances, expenditures made in defending against any adverse claims, and all other expenditures which the Secured Party may be compelled to make by operation of law or which the Secured Party may make by agreement or otherwise for the protection of the security hereof. All such sums and amounts so expended shall be repayable by the Debtor to the Secured Party immediately without notice or demand, shall constitute additional Obligations secured hereunder and shall bear interest from the date said amounts are expended at the rate per annum (computed on the basis of a [360-day] year for the actual number of days elapsed) determined by **adding 5.0% to the rate per annum from time to time announced or otherwise established by the Secured Party as its prime commercial rate with any change in such rate per annum as so determined by reason of a change in such prime commercial rate to be effective on the date of such change in said prime commercial rate (such rate per annum as so determined being hereinafter referred to as the "Default Rate")**]. No such performance of any covenant or agreement by the Secured Party on behalf of the Debtor, and no such advancement or expenditure therefor, shall relieve the Debtor of any default under the terms of this Agreement or in any way obligate the Secured Party to take any further or future action with respect thereto. The Secured Party, in making any payment hereby authorized, may do so according to any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim. The Secured Party, in performing any act hereunder, shall be the sole judge of whether the Debtor is required to perform same under the terms of this Agreement. The Secured Party is hereby authorized to charge any account of the Debtor maintained with the Secured Party for the amount of such sums and amounts so expended.
- (o) The Debtor possesses adequate licenses, certificates, permits, franchises, patents, copyrights, trademarks and trade names, or rights thereto, to conduct its business as presently conducted and as proposed to be conducted.

4. SPECIAL PROVISIONS REGARDING INVENTORY AND EQUIPMENT.

- (i) The Debtor shall at its own cost and expense maintain, keep and preserve the Inventory in good and merchantable condition and keep and preserve the Equipment in good repair, working order and condition, ordinary wear and tear excepted, and, without limiting the foregoing, make all necessary and proper

repairs, replacements and additions to the Equipment so that the efficiency thereof shall be fully preserved and maintained.

- (ii) The Debtor may, until an Event of Default has occurred and is continuing and thereafter until otherwise notified by the Secured Party, use, consume and sell the Inventory in the ordinary course of its business, but a sale in the ordinary course of business shall not under any circumstance include any transfer or sale in satisfaction, partial or complete, of a debt owing by the Debtor.
- (iii) The Debtor may, until an Event of Default has occurred and is continuing and thereafter until otherwise notified by the Secured Party, sell (i) obsolete, worn out or unusable Equipment which is concurrently replaced with similar Equipment at least equal in quality and condition to that sold and owned by the Debtor free of any lien, charge or encumbrance other than the security interest granted hereby and (ii) Equipment which is not necessary for or of importance to the proper conduct of the Debtor's business in the ordinary course which, when taken together with all other Equipment not repaired or replaced pursuant to the terms of this Agreement during the immediately preceding 12 months, has an aggregate fair market value of less than \$5,000.00.
- (iv) As of the time any Inventory or Equipment becomes subject to the security interest provided for hereby and at all times thereafter, the Debtor shall be deemed to have warranted as to any and all of such Inventory and Equipment that all warranties of the Debtor set forth in this Agreement are true and correct with respect to such Inventory and Equipment; and that, in the case of Inventory, such Inventory is new and unused and in good and merchantable condition. The Debtor warrants and agrees that no Inventory is or will be consigned to any other person without the Secured Party's prior written consent.
- (v) Upon the Secured Party's request, the Debtor shall at its own cost and expense cause the lien of the Secured Party in and to any portion of the Collateral subject to a certificate of title law to be duly noted on such certificate of title or to be otherwise filed in such manner as is prescribed by law in order to perfect such lien and shall cause all such certificates of title and evidences of lien to be deposited with the Secured Party.
- (vi) None of the Equipment is or will be attached to real estate in such a manner that the same may become a fixture.
- (vii) If any of the Inventory is at any time evidenced by a document of title, such document shall be promptly delivered by the Debtor to the Secured Party except to the extent the Secured Party specifically requests the Debtor not to do so with respect to any such document.

5. SPECIAL PROVISIONS REGARDING INVESTMENT PROPERTY AND DEPOSIT.

- (a) Unless and until an Event of Default has occurred and is continuing and thereafter until notified to the contrary by the Secured Party pursuant to Section 9.A hereof:

- (i) the Debtor shall be entitled to exercise all voting and/or consensual powers pertaining to the Investment Property or any part thereof, for all purposes not inconsistent with the terms of this Agreement or any other document evidencing or otherwise relating to any Obligations; and
 - (ii) the Debtor shall be entitled to receive and retain all cash dividends paid upon or in respect of the Investment Property.
 - (b) The Debtor represents that on the date of this Agreement, none of the Investment Property consists of margin stock (as such term is defined in Regulation U of the Board of Governors of the Federal Reserve System) except to the extent the Debtor has delivered to the Secured Party a duly executed and completed Form U-1 with respect to such stock. If at any time the Investment Property or any part thereof consists of margin stock, the Debtor shall promptly so notify the Secured Party and deliver to the Secured Party a duly executed and completed Form U-1 and such other instruments and documents reasonably requested by the Secured Party in form and substance satisfactory to the Secured Party.
 - (c) Notwithstanding anything to the contrary contained herein, in the event any Investment Property is subject to the terms of a separate security agreement in favor of the Secured Party, the terms of such separate security agreement shall govern and control unless otherwise agreed to in writing by the Secured Party.
 - (d) The Debtor shall promptly notify the Secured Party of any Deposit Account opened or maintained by the Debtor on or after the date hereof that is not maintained with the Secured Party, and shall submit to the Secured Party such information as Secured Party shall request to reflect such additional accounts (provided the Debtor's failure to do so shall not impair the Secured Party's security interest therein).
6. POWER OF ATTORNEY. In addition to any other powers of attorney contained herein, the Debtor hereby appoints the Secured Party, its nominee, and any other person whom the Secured Party may designate, as the Debtor's attorney-in-fact, with full power and authority upon the occurrence of any Event of Default to sign the Debtor's name on verifications of Receivables and other Collateral; to send requests for verification of Collateral to the Debtor's account debtors and other obligors; to endorse the Debtor's name on any checks, notes, acceptances, money orders, drafts and any other forms of payment or security that may come into the Secured Party's possession or on any assignments, stock powers, or other instruments of transfer relating to the Collateral or any part thereof; to sign the Debtor's name on any invoice or bill of lading relating to any Collateral, on claims to enforce collection of any Collateral, on notices to and drafts against customers and account debtors and other obligors, on schedules and assignments of Collateral, on notices of assignment and on public records; to notify the post office authorities to change the address for delivery of the Debtor's mail to an address designated by the Secured Party; to receive, open and dispose of all mail addressed to the Debtor; and to do all things necessary to carry out this Agreement. The Debtor hereby ratifies and approves all acts of any such attorney and agrees that neither the Secured Party nor any such attorney will be liable for any acts

or omissions nor for any error of judgment or mistake of fact or law other than such person's negligence or willful misconduct. The Secured Party may file one or more financing statements disclosing its security interest in any or all of the Collateral without the Debtor's signature appearing thereon. The Debtor also hereby grants the Secured Party a power of attorney to execute any such financing statements, or amendments and supplements to financing statements, on behalf of the Debtor without notice thereof to the Debtor. The foregoing powers of attorney, being coupled with an interest, are irrevocable until the Obligations have been fully paid and satisfied and all agreements of the Secured Party to extend credit to or for the account of the Debtor have expired or otherwise have been terminated.

7. DEFAULTS AND REMEDIES. The occurrence of an Event of Default (as defined in the Loan Agreement) shall constitute an "Event of Default" under this Agreement.

- A. Upon the occurrence of an Event of Default, the Secured Party shall have, in addition to all other rights provided herein or by law, the rights and remedies of a secured party under the UCC (regardless of whether the UCC is the law of the jurisdiction where the rights or remedies are asserted and regardless of whether the UCC applies to the affected Collateral), and further the Secured Party may sell and deliver all or any part of the Collateral (and any other property of the Debtor attached thereto or found therein) held by or for it at public or private sale, for cash, upon credit or otherwise, at such prices and upon such terms as the Secured Party deems advisable, in its sole discretion. In addition to all other sums due the Secured Party hereunder, the Debtor shall pay the Secured Party all costs and expenses incurred by the Secured Party, including attorneys' fees and court costs, in obtaining, liquidating or enforcing payment of Collateral or the Obligations or in the prosecution or defense of any action or proceeding by or against the Secured Party or the Debtor concerning any matter arising out of or connected with this Agreement or the Collateral or the Obligations, including, without limitation, any of the foregoing arising in, arising under or related to a case under the United States Bankruptcy Code (or any successor statute). Any requirement of reasonable notice shall be met if such notice is personally served on or mailed, postage prepaid, to the Debtor in accordance with Section 12(b) hereof at least ten (10) days before the time of sale or other event giving rise to the requirement of such notice; provided however, no notification need be given to the Debtor if the Debtor has signed, after an Event of Default has occurred, a statement renouncing any right to notification of sale or other intended disposition. The Secured Party shall not be obligated to make any sale or other disposition of the Collateral regardless of notice having been given. The Secured Party may be the purchaser at any such sale. The Debtor hereby waives all of its rights of redemption from any such sale. The Secured Party may postpone or cause the postponement of the sale of all or any portion of the Collateral by announcement at the time and place of such sale, and such sale may, without further notice, be made at the time and place to which the sale was postponed or the Secured Party may further postpone such sale by announcement made at such time and place. The Secured Party has no obligation to prepare the Collateral for sale. The Secured Party may sell or otherwise dispose of the Collateral without giving any warranties as to the Collateral or any part thereof, including disclaimers

of any warranties of title or the like, and the Debtor acknowledges and agrees that the absence of such warranties shall not render the disposition commercially unreasonable.

Without in any way limiting the foregoing, upon the occurrence of any Event of Default:

- (i) the Secured Party shall have the right, in addition to all other rights provided herein or by law, to take physical possession of any and all of the Collateral and anything found therein, the right for that purpose to enter without legal process any premises where the Collateral may be found (provided such entry be done lawfully), and the right to maintain such possession on the Debtor's premises (the Debtor hereby agreeing to lease such premises without cost or expense to the Secured Party or its designee if the Secured Party so requests) or to remove the Collateral or any part thereof to such other places as the Secured Party may desire. Upon the occurrence of any Event of Default, the Secured Party shall have the right to exercise any and all rights with respect to all Deposit Accounts of the Debtor, including, without limitation, the right to direct the disposition of the funds in each Deposit Account and to collect, withdraw and receive all amounts due or to become due or payable under each such Deposit Account. Upon the occurrence of any Event of Default, the Debtor shall, upon the Secured Party's demand, promptly assemble the Collateral and make it available to the Secured Party at a place designated by the Secured Party. If the Secured Party exercises its right to take possession of the Collateral, the Debtor shall also at its expense perform any and all other steps requested by the Secured Party to preserve and protect the security interest hereby granted in the Collateral, such as placing and maintaining signs indicating the security interest of the Secured Party, appointing overseers for the Collateral and maintaining Collateral records.
- (ii) all rights of the Debtor to exercise the voting and/or consensual powers which it is entitled to exercise pursuant to Section 7(a)(i) hereof and/or to receive and retain the distributions which it is entitled to receive and retain pursuant to Section 7(a)(ii) hereof, shall, at the option of the Secured Party, cease and thereupon become vested in the Secured Party, which, in addition to all other rights provided herein or by law, shall then be entitled solely and exclusively to exercise all voting and other consensual powers pertaining to the Investment Property (including, without limitation, the right to deliver notice of control with respect to any Investment Property held in a securities account or commodity account and deliver all entitlement orders with respect thereto) and/or to receive and retain the distributions which the Debtor would otherwise have been authorized to retain pursuant to Section 7(a)(ii) hereof and shall then be entitled solely and exclusively to exercise any and all rights of conversion, exchange or subscription or any other rights, privileges or options pertaining to any Investment Property as if the Secured Party were the absolute owner thereof. Without limiting the

foregoing, the Secured Party shall have the right to exchange, at its discretion, any and all of the Investment Property upon the merger, consolidation, reorganization, recapitalization or other readjustment of the respective issuer thereof or upon the exercise by or on behalf of any such issuer or the Secured Party of any right, privilege or option pertaining to any Investment Property and, in connection therewith, to deposit and deliver any and all of the Investment Property with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as the Secured Party may determine. In the event the Secured Party in good faith believes any of the Collateral constitutes restricted securities within the meaning of any applicable securities laws, any disposition thereof in compliance with such laws shall not render the disposition commercially unreasonable.

- B. Without in any way limiting the foregoing, the Debtor hereby grants to the Secured Party a royalty-free irrevocable license and right to use all of the Debtor's patents, patent applications, patent licenses, trademarks, trademark registrations, trademark licenses, trade names, trade styles, copyrights, copyright applications, copyright licenses, and similar intangibles in connection with any foreclosure or other realization by the Secured Party on all or any part of the Collateral. The license and right granted the Secured Party hereby shall be without any royalty or fee or charge whatsoever.
- C. The powers conferred upon the Secured Party hereunder are solely to protect its interest in the Collateral and shall not impose on it any duty to exercise such powers. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession or control if such Collateral is accorded treatment substantially equivalent to that which the Secured Party accords its own property, consisting of similar type assets, it being understood, however, that the Secured Party shall have no responsibility for ascertaining or taking any action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any such Collateral, whether or not the Secured Party has or is deemed to have knowledge of such matters. This Agreement constitutes an assignment of rights only and not an assignment of any duties or obligations of the Debtor in any way related to the Collateral, and the Secured Party shall have no duty or obligation to discharge any such duty or obligation. The Secured Party shall have no responsibility for taking any necessary steps to preserve rights against any parties with respect to any Collateral or initiating any action to protect the Collateral against the possibility of a decline in market value. Neither the Secured Party nor any party acting as attorney for the Secured Party shall be liable for any acts or omissions or for any error of judgment or mistake of fact or law other than their gross negligence or willful misconduct.
- D. Failure by the Secured Party to exercise any right, remedy or option under this Agreement or any other agreement between the Debtor and the Secured Party or provided by law, or delay by the Secured Party in exercising the same, shall not operate as a waiver; and no waiver by the Secured Party shall be effective unless it

is in writing and then only to the extent specifically stated. The rights and remedies of the Secured Party under this Agreement shall be cumulative and not exclusive of any other right or remedy which the Secured Party may have.

8. APPLICATION OF PROCEEDS. The proceeds and avails of the Collateral at any time received by the Secured Party after the occurrence of any Event of Default shall, when received by the Secured Party in cash or its equivalent, be applied by the Secured Party as follows:

- (i) first, to the payment and satisfaction of all sums paid and costs and expenses incurred by the Secured Party hereunder or otherwise in connection herewith, including such monies paid or incurred in connection with protecting, preserving or realizing upon the Collateral or enforcing any of the terms hereof, including attorneys' fees and court costs, together with any interest thereon (but without preference or priority of principal over interest or of interest over principal), to the extent the Secured Party is not reimbursed therefor by the Debtor; and
- (ii) second, to the payment and satisfaction of the remaining Obligations, whether or not then due (in whatever order the Secured Party elects), both for interest and principal.

The Debtor shall remain liable to the Secured Party for any deficiency. Any surplus remaining after the full payment and satisfaction of the foregoing shall be returned to the Debtor or to whomsoever the Secured Party reasonably determines is lawfully entitled thereto.

9. CONTINUING AGREEMENT. This Agreement shall be a continuing agreement in every respect and shall remain in full force and effect until all of the Obligations, both for principal and interest, have been fully paid and satisfied and all agreements of the Secured Party to extend credit to or for the account of the Debtor have expired or otherwise have been terminated. Upon such termination of this Agreement, the Secured Party shall, upon the request and at the expense of the Debtor, forthwith release its security interest hereunder.

10. MISCELLANEOUS.

- (a) This Agreement cannot be changed or terminated orally. All of the rights, privileges, remedies and options given to the Secured Party hereunder shall inure to the benefit of its successors and assigns, and all the terms, conditions, covenants, agreements, representations and warranties of and in this Agreement shall bind the Debtor and its respective legal representatives, successors and assigns, provided that the Debtor may not assign its rights or delegate its duties hereunder without the Secured Party's prior written consent.
- (b) Except as otherwise specified herein, all notices hereunder shall be in writing (including, without limitation, notice by telecopy) and shall be given to the relevant party at its address set forth on the first page of this Agreement, or such other address as such party may hereafter specify by notice to the other given by courier,

by United States certified or registered mail. Each such notice, request or other communication shall be effective (i) if given by mail, five (5) days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid or (ii) if given by any other means, when delivered at the addresses specified in this Section 12(b).

- (c) The lien and security interest herein created and provided for stand as direct and primary security for the Obligations. No application of any sums received by the Secured Party in respect of the Collateral or any disposition thereof to the reduction of the Obligations or any part thereof shall in any manner entitle the Debtor to any right, title or interest in or to the Obligations or any collateral or security therefor, whether by subrogation or otherwise, unless and until all Obligations have been fully paid and satisfied and all agreements of the Secured Party to extend credit to or for the account of the Debtor have expired or otherwise have been terminated. The Debtor acknowledges that the lien and security interest hereby created and provided for are absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of the Secured Party or any other holder of any of the Obligations, and without limiting the generality of the foregoing, the lien and security interest hereof shall not be impaired by any acceptance by the Secured Party or any other holder of any of the Obligations of any other security for or guarantors upon any of the Obligations or by any failure, neglect or omission on the part of the Secured Party or any other holder of any of the Obligations to realize upon or protect any of the Obligations or any collateral or security therefor. The lien and security interest hereof shall not in any manner be impaired or affected by (and the Secured Party, without notice to anyone, is hereby authorized to make from time to time) any sale, pledge, surrender, compromise, settlement, release, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any of the Obligations, or of any collateral or security therefor, or of any guaranty thereof, or of any instrument or agreement setting forth the terms and conditions pertaining to any of the foregoing. In order to realize hereon and to exercise the rights granted the Secured Party hereunder and under applicable law, there shall be no obligation on the part of the Secured Party or any other holder of any of the Obligations at any time to first resort for payment to the Debtor or to any guaranty of the Obligations or any portion thereof or to resort to any other collateral, security, property, liens or any other rights or remedies whatsoever, and the Secured Party shall have the right to enforce this Agreement irrespective of whether or not other proceedings or steps seeking resort to or realization upon or from any of the foregoing are pending.
- (d) In the event and to the extent that any provision hereof shall be deemed to be invalid or unenforceable by reason of the operation of any law or by reason of the interpretation placed thereon by any court, this Agreement shall to such extent be construed as not containing such provision, but only as to such locations where such law or interpretation is operative, and the invalidity or unenforceability of such provision shall not affect the validity of any remaining provisions hereof, and any and all other provisions hereof which are otherwise lawful and valid shall remain in full force and effect.

- (e) This Agreement shall be deemed to have been made in the State of Minnesota and shall be governed by, and construed in accordance with, the laws of the State of Minnesota. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.
 - (f) This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterpart signature pages, each constituting an original, but all together one and the same instrument. The Debtor acknowledges that this Agreement is and shall be effective upon its execution and delivery by the Debtor to the Secured Party, and it shall not be necessary for the Secured Party to execute this Agreement or any other acceptance hereof or otherwise to signify or express its acceptance hereof.
 - (g) The Debtor hereby submits to the non-exclusive jurisdiction of the State of Minnesota and any Minnesota state court sitting in the City of Minneapolis for purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. The Debtor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient form.
11. THE DEBTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY UNDER ANY ACTION OR PROCEEDING ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, AND ALL DOCUMENTS INCIDENT HERETO.

[Signatures begin on the next page]

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date and year first above written.

DEBTOR:

BETHANY LUTHERAN COLLEGE, INC. , OF
MANKATO, MINNESOTA.
a Minnesota nonprofit corporation

By: _____

Its: _____

By: _____

Its: _____

SECURED PARTY:

BREMER BANK,
NATIONAL ASSOCIATION

By: _____

Its: _____

MORTGAGE, SECURITY AGREEMENT,
FIXTURE FINANCING STATEMENT
AND ASSIGNMENT OF LEASES AND RENTS

BY
BETHANY LUTHERAN COLLEGE, INC., OF MANKATO, MINNESOTA
AS MORTGAGOR,

TO
BREMER BANK, NATIONAL ASSOCIATION
AS MORTGAGEE,

TO SECURE
\$5,300,000 EDUCATIONAL FACILITY REVENUE NOTE, SERIES 2019
(Bethany Lutheran College Project)

Dated: December 1, 2019

Tax statements for the real
property described in this
instrument should be sent
to:

Bethany Lutheran College,
Inc.,
of Mankato, Minnesota
700 Luther Drive
Mankato, MN 56001

This instrument was drafted by:

Briggs and Morgan, P.A. (CJC)
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
(612) 977-8400

MAXIMUM PRINCIPAL AMOUNT
SECURED BY THIS MORTGAGE IS
\$5,300,000.00

MORTGAGE, SECURITY AGREEMENT,
FIXTURE FINANCING STATEMENT AND
ASSIGNMENT OF LEASES AND RENTS

THIS MORTGAGE, SECURITY AGREEMENT, FIXTURE FINANCING STATEMENT AND ASSIGNMENT OF LEASES AND RENTS (this "Mortgage") is made as of the ____ day of December, 2019 by BETHANY LUTHERAN COLLEGE, INC., OF MANKATO, MINNESOTA, a Minnesota nonprofit corporation (the "Mortgagor"), in favor of BREMER BANK, NATIONAL ASSOCIATION (the "Mortgagee").

RECITALS:

- A. The City of North Mankato, Minnesota, a political subdivision of the State of Minnesota (the "Issuer"), has agreed to issue its Educational Facility Revenue Note, Series 2019 (Bethany Lutheran College Project) in the original principal amount of \$5,300,000.00 (together with any amendment, modification, replacement or renewal thereof, the "Note") dated as of the date hereof, pursuant to Minnesota Statutes, Sections 469.152 through 469.165, as amended, which Note is due and payable in full on _____ 1, 2030, or such earlier date as is provided in the Note, and the Mortgagee has agreed to purchase the Note; and
- B. The Issuer will loan the proceeds of the Note (the "Loan") to the Mortgagor pursuant to the terms of a Loan Agreement dated as of the date hereof (together with any amendment or modification thereto, the "Loan Agreement"); and
- C. The Note is to be payable from and secured by the loan repayments to be made by the Mortgagor under the Loan Agreement; and the Mortgagee, as a condition to the purchase of the Note, has required that the Issuer pledge to the Mortgagee of all the Issuer's right, title and interest (other than certain retained rights) in and to the Loan Agreement pursuant to a Pledge Agreement dated as of the date hereof between the Issuer and the Mortgagee; and
- D. The Mortgagee has also required, as a condition to the purchase of the Note, that the Mortgagor secure its obligations under the Loan Agreement and the Note with this Mortgage.

NOW, THEREFORE, in consideration of the premises contained herein and for the purpose of securing: (a) repayment of the indebtedness evidenced by the Loan Agreement and the Note, including all interest accruing thereon, late charges and prepayment premiums, if any and any other amounts due under the Loan Agreement or the other Loan Documents, (b) the payment of all other sums with interest thereon as may be advanced by the Mortgagee in accordance with this Mortgage and any other instruments securing payment of the Loan Agreement, the Note and the other Loan Documents and (c) the performance and observance of all the covenants and agreements herein contained and contained in the Note, the Loan Agreement and this Mortgage, the Mortgagor does hereby grant, bargain, sell, assign, transfer, pledge, convey, mortgage, grant a security interest in and pledge unto Mortgagee, its successors and assigns, forever, with power of

sale, all of Mortgagor's right, title and interest, now owned or hereafter acquired, in and to the tracts of land legally described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Land");

Together with (a) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land; (b) all heating, plumbing and lighting apparatus, elevators and motors, engines and machinery, electrical equipment, incinerator apparatus, air conditioning apparatus, water and gas apparatus, pipes, water heaters, refrigerating plant and refrigerators, water softeners, carpets, carpeting, storm windows and doors, window screens, screen doors, storm sash, window shades or blinds, awnings, locks, fences, trees, shrubs, and all other fixtures, equipment and personal property of every kind and nature whatsoever now or hereafter owned by the Mortgagor and attached or fixed to the Land, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing, but specifically excluding therefrom the sacred objects which shall include the following: the altar, altar stone, tabernacle, icons, statues, vestaments, baptismal font, chalices, ciboria, containers of holy oil, containers of chrism, monstrances, relics, and crosses which contain the corpus; (c) all hereditaments, easements, rights, privileges and appurtenances now or hereafter belonging, attached or in any way pertaining to the Land or to any building, structure or improvement now or hereafter located thereon; (d) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or any part of the Land now, heretofore or hereafter made or agreed to by the Mortgagor; (e) all of the leases and agreements described in (d) above; and, (f) all insurance and other proceeds of, and all condemnation awards with respect to, the foregoing (all of the foregoing is hereinafter collectively referred to as the "Mortgaged Property").

The filing of this Mortgage shall constitute a fixture filing in the office where it is filed and a carbon, photographic or other reproduction of this document may also be filed as a financing statement:

Name and address of Debtor and Record Owner of Real Estate:	Bethany Lutheran College, Inc., of Mankato, Minnesota 700 Luther Drive Mankato, Minnesota 56001
Type of organization:	nonprofit corporation
Jurisdiction of organization:	Minnesota
Name and address of Secured Party:	Bremer Bank, National Association 1290 Raintree Road Mankato, Minnesota 56001
Description of the Types (or items) of property covered by this financing statement:	See above

Description of real estate to
which all or a part of the
collateral is attached or upon
which it is located:

See Exhibit A attached hereto

Some of the above-described collateral is or is to become fixtures upon or minerals and mineral rights located upon the real estate described on Exhibit A, and this financing statement is to be filed for record in the public real estate records.

The Mortgagor shall not change the Mortgagor's name, address, identity, state of registration for a registered organization, principal place of business or structure without first obtaining the Mortgagee's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. The Mortgagee's consent will however, be conditioned upon, among other things, the execution, authorization and delivery of additional financing statements, security agreements, and other instruments which may be necessary to effectively evidence or perfect the Mortgagee's security interest in the Mortgaged Property as a result of such change.

The Mortgagor hereby authorizes the Mortgagee to file prior to or concurrently with such change all additional financing statements that the Mortgagee may require to establish and perfect the priority of the Mortgagee's security interest in all equipment, fixtures, items of personal property, and all proceeds therefrom, which are included in the Mortgaged Property. The Mortgagor shall pay all costs of filing such instruments.

AND THE MORTGAGOR, for the Mortgagor, the Mortgagor's successors and assigns, does covenant with the Mortgagee, the Mortgagee's successors and assigns, that the Mortgagor is lawfully seized of the Mortgaged Property and has good right to sell and convey the same; that the Mortgaged Property is free from all encumbrances except as may be further stated in this Mortgage; that the Mortgagee, the Mortgagee's successors and assigns, shall quietly enjoy and possess the Mortgaged Property; and that the Mortgagor will WARRANT AND DEFEND the title to the same against all lawful claims not specifically excepted in this Mortgage.

PROVIDED, NEVERTHELESS, that if (a) the Mortgagor shall pay to the Mortgagee the principal balance of the Note in full, plus interest at the rate set forth in the Note on the unpaid principal balance, as computed in accordance with the terms and conditions of the Note, and any other sums due and owing under the Note (including all extensions, modifications, renewals, amendments and replacements thereof), the Loan Agreement and the other Loan Documents, (b) the Mortgagor shall cancel and terminate any commitment by the Mortgagee to make future advances to the Mortgagor or credit accommodations under the Loan Agreement, (c) the Mortgagor shall also pay or cause to be paid all other sums, with interest thereon, as may be advanced by the Mortgagee in accordance with this Mortgage or the Loan Agreement either to protect the lien of this Mortgage, or by way of additional loan, (d) the Mortgagor shall also keep and perform, all and singular, the conditions and covenants contained in this Mortgage and in the Loan Agreement required on the part of the Mortgagor to be kept and performed, (the Note, together with all extensions, modifications, renewals, amendments and replacements thereof, and all such sums advanced under this Mortgage, together with interest thereon, and such covenants herein collectively referred to as the "Indebtedness Secured Hereby"), then the Mortgagee will

execute and deliver to the Mortgagor in form suitable for recording a full satisfaction of this Mortgage; otherwise this Mortgage shall remain in full force and effect.

ARTICLE I
GENERAL COVENANTS, AGREEMENTS, WARRANTIES

SECTION 1.01. PAYMENT OF INDEBTEDNESS; OBSERVANCE OF COVENANTS. The Mortgagor shall duly and punctually pay each and every payment of principal, interest, prepayment premiums and late charges, if any, required by the Note or the Loan Agreement and all other Indebtedness Secured Hereby, as and when the same shall become due, and shall duly and punctually perform and observe all of the covenants, agreements and provisions contained herein, in the Note, the Loan Agreement or in any other instrument given as security for the payment of the Note.

SECTION 1.02. MAINTENANCE; REPAIRS. Subject to the provisions of Sections 1.05 and 2.03 hereof, the Mortgagor shall keep and maintain the Mortgaged Property in as good or better condition, repair and operating condition as exists on the date of this Mortgage free from any waste or misuse, and will comply with all requirements of law, municipal ordinances and regulations, restrictions and covenants affecting the Mortgaged Property and its use, and will promptly repair or restore any building, improvements or structures now or hereafter located on the Land which may become damaged or destroyed to their condition prior to any such damage or destruction. The Mortgagor shall not acquiesce in any rezoning classification, modification or restriction affecting the Land, without the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld.

SECTION 1.03. PAYMENT OF UTILITY CHARGES, TAXES AND ASSESSMENTS. The Mortgagor shall, before any penalty attaches thereto, pay or cause to be paid all charges made for electricity, gas, heat, water, sewer and other utilities furnished or used in connection with the Mortgaged Property, and all taxes, assessments, levies and encumbrances of every nature heretofore or hereafter assessed against the Mortgaged Property and upon demand will furnish the Mortgagee receipted bills evidencing such payment. Whenever any assessments may be paid in installments, the Mortgagor may pay the same on an installment basis.

SECTION 1.04. LIENS. Except for liens and encumbrances, if any, listed on Exhibit B attached hereto or consented to in writing by or granted to the Mortgagee ("Permitted Encumbrances"), the Mortgagor will keep the Mortgaged Property free from all liens (other than liens for taxes, assessments and mechanics' liens not yet due and payable) and encumbrances of every nature whatsoever heretofore or hereafter arising and, upon written demand of the Mortgagee, the Mortgagor will pay and procure the release of any such liens or encumbrances.

SECTION 1.05. RIGHT TO CONTEST. Nothing in Sections 1.02, 1.03 and 1.04 shall require the payment or discharge of any obligations imposed upon the Mortgagor by Sections 1.02, 1.03 and 1.04 so long as the Mortgagor shall diligently and in good faith and at the Mortgagor's own expense contest the same or the validity thereof by appropriate legal proceeding which shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Mortgaged Property or any part thereof to satisfy the same; provided, however, that during such contest the Mortgagor shall, at the reasonable request of the Mortgagee, provide

security satisfactory to the Mortgagee, assuring the discharge of the Mortgagor's obligation(s) under Sections 1.02, 1.03 and 1.04 and of any additional charge, penalty or expense arising from or incurred as a result of such contest; and provided further, however, that if at any time payment of any obligation imposed upon the Mortgagor by this Section shall become necessary to prevent the delivery of a tax deed conveying the Land or any portion thereof because of non-payment, then the Mortgagor shall pay the same in sufficient time to prevent the delivery of such tax deed.

SECTION 1.06. COMPLIANCE WITH LAW. The Mortgagor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property unless the same is being diligently contested by the Mortgagor in good faith and by proper proceedings.

SECTION 1.07. RIGHT OF MORTGAGEE TO ENTER. The Mortgagor will permit the Mortgagee and the Mortgagee's agents to enter, upon reasonable notice, and to authorize others to enter, upon reasonable notice, upon any or all of the Land, at any time and from time to time, during normal business hours, to inspect the Mortgaged Property, to perform or observe any covenants, conditions or terms hereunder which the Mortgagor shall fail to perform, meet or comply with, or for any other purpose in connection with the protection or preservation of the Mortgagee's security, without thereby becoming liable to the Mortgagor or any person in possession under the Mortgage.

SECTION 1.08. RIGHT OF THE MORTGAGEE TO PERFORM. If the Mortgagor fails to pay all and singular any taxes, assessments, levies or other similar charges or encumbrances heretofore or hereafter assessed against the Mortgaged Property or fail to obtain the release of any lien or encumbrance (other than a Permitted Encumbrance and those contested in the manner provided in Section 1.05) of any nature heretofore or hereafter arising upon the Mortgaged Property or fails to perform any other covenants and agreements contained in this Mortgage or if any action or proceeding is commenced which adversely affects or questions the title to or possession of the Mortgaged Property or the interest of the Mortgagor or the Mortgagee therein, then the Mortgagee, at the Mortgagee's option, after delivery of written notice to the Mortgagor, may perform such covenants and agreements, investigate and defend against such action or proceeding, and take such other action as the Mortgagee deems necessary to protect the Mortgagee's interest. Any amounts disbursed by the Mortgagee pursuant to this Section 1.08, including without limitation court costs and expenses and attorneys' fees, with interest thereon, shall become additional indebtedness of the Mortgagor and shall be secured by this Mortgage. Such amount shall be payable upon written notice from the Mortgagee to the Mortgagor requesting payment thereof, and shall bear interest from the date of disbursement at a rate equal to the rate of interest under the Note, or if such rate is illegal or usurious, at the maximum rate then permitted by law. Nothing contained in this Section 1.08 shall require the Mortgagee to incur any expense or to do any act or thing hereunder.

SECTION 1.09. DUE ON SALE. The Mortgagor shall not, whether voluntarily or involuntarily, sell, assign, convey, mortgage, transfer or otherwise encumber or dispose of either the legal or equitable title or both to all or any portion of the Mortgaged Property or any other interest therein without the prior written consent of the Mortgagee.

SECTION 1.10. ASSIGNMENT OF RENTS. The Mortgagor does hereby sell, assign and transfer unto the Mortgagee (i) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or any part of the Mortgaged Property now, heretofore or hereafter made or agreed to by the Mortgagor, and (ii) all of such leases and agreements, together with all guarantees therefor and any renewals or extensions thereof, for the purpose of securing payment of the indebtedness of the Mortgagor under the Note and the documents related thereto.

The Mortgagor does hereby irrevocably appoint the Mortgagee as the Mortgagor's true and lawful attorney in the Mortgagor's name, place and stead, with or without taking possession of the Mortgaged Property, following the occurrence and during the continuance of an Event of Default, to rent, lease, sublease, let or sublet all or any portion of the Mortgaged Property to any party or parties at such rental and upon such terms, as the Mortgagee in the Mortgagee's discretion may determine, and to collect all of said avails, rents, income, issues and profits arising from or accruing at any time hereafter under each and all of such leases and agreements, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as the Mortgagee would have upon taking possession of the Mortgaged Property.

The Mortgagor represents and agrees that no rent has been or will be paid in advance by any persons in possession of all or any portion of the Mortgaged Property for a period of more than one month and that the payment of none of the rents to accrue for all or any portion of the Mortgaged Property has or will be waived, released, reduced or discounted, or otherwise discharged or compromised, by the Mortgagor, except in the ordinary course of the Mortgagor's business and so as to not unduly impair the security provided to the Mortgagee by this Mortgage. The Mortgagor waives any right of setoff against any person in possession of all or any portion of the Mortgaged Property. The Mortgagor represents that the Mortgagor has not assigned any of said rents or profits to any third party and agrees that the Mortgagor will not so assign any of said rents or profits without the prior written consent of the Mortgagee.

Nothing contained herein shall be construed as constituting the Mortgagee "a mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by the Mortgagee. In the exercise of the powers herein granted to the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by the Mortgagor.

The Mortgagor further agrees to assign and transfer to the Mortgagee all rents from future leases or subleases upon all or any part of the Mortgaged Property and to execute and deliver, immediately upon request of the Mortgagee, all such further assurances and assignments in the Mortgaged Property as the Mortgagee from time to time shall require.

Although it is the intention of the parties that this Assignment of Rents shall be a present assignment, it is expressly understood and agreed that, anything herein contained to the contrary notwithstanding, the Mortgagee shall not exercise any of the rights and powers conferred upon the Mortgagee herein unless and until an "Event of Default" (as that term is defined in the Loan Agreement), shall occur and nothing herein contained shall be deemed to affect or impair any

rights which the Mortgagee may have under the Note, the Loan Agreement, this Mortgage or any other document or agreement related hereto or thereto.

Upon the occurrence at any time of an Event of Default and during the continuance thereof, without limiting any other remedy available to the Mortgagee under this Mortgage or any other loan document entered into in connection therewith, the Mortgagee, without in any way waiving such default, may:

I. apply to the Minnesota District Court for the County wherein the Mortgaged Property is located for the appointment of a receiver under Minnesota Statutes §559.17, it being understood and agreed that Mortgagee shall be entitled to the appointment of a receiver upon a showing that an Event of Default has occurred under the terms of this Mortgage. All Rents collected by the Mortgagor, or by a receiver, as the case may be, shall be applied as provided in Minn. Stat. §576.25, Subd. 5. Any excess amounts remaining after application as provided in Minn. Stat. §576.25, Subd. 5 shall be applied to the Indebtedness Secured Hereby; or

II. collect all rents and profits from the occupiers of the Mortgaged Property upon the filing by the Mortgagee, in the office of the County Recorder or, in the case of registered property in the office of the Registrar of Titles, for the County in which the Mortgaged Property is located, of a notice of the occurrence of an Event of Default in the terms and conditions of this Mortgage and the service of said notice of default upon the occupiers of the Mortgaged Property. From the date of filing and service upon the occupiers of notice of default through the redemption period from any foreclosure sale, Mortgagee shall first apply all rents and profits so collected in the same manner provided in subparagraph (I) above where the rents and profits are collected pursuant to the appointment of a receiver. In the event Mortgagee exercises the Mortgagee's rights under this subparagraph (II), the Mortgagee shall not, solely by reason thereof, be deemed to be a mortgagee-in-possession of the Mortgaged Property.

The Mortgagee shall not be obligated to perform or discharge, nor does the Mortgagee hereby undertake to perform or discharge, any obligation, duty or liability under any leases, subleases or rental agreements relating to the Mortgaged Property, and the Mortgagor shall and does hereby agree to indemnify and hold the Mortgagee harmless from and against any and all liability, loss or damage which the Mortgagee may or might incur under any such lease, sublease or agreement or under or by reason of the assignment of the rents thereof and from and against any and all claims and demands whatsoever which may be asserted against the Mortgagee by reason of any alleged obligations or undertakings on the Mortgagee's part to perform or discharge any of the terms, covenants or agreements contained in any of such leases, provided that the Mortgagor shall not indemnify and hold harmless the Mortgagee from any liability, loss or damage resulting from acts or omissions of the Mortgagee which occur on or after the date the Mortgagee takes possession of the Mortgaged Property. Except for any liability, loss or damage resulting from acts or omissions of the Mortgagee, should the Mortgagee incur any liability, loss or damage by reason of this assignment of leases and rents, or in the defense of any claim or demand, the Mortgagor agrees to reimburse the Mortgagee for the amount thereof, including costs, expenses and reasonable attorneys' fees, immediately upon demand.

The Mortgagee, or such agent or receiver, in the exercise of the rights and powers conferred upon the Mortgagee by this assignment of leases and rents shall have the full power to use and apply the avails, rents, issues, income and profits of the Mortgaged Property to which the Mortgagor would otherwise be entitled to the payment of or on account of the following, as provided in Minn. Stat. §576.25, Subd. 5. If the Mortgaged Property is sold at a foreclosure sale, then:

I. If the Mortgagee is the purchaser at the foreclosure sale, the avails, rents, issues, income and profits of the Mortgaged Property shall be paid first to the Mortgagee, to be applied to any deficiency remaining after the foreclosure sale, the balance to be retained by the Mortgagee. In such case, if the Mortgaged Property is redeemed by the Mortgagor or any other party entitled to redeem, the avails, rents, issues, income and profits shall be applied first as provided in this Section 1.10 and the balance to be applied as a credit against the redemption price, with any remaining excess avails, rents, issues, income and profits to be paid to the Mortgagor. If the Mortgaged Property is not redeemed, then any remaining excess avails, rents, issues, income and profits shall belong to the Mortgagee, whether or not a deficiency exists;

II. If the Mortgagee is not the purchaser at the foreclosure sale, the avails, rents, issues, income and profits shall be first paid first to the Mortgagee, to be applied to any deficiency remaining after the sale, the balance to be retained by the purchaser. In such case, if the Mortgaged Property is redeemed by the Mortgagor or any other party entitled to redeem, the avails, rents, issues, income and profits received following the date of the foreclosure sale shall be applied as a credit against the redemption price and any remaining excess avails, rents, issues, income and profits shall be paid to the Mortgagor. If the Mortgaged Property is not redeemed, then any remaining excess avails, rents, issues, income and profits shall be paid first to the purchaser at the foreclosure sale in an amount equal to the interest accrued upon the foreclosure sale price pursuant to Minnesota laws; second to the Mortgagee, to the extent of any deficiency remaining unpaid; and third, to the purchaser of the Mortgaged Property.

The rights and powers of the Mortgagee under this Mortgage, and the application of the avails, rents, issues, income and profits pursuant to this Section 1.10, shall continue and remain in full force and effect both before and after commencement of any action or procedure to foreclose this Mortgage, after the foreclosure sale of the Mortgaged Property in connection with the foreclosure of this Mortgage, and until expiration of the period of redemption from any such foreclosure sale, whether or not any deficiency from the unpaid balance of the Indebtedness Secured Hereby exists after such foreclosure sale.

Nothing herein shall prohibit the right to reinstate pursuant to Minnesota Statutes §580.30, or the right to redeem granted pursuant to Minnesota Statutes §§580.23 and 581.10.

The Mortgagee's rights and remedies hereunder with respect to an assignment of rents from, and/or the appointment of a receiver for rents from, the Mortgaged Property upon the occurrence and during the continuance of an Event of Default shall include, without limitation, the

fullest range and benefit of the rights and remedies made available to a mortgagee pursuant to Minnesota Statutes Chapter 576 and §559.17, as said statutes may be amended from time to time. Nothing contained herein which may be construed as contrary to said statutes shall invalidate any other provision hereof. In the event that the Mortgagee elects to exercise its remedies under said statute or any of said remedies, the terms and provisions of said statute, as amended, governing the exercise of said remedies shall govern, control and take precedence over any contrary terms contained in this Mortgage. All rents collected by the Mortgagee or any receiver shall first be applied as provided for in Minnesota Statutes §576.25, Subd. 5, and any remaining collected rents shall be applied as otherwise provided for in this Mortgage. The exercise by the Mortgagee of the statutory remedies referenced herein shall not constitute the the Mortgagee a "mortgagee-in-possession" under Minnesota law, or give rise to any liability which might otherwise attach to the Mortgagee as a mortgagee-in-possession.

The Mortgagor does further specifically authorize and instruct each and every present and future lessee, sublessee, tenant or subtenant of the whole or any part of the Mortgaged Property to pay all unpaid rental agreed upon in any lease or sublease to the Mortgagee upon receipt of demand from the Mortgagee so to pay the same.

Any tenants, subtenants or other occupants of all or any part of the Mortgaged Property are hereby authorized to recognize the claims of the Mortgagee hereunder without investigating the reason for any action taken by the Mortgagee, or the validity or the amount of indebtedness owing to the Mortgagee, or the occurrence or existence of any Event of Default, or the application to be made by the Mortgagee of any amounts to be paid to the Mortgagee. The sole signature of any officer or attorney of the Mortgagee shall be sufficient for the exercise of any rights under this assignment of leases and rents and the sole receipt of the Mortgagee for any sums received by such tenants, subtenants or other occupants shall be a full discharge and release therefor. Checks for all or any part of the rentals collected under this assignment of leases and rents shall be drawn to the exclusive order of the Mortgagee.

SECTION 1.11. FURTHER ASSURANCES. At any time and from time to time, upon request by the Mortgagee, the Mortgagor will make, execute and deliver or cause to be made, executed and delivered, to the Mortgagee, any and all other further instruments, certificates and other documents as may, in the reasonable opinion of the Mortgagee, be necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve, the obligations of the Mortgagor hereunder and under the Note, the Loan Agreement and the mortgage and security interest granted by this Mortgage. Upon any failure by the Mortgagor so to do, after five (5) days written notice, the Mortgagee may make, execute and record any and all such instruments, certificates and documents for and in the name of the Mortgagor and the Mortgagor hereby irrevocably appoints the Mortgagee as the Mortgagor's agent and attorney-in-fact so to do, as long as any such instruments, certificates and documents do not change the indebtedness of the Mortgagor, or the Mortgagor's rights and responsibilities under this Mortgage.

SECTION 1.12. EXPENSES. The Mortgagor will pay or reimburse the Mortgagee for all reasonable attorneys' fees, costs and expenses incurred by the Mortgagee in any legal proceeding or dispute of any kind in which the Mortgagee is made a party, or appears as party plaintiff or defendant affecting the Indebtedness Secured Hereby, this Mortgage, the interest created herein or the Mortgaged Property, including, but not limited to, the exercise of the power

of sale set forth in this Mortgage, any condemnation action involving the Mortgaged Property or any action to protect the security hereof and any such amounts paid by the Mortgagee shall be added to the Indebtedness Secured Hereby.

SECTION 1.13. BOOKS AND RECORDS: FINANCIAL STATEMENTS. The Mortgagor will keep and maintain full, true and accurate books of account adequate to reflect correctly the results of the operation of the Mortgaged Property, all of which books and records relating thereto shall be open to inspection by the Mortgagee or the Mortgagee's representative during normal business hours.

SECTION 1.14. HAZARDOUS SUBSTANCES. The Mortgagor warrants, covenants and represents that, to the best of the Mortgagor's knowledge after due inquiry [and except as disclosed in that certain Phase I Environmental Site Assessment dated _____, _____ prepared by _____], there does not exist in or under the Mortgaged Property any pollutant, toxic or hazardous waste or substance, or any other material the release or disposal of which is regulated by any law, regulation, ordinance or code related to pollution or environmental contamination except as may be lawfully utilized, and, that no part of the Mortgaged Property was ever used for any industrial or manufacturing purpose or as a dump or sanitary landfill, and that there exists on the Mortgaged Property no storage tanks, electrical transformers or other equipment containing PCBs or material amounts of asbestos, other than limited amounts of asbestos containing materials which are properly contained in accordance with all applicable environmental laws, regulations and ordinances. The Mortgagor represents that the Mortgagor has received no summons, citations, directives, letters or other communications, written or oral, from any federal, state or local agency or department concerning the storing, releasing, pumping, pouring, emitting, emptying or dumping of any pollutant, toxic or hazardous waste or substance on the Mortgaged Property.

The Mortgagor covenants that the Mortgagor shall not, nor shall the Mortgagor permit others to, use the Mortgaged Property in violation of law for the business of generating, transporting, storing, treating or disposing of any pollutant, toxic or hazardous waste or substance, nor shall the Mortgagor either take or fail to take any action which may result in a release of any hazardous substance from or, to the best of the Mortgagor's ability, onto the Mortgaged Property in violation of law.

The Mortgagor agrees to indemnify and to hold the Mortgagee harmless from any and all claims, causes of action, damages, penalties, and costs (including, but not limited to, reasonable attorneys' fees, consultant's fees and related expenses) which may be asserted against, or incurred by, the Mortgagee resulting from or due to release of any hazardous substance or waste on the Mortgaged Property or arising out of any injury to human health or the environment by reason of the condition of or past activity upon the Mortgaged Property, excluding any such claims, causes of action, damages, penalties and costs attributable to the negligence or willful misconduct of the Mortgagee, the Mortgagee's agents or employees. The Mortgagor's duty to indemnify and hold harmless includes, but is not limited to, proceedings or actions commenced by any person (including, but not limited to, any federal, state, or local governmental agency or entity) before any court or administrative agency. The Mortgagor further agrees that pursuant to the Mortgagor's duty to indemnify under this section, the Mortgagor shall indemnify the Mortgagee against all such expenses incurred by the Mortgagee as they become due and not waiting for the ultimate outcome

of the litigation or administrative proceeding. The Mortgagor's obligations to indemnify and hold the Mortgagee harmless hereunder shall survive repayment of the Indebtedness Secured Hereby and satisfaction or foreclosure of this Mortgage.

SECTION 1.15. LEASE. The Mortgagor shall not lease all or any portion of the Land (other than agreements under which the Mortgagor allows third parties to use portions of the improvements periodically, but in any case, for terms of less than one (1) year) without the prior written consent of the Mortgagee.

SECTION 1.16. REPRESENTATIONS, WARRANTIES, COVENANTS. The Mortgagor represents, warrants, covenants and agrees with the Mortgagee as follows:

- (1) The Mortgagor is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota, is authorized to do business in the State of Minnesota and has all requisite power and authority to own the Land and the improvements and to enter into and has authorized execution and delivery of this Mortgage and the Loan Documents to which the Mortgagor is a party.
- (2) This Mortgage and each Loan Document to which the Mortgagor is a party have been duly executed and delivered by the Mortgagor and are the legal, valid and binding obligations of the Mortgagor, enforceable against the Mortgagor in accordance with their respective terms, except to the extent enforceability is limited by any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws affecting creditors' rights generally.
- (3) The execution and delivery of this Mortgage and the Loan Documents to which the Mortgagor is a party, the consummation of the transactions contemplated hereby and thereby and the fulfillment of the terms and conditions hereof and thereof do not and will not violate, conflict with or result in a breach of or constitute a default under the articles of incorporation, bylaws or other governing document of the Mortgagor or any of the terms or conditions of any note, mortgage, bond, indenture, loan agreement or other evidence of indebtedness or any contract, loan agreement or lease or any instrument to which the Mortgagor is now a party or which is binding upon the Mortgagor, or its properties (including, without limitation, the Mortgaged Property), do not and will not result in violation of any order, decree, statute, rule or regulation of any court or of any state or federal regulatory body having jurisdiction over the Mortgagor or its properties, including the Mortgaged Property and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any property or assets of the Mortgagor contrary to the terms of any indenture, mortgage or other agreement or instrument to which the Mortgagor is a party or by which its assets are bound.

- (4) Except as otherwise disclosed in writing to the Mortgagee, there is no suit, action, proceeding or investigation pending or threatened against or affecting the Mortgagor (or any basis therefor) at law or in equity or by or before any court, arbitrator, administrative agency or other federal, state or local Governmental Authority which individually or in the aggregate, if adversely determined, might have a material adverse effect on, or affect the validity as to the Mortgagor of, any of the transactions contemplated hereby or the ability of the Mortgagor to perform its obligations hereunder or as contemplated hereby.
- (5) To the best of the Mortgagor's knowledge, the Mortgaged Property (including, without limitation, the Facilities (as defined in the Loan Agreement)), as designed, constructed and operated, meets all requirements of law that are applicable to the Mortgagor and to the Mortgaged Property, including requirements of any federal, state, county, city or other governmental authority having jurisdiction over the Mortgagor, the Mortgaged Property, or its use and operation, and all requirements, licenses and permits and approvals (including without limitation all building permits, certificates of occupancy and zoning, environmental and land use approvals) necessary to enable the Mortgagor to lawfully operate the Mortgaged Property have been obtained and will continue to be maintained in full force and effect. The Facilities are in substantial compliance with the accessibility guidelines set forth in Title III of The Americans with Disabilities Act of 1990, as the same may be amended from time to time, and any rules and regulations promulgated thereunder. Except as otherwise disclosed to the Mortgagee, the remainder of the Facilities (as defined in the Loan Agreement) is in substantial compliance with the accessibility guidelines set forth in Title III of The Americans with Disabilities Act of 1990, as the same may be amended from time to time, and any rules and regulations promulgated thereunder
- (6) The Mortgagor shall promptly advise the Mortgagee in writing of: (i) all litigation, regardless of amount, affecting the Mortgagor or any part of the Mortgaged Property, and (ii) all notices, complaints and charges made by any governmental authority affecting the Mortgaged Property or affecting the Mortgagor or its business which may impair the security of the Mortgagee.
- (7) The Mortgagor shall promptly comply with all present and future statutes, laws, ordinances, rules, orders, regulations and ordinances of any governmental authority affecting and applicable to the Mortgagor and the Mortgaged Property, any part thereof or the use or operation thereof and shall comply with all covenants, conditions and restrictions applicable to the Mortgagor which are contained in any document constituting a Permitted Encumbrance.

- (8) The Mortgagor has not made, done, executed or suffered, and will not make, do, execute or suffer, any act or thing whereby its estate or interest in and title to the Mortgaged Property or any part thereof shall or may be impaired, changed or encumbered in any manner whatsoever except by Permitted Encumbrances.
- (9) The Mortgagor does warrant and will defend the title to the Mortgaged Property against all claims and demands whatsoever not specifically excepted herein.
- (10) All improvements, fixtures and equipment now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land, unless the Mortgagor obtains all appropriate consents, easements and permits from adjoining property owners and governmental authorities to allow a lawful encroachment. The Mortgagor agrees it will furnish to the Mortgagee from time to time reasonably satisfactory evidence with respect thereto.
- (11) The Mortgagor will, upon request of the Mortgagee, promptly, execute, acknowledge and deliver to the Mortgagee such additional instruments as may be reasonably required further to evidence the lien of this Mortgage, including but not limited to additional security agreements, financing statements and continuation statements and further to protect the security interest of the Mortgagee with respect to the Mortgaged Property and do all and every act, deed, conveyance, transfer and assurance necessary or proper for the carrying out more effectively of the purpose of this Mortgage and, without limiting the foregoing, for conveying, mortgaging, assigning, and confirming unto the Mortgagee all of the Mortgaged Property, or property intended so to be, whether now owned or hereafter acquired, including without limitation the preparation, execution and filing of any documents, such as financing statements and continuation statements, deemed advisable by Mortgagee for maintaining its lien on any property included in the Mortgaged Property. Any expenses incurred by the Mortgagee in connection with the preparation and recording of any such instruments, including but not limited to attorneys' fees, shall become additional indebtedness of the Mortgagor secured by this Mortgage. Unless the Mortgagor and the Mortgagee agree in writing to other terms of repayment, such amounts shall be immediately due and payable, and shall bear interest from the date of disbursement at the interest rate in effect under the Note, unless collecting from the Mortgagor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from the Mortgagor under applicable law. Upon a failure by the Mortgagor so to do, the Mortgagee may make, execute, and record any and all instruments, certificates and documents for and in the name of the Mortgagor and the Mortgagor hereby irrevocably appoints the Mortgagee its agent and attorney in fact of the Mortgagor to do so.

- (12) The Mortgagor possesses adequate licenses, certificates, permits, franchises, patents, copyrights, trademarks and trade names, or rights thereto, to conduct its business as presently conducted and as proposed to be conducted.
- (13) The Mortgagor has filed all federal and state tax returns and reports required to be filed, which returns properly reflect the taxes owed by it for the period covered thereby and the Mortgagor has paid or made appropriate provisions for the payment of all taxes which may become due pursuant to said returns and for the payment of all present installments of any assessments, fees and other governmental charges upon it or upon any of its property.

ARTICLE II

INSURANCE, CONDEMNATION AND USE OF PROCEEDS

SECTION 2.01. INSURANCE. The Mortgagor shall keep the buildings, structures, fixtures and other improvements now existing or hereafter erected on the Land, insured against loss by fire, vandalism and malicious mischief, perils of extended coverage, and such other hazards, casualties and contingencies as may be reasonably specified by the Mortgagee, in an amount not less than the principal amount of the Note or the full insurable value thereof, whichever is greater. All insurance shall be carried in companies licensed to do business in the State of Minnesota and approved by the Mortgagee and the policies and renewals thereof shall (i) contain a waiver of defense based on coinsurance, (ii) be constantly assigned and pledged to and held by the Mortgagee as additional security for the Indebtedness Secured Hereby, (iii) have attached thereto loss-payable clauses in favor of and in form acceptable to the Mortgagee, and (iv) provide that the Mortgagee shall receive at least thirty (30) days' prior written notice of cancellation or any substantial modification of the policy. In lieu of the above insurance, the Mortgagor may self-insure for such risks through a self-insurance program. In default thereof, the Mortgagee may affect any insurance required to be maintained by the Mortgagor pursuant to this Section 2.01 and the amount paid therefor shall become immediately due and payable with interest at a rate equal to the rate of interest under the Note, or if such rate is illegal or usurious, at the maximum rate permitted by law, and shall be secured by this Mortgage. In the event of loss or damage to the Mortgaged Property, the Mortgagor will give immediate written notice thereof to the Mortgagee, who may make proof of loss or damage if not made promptly by the Mortgagor. The Mortgagor hereby authorizes and directs each insurance company concerned to make payment for any such loss to the Mortgagor and the Mortgagee jointly. In the event of foreclosure of this Mortgage, all right, title and interest of the Mortgagor in and to any property insurance policies then in force shall pass to the purchaser at the foreclosure sale. The Mortgagor shall also maintain such insurance (including, without limitation, liability insurance), in such form and amount, as required by the Loan Agreement.

SECTION 2.02. CONDEMNATION. The Mortgagor shall give the Mortgagee immediate written notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any material part of the Mortgaged Property or any easement therein or appurtenance thereof. If all or any part of the Mortgaged Property is damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such

taking, acquisition or damages made in consideration thereof, to the extent of the full amount of the remaining unpaid Indebtedness Secured Hereby, is hereby assigned to the Mortgagee, who is empowered to collect and receive the same and to give proper receipts therefor and the same shall be paid forthwith to the Mortgagee, to be applied to the Indebtedness Secured Hereby, and any amount over the applicable release price shall be paid to the Mortgagor. Notwithstanding the provisions above in this Section 2.02, if it is reasonably determined by both the Mortgagor and the Mortgagee that application of condemnation awards for improvement of the Mortgaged Property would increase the value of the Mortgaged Property, then, to the extent that application of the proceeds from any such condemnation awards would not in any way impair the security interest and lien of the Mortgagee, then the Mortgagor shall have the option to use such proceeds to improve the Mortgaged Property as agreed between the Mortgagor and the Mortgagee or to prepay the Note. Any prepayment of the Note as a result of condemnation proceeds will not result in a prepayment penalty.

SECTION 2.03. MORTGAGOR TO REPAIR, REPLACE, REBUILD OR RESTORE. If any portion of the Indebtedness Secured Hereby is outstanding when all or any material part of the Mortgaged Property is destroyed or damaged, unless the Mortgagee elects, at the Mortgagee's option, which option is hereby irrevocably granted by the Mortgagor to the Mortgagee only if there is an Event of Default under the Note at the time of the event causing such damage or destruction, which Event of Default continues through the date when the Mortgagee elects by written notice to the Mortgagor to apply such proceeds as a prepayment of the Note, then:

- (1) the Mortgagor shall proceed promptly, subject to the provisions of subsection (2) of this Section 2.03, to replace, repair, rebuild and restore the Mortgaged Property to substantially the same condition as existed before the taking or event causing the damage or destruction, with such changes, alterations and modifications (including substitution or addition of other property) as may be desired by the Mortgagor and approved by the Mortgagee which approval will not be unreasonably withheld;
- (2) all proceeds of any insurance claim shall be paid directly to the Mortgagee. The Mortgagee shall apply the proceeds, less such sum, if any, required for payment of all expenses incurred in collecting the same ("Net Proceeds"), to payment of the costs of repair, replacement, rebuilding or restoration of the Mortgaged Property. If an Event of Default occurs while the Mortgagee is retaining the Net Proceeds, the Mortgagee may apply the Net Proceeds to the Indebtedness Secured Hereby. The balance of the Net Proceeds remaining after payment of all costs of any repair, rebuilding, replacement or restoration of the Mortgaged Property shall be applied as a prepayment of the Indebtedness Secured Hereby, and any excess shall be paid to the Mortgagor; and,
- (3) the Mortgagor shall not, by reason of the payment of any costs of repair, rebuilding, replacement or restoration, be entitled to any reimbursement from the Mortgagee (other than from net proceeds of insurance and condemnation) or any abatement or diminution of the amounts payable

under the Note, the Loan Agreement or any document incident thereto or on any other Indebtedness Secured Hereby.

Any prepayment of the Note as a result of insurance proceeds will not result in a prepayment penalty.

ARTICLE III REMEDIES

SECTION 3.01. REMEDIES. Upon the occurrence and during the continuance of an Event of Default or at any time thereafter the Mortgagee may, at the Mortgagee's option, exercise any and all of the following rights and remedies (and any other rights and remedies available to the Mortgagee under applicable law or any document related hereto):

- (1) the Mortgagee may foreclose this Mortgage by action or (to the extent permitted by Minnesota law) advertisement upon written notice thereof to the Mortgagor, and the Mortgagor hereby authorizes the Mortgagee to do so, power being herein expressly granted to sell the Mortgaged Property at public auction without any prior hearing thereof and to convey the same to the purchaser, in fee simple, pursuant to the statutes of Minnesota in such case made and provided and, out of the proceeds arising from such sale, to pay all Indebtedness Secured Hereby with interest, and all legal costs and charges of such foreclosure and the maximum attorneys' fees permitted by law, which costs, charges and fees the Mortgagor herein agrees to pay, and to pay the surplus, if any, to the Mortgagor, the Mortgagor's successors or assigns; and,
- (2) the Mortgagee may exercise any of the remedies made available to a secured party under the Uniform Commercial Code in effect in the State of Minnesota, or other applicable law, with respect to any of the Mortgaged Property which constitutes personal property, including without limitation the right to take possession thereof, proceeding without judicial process or by judicial process (without a prior hearing or notice thereof, which the Mortgagor hereby waives), and the right to sell, lease or otherwise dispose of or use any or all of such personal property. The Mortgagee may require the Mortgagor to assemble such personal property and make it available to the Mortgagee at a place designated by the Mortgagee which is reasonably convenient to both the Mortgagor and the Mortgagee. If notice to the Mortgagor of any intended disposition of any of the Mortgaged Property constituting personal property or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in Section 4.02 hereof) at least ten (10) calendar days prior to the date of intended disposition or other action.

In the event of a sale under this Mortgage, whether by virtue of judicial proceedings or otherwise, the Mortgaged Property may, at the option of the Mortgagee, be sold as one parcel and

as an entirety or in such parcels, manner and order as the Mortgagee in the Mortgagee's sole discretion may elect.

SECTION 3.02. PURCHASE OF MORTGAGED PROPERTY. In case of any sale of the Mortgaged Property pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Mortgage, the Mortgagee, the Mortgagee's successors and assigns, may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Note and any claims for interest, late charges and prepayment premiums matured and unpaid thereon, together with any other Indebtedness Secured Hereby, if any, in order that there may be credited as paid on the purchase price the sum, or any part thereof, then due under the Note, including principal thereof and interest, late charges and prepayment premiums, if any, thereon, and any other Indebtedness Secured Hereby.

SECTION 3.03. POWER OF SALE. The Mortgagor understands and agrees that if an "Event of Default" shall occur, the Mortgagee has the right, *inter alia*, to foreclose this Mortgage by advertisement or by any other legal proceeding or action pursuant to the statutes of the State of Minnesota; that if the Mortgagee elects to foreclose by advertisement or by any other legal proceeding or action, it may cause the Mortgaged Property, or any part thereof, to be sold at public auction in accordance with the statutes of the State of Minnesota; and that the Mortgagor will have such period, if any, as is provided by the statutes of the State of Minnesota, to redeem the Mortgaged Property in accordance with the statutes and laws of the State of Minnesota.

The Mortgagor further understands that in the event of such Default the Mortgagee may take possession of the Mortgaged Property which is subject to the security interest hereinbefore granted and dispose of the same by sale or otherwise in one or more parcels; provided that at least ten (10) days' prior notice of such disposition must be given to the Mortgagor, all as provided for by the Minnesota Uniform Commercial Code, as hereafter amended, or by any similar or replacement statute hereafter enacted.

The Mortgagor hereby relinquishes, waives and gives up any constitutional rights to notice and hearing before sale of the Mortgaged Property of the Mortgagor and expressly consents and agrees that the Mortgaged Property of the Mortgagor may be foreclosed by advertisement or by any other legal proceeding or action provided by the statutes and laws of the State of Minnesota and that the portion thereof which is subject to the Security Interest hereinbefore granted may be disposed of pursuant to the Uniform Commercial Code, all as described above.

The Mortgagor acknowledges that the Mortgagor is represented by legal counsel; that before signing this document, this Section 3.03 and its constitutional rights were fully explained by such counsel and that the Mortgagor understands the nature and extent of the rights waived hereby and the effect of such waiver.

ARTICLE IV MISCELLANEOUS

SECTION 4.01. SUCCESSORS AND ASSIGNS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and

(to the extent permitted by the Mortgagee) assigns of the Mortgagor and the Mortgagee, including among the Mortgagor's assigns any purchasers or transferees of the Mortgaged Property.

SECTION 4.02. NOTICES. Any notice, request, demand or other communication permitted or required hereunder shall be deemed duly given upon personal delivery or upon deposit with the United States Mail, postage prepaid, certified or registered, addressed to the address of such party on page 3 of this Mortgage, or at such other address as such party may designate to the other party in writing in advance of the other party providing any notice.

SECTION 4.03. HEADINGS. The headings of the sections contained herein are for convenience only and are not to be construed to be a part of or limit or affect the terms hereof.

SECTION 4.04. EXPENSES. The Mortgagor shall reimburse the Mortgagee and any participant, upon demand, for all costs and expenses, including without limitation reasonable attorneys' fees, appraisal fees, survey fees, closing charges, documentary or tax stamps, recording and filing fees, insurance premiums and service charges, paid or incurred by the Mortgagee in connection with (i) the preparation, negotiation, approval, execution and delivery of the Loan Agreement, the Note, this Mortgage and any other documents and instruments related hereto or thereto; (ii) the negotiation of any amendments or modifications to any of the foregoing documents, instruments or agreements and the preparation of any and all documents necessary or desirable to effect such amendments or modifications; and (iii) the enforcement by the Mortgagee during the term hereof or thereafter of any of the rights or remedies of the Mortgagee or any participant hereunder as a result of the occurrence of an Event of Default or under any of the foregoing documents, instruments or agreements, including without limitation costs and expenses of collection, whether or not suit is filed with respect thereto and whether such costs are paid or incurred, or to be paid or incurred, prior to or after entry of judgment.

SECTION 4.05. SECONDARY FINANCING. Notwithstanding anything to the contrary in Section 1.04 above, there shall be no additional financing by the Mortgagor which is secured by a lien on the Land without the prior written consent of the Mortgagee, which consent the Mortgagee may withhold or grant in its sole discretion.

SECTION 4.06. DEFINITIONS. As used herein, the terms "Event of Default" and "Loan Documents" shall have the meanings assigned to such terms in the Loan Agreement.

SECTION 4.07. THE MORTGAGOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY UNDER ANY ACTION OR PROCEEDING ARISING DIRECTLY OR INDIRECTLY OUT OF THIS MORTGAGE, AND ALL DOCUMENTS INCIDENT THERETO.

SECTION 4.08. BUSINESS PURPOSE. The Mortgagor covenants and agrees that the Indebtedness Secured Hereby, and the proceeds of such indebtedness, are solely for business purposes only, and not for personal, family or household purposes.

SECTION 4.09. NO HOMESTEAD/AGRICULTURAL USE. The Land is neither agricultural property. nor property in agricultural use (as defined in Minn. Stat. § 40A.02,

subdivision 3 or otherwise) nor used for agricultural purposes, nor owner occupied residential property of four (4) units or less, nor the homestead of the Mortgagor.

[Signatures begin on the next page]

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be duly executed and delivered to the Mortgagee as of the day and year first above written.

MORTGAGOR:

BETHANY LUTHERAN COLLEGE, INC., OF
MANKATO, MINNESOTA,
a Minnesota nonprofit corporation

By: _____

Its: _____

By: _____

Its: _____

STATE OF MINNESOTA)
)ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of December, 2019, by _____ and _____, the _____ and _____, respectively, of Bethany Lutheran College, Inc., of Mankato, Minnesota, a Minnesota nonprofit corporation, on behalf of the nonprofit corporation.

Notary Public

This instrument Drafted By:
Briggs and Morgan, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
(612) 977-8400

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
PERMITTED ENCUMBRANCES

**Application for Approval of Local Bond Financing -
Pursuant to Minn. Stat. 469.152 – 469.1655**

Please submit two copies of this form but only one copy of supporting documents requested on page 2.

Name of Issuer (Municipality or Redevelopment agency): City of North Mankato, Minnesota (the "City")

Contracting Party (Non-Profit or Business Name): Bethany Lutheran College, Inc., a Minnesota nonprofit corporation (the "College").

Industry and Service/Product: Higher Education.

Project Location (street address, city/township, county – if outside city/township): 700 Luther Drive, Mankato, Minnesota.

Current Full-time and Part-time Jobs at Location: 125 FT Jobs 82 PT Jobs

New (not currently in Minnesota) Permanent Jobs Created by Project: 0 FT Jobs 0 PT Jobs

Expected Annual Wages of New Full-Time Jobs: N/A

Project Type (check one): ☒ Education ☐ Health Care ☐ Waste/Green
☐ Other (please describe) _____

Description of Project Financed by Bond Proceeds:

Refinancing, in part, certain debt associated with the acquisition, construction, and equipping two academic facilities.

Dates of Construction (if applicable): N/A

Date Project Expected to be Operational: N/A

Dollar Amount of Bonds Expected to be Issued: Not to exceed \$5,750,000

Expected Term: 10 years Expected Interest Rate: 2.5 %

Bond Counsel: Catherine J. Courtney of Briggs and Morgan, Professional Association Phone: (612) 977-8765

E-mail: ccourtney@briggs.com

Application for Approval of Local Bond Financing
Pursuant to Minn. Stat. 469.152 – 469.1655

The following exhibits must be furnished with this application:

- ☒ An opinion of bond counsel that the proposal constitutes a project under Minn. Stat. 469.153, Subd. 2.
- ☒ A copy of the resolution by the governing body of the Issuer giving preliminary or final approval for the issuance of its revenue bonds and stating that the project, except for a project under Minn. Stat. 469.153, Subd. 2(g) or (j), furthers the purposes of Minn. Stat. 469.152 – 469.165.
- ☒ A letter of intent to purchase the bond issue or a letter confirming the feasibility of the project from a financial standpoint.
- ☒ A comprehensive statement by the municipality indicating how the project satisfies the purposes of Minn. Stat. 469.152 - 469.165.
- ☒ A statement signed by a representative of the Issuer that the project does not include any property to be sold or affixed to or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.
- ☒ A statement signed by a representative of the Issuer that a public hearing was conducted pursuant to Minn. Stat. 469.154, Subd. 4. The statement shall include the date, time and place of the meeting and certify that a draft copy of this application with all attachments was available for public inspection and that all interested parties were afforded an opportunity to express their views.
- ☒ A statement signed by the principal representative of the issuing authority to the effect that upon entering into the revenue agreement, the information required by Minn. Stat. 469.154, Subd. 5 will be submitted to the Department (not applicable to projects under Minn. Stat. 469.153, Subd. 2(g) or (j)).
- ☒ A plan for encouraging the targeting of employment opportunities to economically disadvantaged or unemployed individuals. (See Minn. Stat. 469.154, Subd. 7.) ***The plan must indicate one or more specific steps that may include using employment offices (e.g., Minnesota Workforce Centers) for recruitment and placement, among other actions.***
- ☒ Affidavit(s) of publication or copies of notice(s) as published which indicate the date(s) of publication and the newspaper(s) in which the notice(s) were published.

**Application for Approval of Local Bond Financing
Pursuant to Minn. Stat. 469.152 – 469.1655**

We, the undersigned, are principal officer(s) or representative(s) of the Issuer and solicit DEED's approval of this project.

Signature

Mark Dehen, Mayor

Print Name and Title

1001 Belgrade Avenue

Street Address

North Mankato, Minnesota 56003

City, State and Zip

E-Mail

December 2, 2019

Date _____

Signature

John Harrenstein, City Administrator

Print Name and Title

1001 Belgrade Avenue

Street Address

North Mankato, Minnesota 56003

City, State and Zip

johnharrenstein@northmankato.com

E-Mail

December 2, 2019

Date

E-mail for the chief administrator or operating office of the issuer (municipality or redevelopment agency):

John Harrenstein, City Administrator. E-Mail: johnharrenstein@northmankato.com

DEED Approval

Authorized Signature

Approval Date

(Approval shall not be deemed to be an approval on the feasibility of the project or the terms of the revenue agreement to be executed or the bonds to be issued thereof.)

Send two copies of form and one copy of supporting documents noted on page 2 to:

Minnesota Department of Employment and Economic Development
Bob Isaacson, Executive Director, Business Finance Office
1st National Bank Building
332 Minnesota Street, Suite E200
St. Paul, Minnesota 55101

Phone: 651-259-7458

E-mail: Bob.Isaacson@state.mn.us

[Letterhead of Bond Counsel]

December 2, 2019

Mr. Bob Isaacson
Minnesota Department of
Employment and Economic Development
First National Bank Building
332 Minnesota Street, E200
St. Paul, Minnesota 55101

Re: City of North Mankato, Minnesota – Educational Facility Revenue
Refunding Note, Series 2019 (Bethany Lutheran College Project)

Dear Mr. Isaacson:

Our firm has been engaged to act as Bond Counsel in connection with the issuance of the Note named above. This is to advise you that our firm has reviewed the attached resolution, the letter of Bremer Bank, National Association (the "Lender"), the letter of Bethany Lutheran College, Inc. (the "Borrower"), the application of the City of North Mankato, Minnesota (the "City"), and the letter of transmittal from the City. Based upon a review of that material it is our opinion that the Project referred to therein constitutes a project within the meaning of Minnesota Statutes, Section 469.153, Subdivision 2(b) and that the proposed financing thereof as set forth in the attached resolution is authorized by law.

Please do not hesitate to give me a call if there are any questions.

Very truly yours,

Catherine J. Courtney

Enclosures

[Letterhead of Lender]

December 2, 2019

City of North Mankato
1001 Belgrade Avenue
North Mankato, MN 56003

Re: City of North Mankato, Minnesota – Educational Facility Revenue Refunding
Note, Series 2019 (Bethany Lutheran College Project)

Ladies and Gentlemen:

At the request of Bethany Lutheran College, Inc., a Minnesota nonprofit corporation (the "Borrower"), we have reviewed the proposal that the City of North Mankato, Minnesota (the "City") issue a note (the "Note") under the provisions of the Minnesota Municipal Industrial Development Act to provide funds for the refinancing, in part, of certain debt associated with the acquisition, construction, and equipping of two academic facilities known as Honsey Hall and Meyer Hall, located on the Borrower's campus, 700 Luther Drive, in the City of Mankato, Minnesota (the "Project").

Our review has led us to the conclusion that on the basis of current financial conditions, the Project is feasible from a financial standpoint and we expect to purchase the Note when issued.

We understand a copy of this letter will be forwarded by the City to the Minnesota Department of Employment and Economic Development to serve as the letter of feasibility required by the Commissioner.

Sincerely,

BREMER BANK, NATIONAL ASSOCIATION

By _____

Its _____

[Letterhead of the City of North Mankato, MN]

December 2, 2019

Mr. Bob Isaacson
Minnesota Department of
Employment and Economic Development
1st National Bank Building
332 Minnesota Street, Suite E200
St. Paul, Minnesota 55101-1351

Re: City of North Mankato, Minnesota – Educational Facility Revenue Refunding
Note, Series 2019 (Bethany Lutheran College Project)

Dear Mr. Isaacson:

Attached hereto in duplicate is the application of the City of North Mankato, Minnesota (the "City"), for approval of the above-referenced project (the "Project") including a copy of the Resolution approving the issuance of the Note adopted by the City Council of the City.

As indicated in the attached Resolution, we believe that this Project fully meets the public purpose requirements of Minnesota Statutes, Sections 469.152 to 469.165 (the "Act"). Bethany Lutheran College, Inc. (the "Borrower"), a Minnesota nonprofit corporation, operates facilities for higher education. The City Council desires to help promote development of such educational facilities and believes that the refinancing, in part, of the Project by the issuance of revenue notes or other obligations will accomplish that objective. Reference is made to the Resolution for a more definitive statement of the public purposes served by the refinancing.

The Project does not contain any property to be sold or affixed or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.

The City has complied with the notice and hearing requirements of Minnesota Statutes, Section 469.154, subdivision 4, and agrees it will comply with the reporting requirements set forth in Minnesota Statutes, Section 469.154, subdivisions 5 and 7. The public hearing was held on November 25, 2019, at City Hall in the City of North Mankato, a draft copy of the enclosed application with all attachments was available for public inspection and all interested parties were afforded an opportunity to express their views.

The City will undertake to encourage that the employment opportunities made available by the Project will, if feasible, be offered to individuals who are unemployed or who are economically disadvantaged. This will be done by the Borrower as set forth in its hiring plan.

We respectfully request prompt approval by the Minnesota Department of Employment and Economic Development of the Project under the provisions of the Act.

Sincerely,

CITY OF NORTH MANKATO, MINNESOTA

City Administrator

[Letterhead of Borrower]

December 2, 2019

City Council
City of North Mankato
1001 Belgrade Avenue
North Mankato, MN 56003

**RE: City of North Mankato, Minnesota
Educational Facility Revenue Refunding Note, Series 2019
(Bethany Lutheran College Project)**

Dear Councilmembers:

Bethany Lutheran College, Inc., is a Minnesota nonprofit corporation (the "Obligor") and will be obligated to repay the above-referenced obligations (the "Obligations"). We have been informed that Minnesota Statutes, Section 469.154, subdivision 7 (the "Act") encourages beneficiaries of financing mechanisms such as the Obligations to target employment opportunities to qualified individuals who are unemployed or economically disadvantaged as defined in the federal Job Training Partnership Act of 1982, Statutes at Large, volume 96, page 1322.

The Obligor plans to implement one or more of the following specific steps to meet the requirements of the Act:

- Utilize social media, alumni advertising, and job postings on national association websites to attract qualified candidates for positions available on campus;
- Keep the application process accessible, making it easy to apply online or in person; and
- Offer strong mentoring programs for employees; an increased starting wage, even in low-skill, entry-level positions.

The Obligor understands that indication of its plan for targeting employment opportunities to qualified individuals who are unemployed or economically disadvantaged as described above is a condition to approval by the Department of Employment and Economic Development ("DEED") of financing the proposed project. We have been informed that the approval of DEED is required by Minnesota Statutes, Section 469.154, subdivision 3.

It also is the plan of the Obligor to provide any reports to DEED as may be required by the Act or other laws of the State of Minnesota.

BETHANY LUTHERAN COLLEGE, INC.

By: _____
Its: _____