

## ARTICLE V

### COVENANTS

Section 5.01 General Covenants. For the protection of the Holders of the Bonds, the City herein covenants and agrees to and with the Holders thereof from time to time as follows:

(A) It will at all times adequately maintain and efficiently operate the Recycling and Solid Waste System and the Recycling and Solid Waste Fund. The City will from time to time make all needful and proper repairs, replacements, additions and betterments to the equipment and facilities of the Recycling and Solid Waste System that it may at all times be operated properly and advantageously, and whenever any equipment of the Recycling and Solid Waste System shall have been worn out, destroyed or otherwise become insufficient for proper use, it shall be promptly replaced or repaired so that the value and efficiency of the facilities shall be at all times fully maintained and its Revenues unencumbered by reason thereof.

(B) The City may sell, lease, transfer, convey, assign or dispose of (each such event herein referred to as a "Transfer") a portion of the Recycling and Solid Waste System or property of any nature relating thereto only if such transaction will not materially adversely impair the operating efficiency of the Recycling and Solid Waste System and such Transfer does not cause the City to violate the debt service coverage ratio covenant set forth in Section 5.06 (B) of this Resolution. Further, the City may sell or dispose of, at fair market value, any non-revenue-producing real estate, non-revenue-producing equipment or other non-revenue-producing properties which in the judgment of the City have become unnecessary, uneconomical or inexpedient to use in connection with the Recycling and Solid Waste System. The proceeds of any sale, transfer or disposition of Recycling and Solid Waste System property (all of which are Revenues as provided in clause (c) of the definition thereof) shall be deposited or applied as provided in Section 4.03(B). The City may sell all or substantially all of the Recycling and Solid Waste System if simultaneously with or prior to such sale all outstanding Bonds are discharged as provided in Section 8.03.

(C) The City shall cause to be kept proper books, records and accounts adapted to the Recycling and Solid Waste System and the Recycling and Solid Waste Fund separate from other accounts of the City. The City will faithfully and punctually perform all duties with reference to the Recycling and Solid Waste Fund required by the City's home rule charter, the Municipal Debt Act, the Constitution and laws of the State of Minnesota and this Resolution.

#### Section 5.02 Tax Covenants.

The following special covenants of the City apply only to Tax-Exempt Bonds.

(A) Notwithstanding anything to the contrary herein, money in the Rebate Account shall be used, if necessary, to pay any rebate of excess investment earnings on gross proceeds of Tax-Exempt Bonds (and, if applicable, any actual or imputed earnings on Excess Earnings amounts) required to be paid to the United States in order to maintain the exclusion from gross income under Section 103 of the Code of the interest on any Tax-Exempt Bonds.

(B) No portion of the proceeds of any series of Tax-Exempt Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, (2) as part of a reasonably required reserve or replacement fund not in excess of ten percent (10%) of

the proceeds of the Bonds (or in a higher amount which the City establishes is necessary to the satisfaction of the Secretary of the Treasury of the United States), and (3) in addition to the above in an amount not greater than the lesser of five percent (5%) of the proceeds of the Bonds or \$100,000. To this end, any proceeds of Tax-Exempt Bonds and any sums from time to time held in the Project Account, Reserve Account or Bond Account (or any other City account which will be used to pay principal or interest to become due on the Tax-Exempt Bonds payable therefrom) in excess of amounts which under then-applicable federal arbitrage regulations may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments after taking into account any applicable "temporary periods," minor portion or reserve made available under the federal arbitrage regulations. Money in the Funds and Accounts shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause a series of Tax-Exempt Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code. The proceeds of Tax-Exempt Bonds shall not be invested in other tax-exempt obligations the interest on which is subject to alternative minimum tax under the Code, unless the City has received an opinion of bond counsel to the effect that such investment will not jeopardize the tax-exempt status of the Tax-Exempt Bonds.

Section 5.03 Negative Covenant as to Use of Improvements. The City hereby covenants not to use the proceeds of Tax-Exempt Bonds or to use any Improvements the cost of which is financed with proceeds of Outstanding Tax-Exempt Bonds, or to cause or permit them or any of the Improvements financed with proceeds of Outstanding Tax-Exempt Bonds to be used, or to enter into any deferred payment arrangements for the cost of the Improvements, in such a manner as to cause the Tax-Exempt Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code, unless such Tax-Exempt Bonds are issued, and the proceeds thereof applied, in full compliance with the provisions of the Code applicable to "private activity bonds." The City reasonably expects that no actions will be taken over the term of the Series 2024E Bond that would cause it to be a private activity bond, and the weighted average maturity of the Series 2024E Bond is no longer than reasonably necessary for the governmental purpose of the issue.

Section 5.04 Tax-Exempt Status of the Bonds; Rebate; Elections. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on all series of Tax-Exempt Bonds, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Tax-Exempt Bonds, and the rebate of excess investment earnings to the United States.

The City expects that the eighteen (18) month expenditure exception to the rebate requirements may apply to the proceeds of the Series 2024E Bond.

If any elections are available now or hereafter with respect to arbitrage or rebate matters relating to the Tax-Exempt Bonds, the City Treasurer and Director, Office of Financial Services, or their proper designees, are hereby authorized and directed to make such elections as they deem necessary, appropriate or desirable in connection with the Tax- Exempt Bonds, and all such elections shall be, and shall be deemed and treated as; elections of the City.

Section 5.05 Covenant with Holders. The principal of and interest on the Bonds are not secured by a pledge of the full faith and credit or taxing powers of the City, but are secured by and payable solely from the Revenues pledged to the payment thereof pursuant to Section

4.01(A) above. The City hereby unconditionally, irrevocably, and absolutely agrees to make prompt and full payment of all payment obligations owed to the 2024E Purchaser under the Series 2024E Bond and this Resolution but solely from the Revenues and amounts held in the funds created pursuant to Article IV above .

(B) The City will establish, maintain and collect such charges and rates for the Recycling and Solid Waste System as well as the corresponding revenues for the Recycling and Solid Waste Fund as will meet the requirements of Section 10.11.2 of the City's home rule charter and as will produce Revenues annually equal to at least one (1.0) times Maximum Annual Debt Service. The City's 2024 Internal Loan shall not be included in any debt service coverage ratio calculation since it is payable from net Revenues. The City shall pay the reasonable cost of operation, repair and maintenance of the Recycling and Solid Waste System and, from Revenues, provide sufficient money to make the required appropriations to the various Funds and Accounts established herein. The City will review the schedule of rates and charges for the Recycling and Solid Waste System at least annually. Nothing in this Section 5.06 shall be construed to limit the discretion of the City to enter into, or later modify, amend or terminate, contracts for the use of the Recycling and Solid Waste System.

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