

METROPOLITAN COUNCIL
390 Robert Street North, Saint Paul, Minnesota 55101-1805

RESOLUTION NO. 2008-01

**RESOLUTION AUTHORIZING EXECUTION OF A LOAN AGREEMENT WITH THE
PUBLIC FACILITIES AUTHORITY AND ISSUANCE OF A
GENERAL OBLIGATION TRANSIT NOTE, SERIES 2008A**

WHEREAS:

A. The Minnesota Public Facilities Authority (“PFA”) has the authority to make loans (the “PFA Loans”) funded from proceeds of revenue bonds (“PFA Bonds”) and other sources to the Metropolitan Council, State of Minnesota (the “Council”), to provide funds to finance certain public transportation projects of the Council;

B. The Council may obligate itself to repay the PFA Loans through the issuance of general obligation transit bonds issued in the form of a single debt instrument (the “Note”) pursuant to Minnesota Statutes, Section 473.39, subdivision 1k, to finance the cost of capital expenditures as prescribed in the Council’s transit capital improvement program;

C. The Council has applied for a PFA Loan in an aggregate amount not to exceed \$10,000,000, and the PFA has agreed to make the PFA Loan and disburse the proceeds thereof in accordance with a Loan Agreement (the “Loan Agreement”) between the PFA and the Council in substantially the form on file in the offices of the Council; and

D. The PFA has represented that it is a “board, department or agency” of the State of Minnesota within the meaning of Minnesota Statutes, Section 475.60, subdivision 2(4);

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Council as follows:

1. Approval of Loan Agreement. The Loan Agreement is hereby approved in substantially the form on file in the office of the Council; and the Regional Administrator or Chief Financial Officer is authorized and directed to execute the Loan Agreement, in addition to other certificates required thereunder, on behalf of the Council. In the event of a conflict between the terms of the Loan Agreement and the terms of this Resolution, the terms of the Loan Agreement shall prevail.

2. The Note. The obligation of the Council to repay, with interest, the PFA Loan as provided in the Loan Agreement shall be evidenced by and payable in accordance with the terms and conditions of the Note attached hereto as Exhibit A and the other terms and conditions of this Resolution, and the Note shall forthwith be executed as provided in paragraph 4 hereof and be issued to the PFA.

3. Purpose. The Note shall provide funds for capital expenditures as prescribed in the Council’s regional transit master plan and transit capital improvement program which are eligible for financing under the Loan Agreement, as amended from time to time (the “Project”). The total cost of the Project, which shall include all costs enumerated in Minnesota Statutes

475.65 and permitted by law to be financed by the Note, is estimated to be at least equal to the principal amount which may be disbursed under the Note. The Project has commenced and shall continue to proceed with due diligence to completion. The capital expenditures comprising the Project are included in the Council's regional transit master plan and transit capital improvement program and are hereby determined to be necessary or desirable for the metropolitan transit system.

4. Execution. The Note shall be executed on behalf of the Council by the signatures of its Chair and Treasurer, the Council having no seal; provided, however, that the signatures may be printed or photocopied facsimiles on the Note as permitted by law. In the event of disability or resignation or other absence of either such officer, the Note may be signed by the manual or facsimile signature of that officer who may act on behalf of such absent or disabled officer. In case either such officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery.

5. Registration, Transfer, Exchange. The Council's Chief Financial Officer is hereby appointed the Note Registrar, provided if that officer is not available at any time to exercise the duties herein assigned to the Note Registrar, the Treasurer or Regional Administrator may act on the Chief Financial Officer's behalf. The Council will cause to be kept at the principal office of the Note Registrar a note register in which, subject to such reasonable regulations as the Note Registrar may prescribe, the Note Registrar shall provide for the registration of the Note and the registration of transfers of the Note entitled to be registered or transferred as herein provided. The Note shall be registered in the name of the payee on the books of the Note Registrar by presenting the Note for registration to the Note Registrar, who will endorse his or her name and note the date of registration opposite the name of the payee in the certificate of registration on the Note. Thereafter the Note may be transferred by delivery with an assignment duly executed by the Holder or his, her or its legal representative, and the Council and Note Registrar may treat the Holder as the person exclusively entitled to exercise all the rights and powers of an owner until the Note is presented with such assignment for registration of transfer, accompanied by assurance of the nature provided by law that the assignment is genuine and effective, and until such transfer is registered on said books and noted thereon by the Note Registrar, all subject to the terms and conditions provided in this Resolution and to reasonable regulations of the Council contained in any agreement with, or notice to, the Note Registrar. If the Note is presented or surrendered for transfer, it shall be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the Note Registrar, duly executed by the Holder thereof or the Holder's attorney duly authorized in writing. The Note Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of any Note and any legal or unusual costs regarding transfers and lost Notes.

6. 2008A (PFA) Transit Note Fund, Pledges, Appropriations.

(i) Special Transit Note Fund. There is hereby established a 2008A (PFA) Transit Note Fund (the "Note Fund") in the Council's Debt Service Fund. The Note Fund shall be held in the custody of the Chief Financial Officer, deposited in one or more banks duly qualified as

depositories of Council funds, and invested and reinvested in accordance with resolutions of the Council and Minnesota Statutes, Chapter 118A and Section 5.02 of the Loan Agreement, and shall be used only to pay when due principal and interest and related expenses (including paying agency, registration, swap agreement or investment service expenses and rebate of arbitrage earnings) payable with respect to the Note or PFA Bonds and any other general obligation transit obligations of the Council, as may be directed by the Council to be paid from the Note Fund, until all such principal and interest and expenses have been fully paid; provided that if any payment falls due when the balance in the Note Fund is insufficient to pay it, the deficiency shall be paid out of any other funds of the Council available for that purpose, and advances so made may be repaid from the Note Fund when a sufficient balance is available therein.

(ii) Other Appropriations. The following sums are hereby pledged and appropriated and shall be credited as received to the Note Fund:

(a) All income and gain from investment of the Note Fund (to which all loss from such investment shall be charged).

(b) All sums collected from taxes levied, extended and assessed under the provisions of subparagraphs (iii) and (iv) below.

(iii) Tax Levy. For payment of the Note and the interest thereon when due, there is hereby levied on all taxable property in the metropolitan transit area and transit taxing district as provided in Minnesota Statutes, Sections 473.39 and 473.446, a direct general ad valorem tax, collectible in the years and amounts equal to an amount which is not less than 5% in excess of the principal of and interest on the Note due in each year. Such tax shall be apportioned among the counties in the metropolitan transit area and transit taxing district by the various County Auditors in accordance with state law. The proceeds of the tax, when received, shall be deposited in the Note Fund. The Council reserves the right to reduce or cancel such tax levy in accordance with Minnesota Statutes, Section 475.61.

(iv) Pledge of Taxing Powers. For the prompt and full payment of the principal of and interest on the Note as such payments respectively become due, the full faith, credit and unlimited taxing powers of the Council shall be and are hereby irrevocably pledged; and the Council covenants and agrees that if and to the extent necessary to provide moneys which will be not less than 5% in excess of the principal of and interest on the Note when due, it will levy on all taxable property in the metropolitan area that is subject to taxation by the Council, a direct, irrevocable ad valorem tax for this purpose, the collections of which shall be deposited in the Note Fund.

(v) Note Record. The Chief Financial Officer of the Council is directed to keep on file in the Council office a tabulation of the dates and amounts of the principal and interest payments to become due on all obligations payable from the Note Fund.

7. Disposition of Note Proceeds. All disbursements of Note proceeds made under the Loan Agreement shall be made and applied as provided in the Loan Agreement.

8. General Tax Covenant. The Council covenants and agrees with the registered owners of the Note that it will not take, or permit to be taken by any of its officers, employees or

agents, any action which would cause the interest payable on the Note to become subject to taxation under the Internal Revenue Code of 1986, as amended (the “Code”), and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the interest on the Note will not become includable in gross income of the recipient under the Code and the Regulations. The improvements or equipment financed with the proceeds of the Note will be owned and maintained by the Council so long as the Note is outstanding. The Council will not enter into any lease, use agreement, management agreement or other agreement or contract with any non-governmental person relating to the use of the improvements which would cause the Note to be considered “private activity bonds” or “private loan bonds” pursuant to Section 141 of the Code, unless remedial action is then available under Section 141 of the Code which would allow such private use subsequent to taking the remedial action without causing any interest on the Note or any of the PFA’s Bonds to be included in gross income of the owner thereof for federal income tax purposes. The Council shall notify the PFA of any such proposed private use and the proposed remedial action and shall provide the PFA a written opinion of nationally recognized bond counsel, selected by the Council and acceptable to the PFA, to the effect that upon taking of the remedial action, the subsequent deliberate action resulting in a private use of the Project will not cause the interest on any of the PFA’s Bonds to be included in gross income for federal income tax purposes.

9. Certificate of Registration. The Chief Financial Officer is hereby directed to file certified copies of this Resolution with the County Auditors of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, Minnesota, together with such other information as they shall require, and to obtain from the County Auditors their certificates that the Note has been entered in the County Auditors’ Bond Registers.

10. Records and Certificates. The Chief Financial Officer of the Council is hereby authorized and directed to prepare and furnish to the PFA, and to the attorneys approving the legality of the issuance of the Note, certified copies of all proceedings and records of the Council relating to the Note and to the financial condition and affairs of the Council, and such other affidavits, certificates and information as are required to show the facts relating to the legality and marketability of the PFA Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the Council as to the facts recited therein.

11. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

12. Headings. Headings in this resolution are included for convenience of reference only, and are not a part hereof.

13. Conditions. The Loan Agreement and the Note shall be executed and delivered only upon satisfaction of the following conditions:

- (a) The principal amount of the Note shall not exceed \$10,000,000.

(b) The per annum interest rate on the Note shall be 150 basis points less than the true interest cost of the PFA Bonds to be issued to fund the PFA Loan; provided, however, the per annum interest rate on the Note shall not exceed 2.00%.

(c) The Note shall be issued only upon execution of the Loan Agreement.

The Chair and Chief Financial Officer are authorized to establish the interest rate on the Note consistent with the conditions hereinabove stated.

Adopted: January 9, 2008.

Peter Bell, Chair

Susan Harder, Recording Secretary

EXHIBIT A

UNITED STATES OF AMERICA
STATE OF MINNESOTA
ANOKA, CARVER, DAKOTA, HENNEPIN,
RAMSEY, SCOTT AND WASHINGTON COUNTIES

METROPOLITAN COUNCIL
(MINNEAPOLIS-SAINT PAUL AREA)

GENERAL OBLIGATION TRANSIT NOTE, SERIES 2008A (PFA)

The Metropolitan Council (Minneapolis-Saint Paul Area), Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, Minnesota (the “Issuer”), a duly organized public corporation and political subdivision of the State of Minnesota, certifies that it is indebted and for value received promises to pay to the Minnesota Public Facilities Authority (“PFA”), its successors or registered assigns, in the manner hereinafter set forth, the principal sum of Ten Million Dollars (\$10,000,000), together with interest on so much of the principal amount of the debt as (i) may be disbursed from time to time as provided in the Loan Agreement (the “Loan Agreement”) hereinafter described and (ii) remains unpaid (the “Principal Balance”) at the rate of one and seven hundred and ninety-four thousandths percent (1.794%) per annum (calculated on the basis of a 360-day year of twelve 30-day months) until the Principal Balance is paid or has been provided for, all at the times and, as to principal, in installments as hereinafter set forth, provided that amounts payable as interest shall be reduced if the PFA issues bonds to refund bonds under which funds advanced under the Note were financed or refinanced and as a result thereof secures debt service savings, to the extent provided in the Loan Agreement.

1. Principal and Interest Payments.

(a) Interest. Interest shall begin to accrue on each component of the Principal Balance from and after the date on which such principal sum is first disbursed under the Loan Agreement, and shall thereafter be payable semiannually on February 15 and August 15 of each year, commencing on August 15, 2008.

(b) Principal. Principal installments due on the Note shall be payable on February 15 and August 15 in the years and amounts set forth in Exhibit A attached hereto; provided, however, that in no event shall the Issuer be required to make aggregate principal payments in excess of principal amounts disbursed under the Loan Agreement. In the event that less than the entire principal amount has been requested for disbursement by the Issuer prior to January 1, 2010, or at any time the Issuer notifies the PFA that less than the entire principal amount is to be disbursed pursuant to the Loan Agreement, the balance of the amounts undisbursed shall reduce the Stated Principal Amount.

(c) Method of Payment. Interest, principal and any premium due under this Note will be paid on each payment date in immediately available funds to the person in whose name this Note is registered (the “Holder”) at the principal office of the Holder as set forth on the registration books of the Issuer maintained by the Chief Financial Officer of the Issuer in Saint Paul, Minnesota, or its duly designated successor (the “Note Registrar”). The principal of and premium, if any, and interest on this Note are payable in lawful money of the United States of America.

2. Date of Payment Not Business Day. A “Business Day” shall be any date except a Saturday, Sunday, legal holiday or a day on which banking institutions in Saint Paul, Minnesota, are authorized by law or executive order to close. If the date for payment of the principal of, premium, if any, or interest on this Note shall not be a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

3. Redemption. The outstanding Principal Balance due under this Note shall not be subject to redemption or prepayment prior to the payment dates set forth in paragraph 1(b) hereof.

4. Issuance, Purpose, General Obligation. This Note has been issued pursuant to and in full conformity with the Constitution and laws of the State of Minnesota and pursuant to a resolution adopted by the Issuer on January 9, 2008 (the “Resolution”), for the purpose of providing funds to finance capital expenditures for the transit system of the Issuer in accordance with that certain Loan Agreement (the “Loan Agreement”) dated as of January 1, 2008, between the PFA and the Issuer. The terms and conditions of the Loan Agreement are incorporated herein by reference and made a part hereof. In the event of a conflict between the terms of the Loan Agreement and the terms of this Note, the terms of the Loan Agreement shall prevail. This Note is payable out of the 2008A (PFA) Transit Note Fund in the Debt Service Fund of the Issuer. This Note constitutes a general obligation of the Issuer, and to provide moneys for the prompt and full payment of its principal, premium if any, and interest when the same become due, the full faith and credit and taxing powers of the Issuer have been and are hereby irrevocably pledged.

5. Transfer. This Note shall be registered in the name of the payee on the books of the Issuer by presenting this Note for registration to the Note Registrar, who will endorse and note the date of registration opposite the name of the payee in the certificate of registration attached hereto. Thereafter this Note may be transferred by delivery with an assignment duly executed by the Holder or the Holder’s legal representatives, and the Issuer and Note Registrar may treat the Holder as the person exclusively entitled to exercise all the rights and powers of an owner until this Note is presented with such assignment for registration of transfer, accompanied by assurance of the nature provided by law that the assignment is genuine and effective, and until such transfer is registered on said books and noted hereon by the Note Registrar, all subject to the terms and conditions provided in the Resolution and to reasonable regulations of the Issuer contained in any agreement with, or notice to, the Note Registrar.

6. Fees upon Transfer or Loss. The Note Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of this Note and any legal or unusual costs regarding transfers and a lost Note.

7. Treatment of Registered Owner. The Issuer and the Note Registrar may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note shall be overdue, and neither the Issuer nor the Note Registrar shall be affected by notice to the contrary.

8. Tax Covenant. The Issuer covenants and agrees with the registered owners of the Note that it will not take, or permit to be taken by any of its officers, employees or agents, any action which would cause the interest payable on the Note to become subject to taxation under the Internal Revenue Code of 1986, as amended (the “Code”), and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to

ensure that the interest on the Note will not become includable in gross income of the recipient under the Code and the Regulations.

9. Loan. The Loan under the Loan Agreement shall be deemed fully made upon delivery of this Note, and the proceeds of the Loan shall be disbursed from time to time to the Issuer by the PFA as provided in the Loan Agreement.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to happen and to be performed, precedent to and in the issuance of this Note, have been done, have happened and have been performed, in regular and due form, time and manner as required by law; that in and by the Resolution the Issuer has pledged its full faith and credit and taxing powers for the prompt and full payment of the principal of and interest on this Note when due, and has levied ad valorem taxes on all taxable property in the metropolitan transit area and transit taxing district as provided in Minnesota Statutes, Sections 473.39 and 473.446 for such purpose, which taxes may be levied without limitation as to rate or amount; and that the issuance of this Note does not cause the indebtedness of the Issuer to exceed any constitutional or statutory limitation of indebtedness.

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, the Metropolitan Council (Minneapolis-Saint Paul Area), Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, Minnesota, has caused this Note to be executed on its behalf by the signatures of its Chair and Treasurer, the Issuer having no seal.

METROPOLITAN COUNCIL
ANOKA, CARVER, DAKOTA, HENNEPIN,
RAMSEY, SCOTT AND WASHINGTON
COUNTIES, MINNESOTA

Chair

Treasurer

[Signature Page to \$10,000,000 General Obligation Transit Note, Series 2008A (PFA)]

CERTIFICATE OF REGISTRATION

The transfer of ownership of the principal amount of the attached Note may be made only by the registered owner or his, her or its legal representative last noted below.

<u>DATE OF REGISTRATION</u>	<u>REGISTERED OWNER</u>	<u>SIGNATURE OF NOTE REGISTRAR</u>
_____	Minnesota Public Facilities Authority Attn: _____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Note and does hereby irrevocably constitute and appoint _____ attorney to transfer the Note on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Note in every particular, without alteration or any change whatever.

Signature Guaranteed:

Signature(s) must be guaranteed by a national bank or trust company or by a brokerage firm having a membership in one of the major stock exchanges or any other "Eligible Guarantor Institution" as defined in 17 CFR 240.17 Ad-15(a)(2).

The Note Registrar will not effect transfer of this Note unless the information concerning the transferee requested below is provided.

Name and Address: _____
(Include information for all joint owners if the Note is held by joint account.)

EXHIBIT A

Schedule of Principal Installments
For \$10,000,000

<u>Date</u>	<u>Principal Installment</u>
08/15/08	
02/15/09	
08/15/09	
02/15/10	
08/15/10	
02/15/11	
08/15/11	
02/15/12	
08/15/12	
02/15/13	
08/15/13	
02/15/14	
08/15/14	
02/15/15	
08/15/15	
02/15/16	
08/15/16	
02/15/17	
08/15/17	
02/15/18	
Total	<u>\$10,000,000</u>