

EXECUTIVE ORDER NO. 83-4

Providing for public approval requirement of Internal Revenue code for the Port Authority, City of St. Paul

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, Section 103(k) of the Internal Revenue Code of 1954, as amended, (the "Code") requires that all industrial revenue bonds issued after December 31, 1982 satisfy certain public approval requirements prior to their issuance; and

WHEREAS, the Port Authority of the City of Saint Paul (the "Port Authority") has been advised by its bond counsel that in the absence of a curative legislative amendment or regulation or ruling of the Internal Revenue Service, the tax exempt status of any industrial development bonds issued by the Port Authority after December 31, 1982 will be impaired unless the State of Minnesota takes the action herein contemplated to satisfy the said public approval requirements; and

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WHEREAS, the action to be taken by the State of Minnesota pursuant to this ORDER is consistent with the laws of the State of Minnesota and within the authority vested in the Governor of the State of Minnesota, and best serves the interests of the State of Minnesota and the City of Saint Paul,


NOW, THEREFORE, BE IT ORDERED by the Governor of the State of Minnesota as follows:

1. For purposes of conducting the public hearing required under Section 103(k) of the Code, the Port Authority of the City of Saint Paul is hereby designated to act as an agent for the State of Minnesota at such time as the Port Authority conducts the public hearing undertaken by the Port Authority under Minnesota Statutes Chapter 474 with respect to all revenue bonds which are "industrial development bonds" within the meaning of Section 103(b) of the Code. Upon conducting such public hearing and, if application for approval for the project is made to the Commissioner of Energy, Planning and Development and such approval is given by the Commissioner, the Commissioner shall, at the request of the Port Authority, forward the application and approval of the Commissioner to the Governor for purposes of securing from the Governor, or any designee of the Governor permitted under Section 103(k) of the Code, approval of the bond issue so as to provide adequate assurances that the public approval requirements of Section 103(k) of the Code have been duly satisfied and for no other purpose.

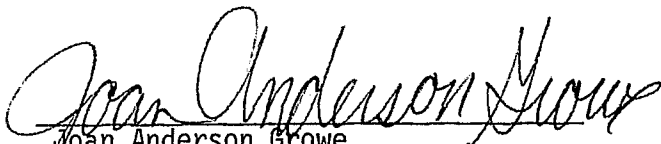
2. Neither this ORDER nor any agreement executed for the purposes of implementing the same shall impose any obligation on the Governor or his designee to approve any bond issue forwarded to him for approval as provided herein.
3. Any approval given by the Governor or his designee in accordance with the provisions of this ORDER shall not be construed as imposing any liability upon the Governor, his designee or the State of Minnesota, whether or not such action in fact satisfies the public approval requirements of Section 103(k) of the Code.

Pursuant to Minnesota Statutes 1978, Section 4.035, this Order shall be effective 15 days after its publication in the State Register and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 8th day of February, 1983.


RUDY PERPICH
Governor

Filed according to law:


Joan Anderson Grove
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 17 1983

Joan Anderson Grove
Secretary of State

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AGENCY AGREEMENT

THIS AGENCY AGREEMENT made and entered into as of the _____ day of Feb 15, 1983⁹⁵², 1982, by and between the State of Minnesota (the "State") and the Port Authority of the City of Saint Paul, a body politic organized and existing under the laws of the State of Minnesota (the "Authority").

WITNESSETH:

WHEREAS:

A. Section 103(k) of the Internal Revenue Code of 1954, as amended (the "Code"), requires that all industrial development bonds issued after December 31, 1982, satisfy certain public approval requirements prior to their issuance; and

B. The Authority has been advised by its bond counsel that in the absence of a curative legislative amendment to the Code or regulation or ruling of the Internal Revenue Service, the tax exempt status of any industrial development bonds issued by the Authority after December 31, 1982, may be impaired unless the State of Minnesota takes the action contemplated by this Agency Agreement; and

C. The State and the Authority had adequate authority to enter into this Agency Agreement, and such Agency Agreement best serves the interests of the State of Minnesota, the City of Saint Paul, and the Port Authority of the City of Saint Paul.

NOW, THEREFORE, in consideration of the mutal covenants herein contained, it hereby agreed by and between the parties hereto as follows:

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1. The State and the Authority agree that all public hearings heretofore or hereafter conducted by the Authority under Minnesota Statutes, Chapter 474, shall be deemed to have been conducted on behalf of the State for purposes of conducting the public hearing required under Section 103(k) of the Internal Revenue Code of 1954, as amended (the "Code"), with respect to all Authority revenue bonds which are "industrial development bonds" within the meaning of Section 103(b) of the Code.

2. Upon conducting any public hearing on industrial development bonds as herein provided, if application for approval for the project to be financed by the bonds is made to the Commissioner of Energy, Planning and Development and such approval is given by the Commissioner, the Commissioner shall, at the request of the Authority, forward to the Governor the application, together with the Commissioner's approval, for purposes of securing approval of the bonds from the Governor, or any designee of the Governor permitted under Section 103(k) of the Code, so as to provide adequate assurances that the public approval requirements of Section 103(k) of the Code have been duly satisfied and for no other purposes. Upon receipt of the application and request for approval, the Governor, or his designee, shall consider the matter and in due course approve or disapprove the bond issue. Such approval shall, to the extent permitted under Section 103(k) of the Code, include any additional industrial development bonds that may be required to complete the project under consideration or to refund any revenue bonds issued to finance the project.

3. Any approval given by the Governor, or his designee, in accordance with the provisions of this Agency Agreement shall not be construed as imposing any liability upon the Governor, his designee or the State of Minnesota, whether or not such approval in fact satisfies the public approval requirements of Section 103(k) of the Code.

4. The State or the Authority may, by giving written notice specifying a future effective date, terminate this Agency Agreement.

IN WITNESS WHEREOF, the parties first above mentioned have hereunto set their hands this 15 day of February, ¹⁹⁸³ ~~1982~~ 1983

STATE OF MINNESOTA

By

Joseph G. Lys
Its Commissioner

By

Its _____

PORT AUTHORITY OF THE CITY OF
SAINT PAUL

By

Ray. Hill
Its President

By

William J. Seifert
Its Secretary
asst.