

Relating to the tax increment financing of public improvements with respect to a multifamily housing development located in the Lake Street Center Tax Increment Financing District; authorizing the issuance of tax increment revenue obligations; providing the forms, terms, pledge of revenues, and findings, covenants, and directions relating to the issuance of such obligations

RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

SECTION 1. BACKGROUND

1.01. Pursuant to Resolution No. 2002R-300, adopted by the City Council of the City of Minneapolis (the “City”) on September 13, 2002, the City established the Lake Street Center Redevelopment Project (the “Project”) and the Lake Street Center Redevelopment Tax Increment Finance District (the “District”). The Project and the District were established pursuant to authority granted by Minnesota Statutes, Sections 469.001 through 469.134, Sections 469.174 through 469.179, as amended, Laws of Minnesota 1971, Chapter 677, and Laws of Minnesota 1998, Chapter 389. Pursuant to Resolution No. 2002-2644M, adopted by the Board of Commissioners of the Minneapolis Community Development Agency (the “Agency”) on September 13, 2002, the Agency approved the Lake Street Center Redevelopment Plan (the “Redevelopment Plan”) with respect to the Project and the Lake Street Center Tax Increment Finance Plan (the “TIF Plan”) with respect to the District. Pursuant to Resolution No. 2002R-300, the City Council of the City approved the Redevelopment Plan and the TIF Plan.

1.02. In order to provide for the redevelopment of the Project and the District and, specifically, to provide for the redevelopment of one of the existing buildings located in the District at the corner of Lake Street East and Tenth Avenue South, referred to generally as the 1928 Building, the City is proposing to enter into a redevelopment contract with Ryan Companies US, Inc., a portion of which is proposed to be assigned to one or more other sub-developers, including Sherman Associates (collectively, the “Developer”), to provide for the construction of approximately 88 ownership housing units within the 1928 Building (the “Development”).

1.03. Pursuant to Minnesota Statutes, Sections 469.174 to 469.179, as amended (the “Tax Increment Act”), the City is authorized to issue and sell its bonds or notes for the purpose of financing public redevelopment costs in a redevelopment project and to pledge tax increment revenues derived from a tax increment financing district established within the redevelopment project to the payment of the principal of and interest on such obligations.

SECTION 2. ISSUANCE OF THE BONDS AND THE NOTES

2.01. In order to finance the public redevelopment costs to be paid or incurred by the City with respect to the Development, there is hereby authorized to be issued by the City: (i) taxable tax increment revenue notes to be subsequently refunded with tax-exempt tax increment revenue bonds; or (ii) tax-exempt tax increment revenue bonds.

SECTION 3. ISSUANCE OF THE NOTES

3.01. The City Council hereby authorizes the issuance of tax increment revenue notes to be designated as the “Taxable Tax Increment Revenue Notes (Midtown Exchange Project), Series 2004 (the “Notes”), in a principal amount not to exceed \$3,000,000. The Notes may be issued on such date and upon the terms and conditions determined by the Finance Officer. The Notes may be designated such

other name or names as determined to be appropriate by the Finance Officer. The Notes may be issued in one or more series as the Finance Officer may determine, and may be assigned a separate series designation determined by the Finance Officer for each series issued by the City. The Notes may be issued as obligations the interest on which is includable in gross income for federal and State of Minnesota income tax purposes. This authorization to issue the Notes is effective without any additional action of the City Council and shall be undertaken by the Finance Officer on such date or dates and upon the terms and conditions deemed reasonable by the Finance Officer. The City Council hereby authorizes the sale of the Notes with the assistance of a placement agent hereinafter selected by the Finance Officer (the "Placement Agent"). The City shall sell the Notes to the purchasers to whom the Placement Agent has placed the Notes (the "Purchasers") in accordance with the terms of a Private Placement Agreement between the City and the Placement Agent and/or the Purchasers (the "Private Placement Agreement").

3.02. There shall be prepared, executed and delivered in conjunction with the issuance of the Notes, in the discretion of the Finance Officer, the following documents: (i) the Notes; (ii) a Guaranty Agreement (the "Guaranty") to be executed by the guarantor or guarantors approved by the Finance Officer (the "Guarantor"); (iii) an Assessment Agreement (the "Assessment Agreement"), to be executed by the City, the Developer and certain owners of the housing units comprising the Development; (iv) the Private Placement Agreement; and (v) such other instruments or documents deemed necessary or appropriate by the Finance Officer with respect to the issuance of, or security for, the Notes. The Notes, the Guaranty, the Assessment Agreement, the Private Placement Agreement, and such other instruments or documents are hereby authorized to be approved by the Finance Officer, subject to such changes not inconsistent with this Resolution and applicable law.

3.03. The Notes shall have the maturities, interest rate provisions, shall be dated, numbered, and issued in such denominations, shall be subject to mandatory and optional redemptions and prepayment prior to maturity, shall be executed, sealed, and authenticated in such manner, shall be in such form, and shall have such other details and provisions as are prescribed in the form of the Notes and in the Private Placement Agreement. The Finance Officer is authorized to approve the original aggregate principal amount of each series of Notes to be issued under the terms of this Resolution (subject to the maximum aggregate principal amount for all series authorized by this Resolution), to establish the terms of redemption, the principal amounts subject to redemption, and the dates of redemption of the Notes, and to approve other changes to the other terms of the Notes which are deemed by the Finance Officer to be in the best interests of the City. The issuance and delivery of the Notes shall be conclusive evidence that the Finance Officer has approved the terms and provisions of the Notes in accordance with the authority granted by this Resolution. The proceeds derived from the sale of the Notes, and the earnings derived from the investment of such proceeds, shall be held, transferred, expended, and invested in accordance with determinations of the Finance Officer.

3.04. The Notes shall be secured by the terms of this Resolution, the Notes, the Assessment Agreement, and the Guaranty and shall be payable solely from Available Tax Increments (as defined in the Notes) that are expressly pledged to the payment of the Notes pursuant to the terms of the Notes, or from payments made by the Guarantor pursuant to the terms of the Guaranty.

3.05. It is hereby found, determined and declared that the issuance and sale of the Notes, the execution and delivery by the City of the Notes, Private Placement Agreement, and the Assessment Agreement (the "City Note Documents"), and the performance of all covenants and agreements of the City contained in the City Note Documents, and of all other acts required under the Constitution and laws of the State of Minnesota to make the Notes the valid and binding special obligations of the City enforceable in accordance with their terms, are authorized by applicable Minnesota law, including, without limitation, the Tax Increment Act and this Resolution.

3.06. Under the provisions of the Tax Increment Act, and as provided under the terms of the Notes, the Notes are not to be payable from or chargeable against any funds other than the revenues and assets pledged to the payment thereof; the City shall not be subject to any liability thereon other than from such revenues and assets pledged thereto; no holder of any Notes shall ever have the right to compel any exercise by the City of its taxing powers (other than as contemplated by the pledge of tax increment revenues under the terms of the Notes) to pay the principal of, premium, if any, and interest on the Notes, or to enforce payment thereof against any property of the City other than the property expressly pledged thereto; the Notes shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City other than the revenues or assets expressly pledged thereto; the Notes shall recite that the Notes are issued without a pledge of the general or moral obligation of the City, and that the Notes, including interest thereon, are payable solely from the revenues and assets pledged to the payment thereof; and the Notes shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation of indebtedness.

SECTION 4. ISSUANCE OF THE BONDS

4.01. The City Council hereby authorizes the issuance of tax increment revenue bonds to be designated as the "Tax Increment Revenue Bonds (Midtown Exchange Project), Series 2004 (the "Bonds"), in a principal amount not to exceed \$3,000,000. The proceeds of the Bonds may be applied to the redemption and prepayment of Notes, if Notes were issued to finance the public redevelopment costs of the Development, or the proceeds of the Bonds may be directly applied to pay or reimburse the public redevelopment costs of the Development. The Bonds shall be issued on such date and upon the terms and conditions determined by the Finance Officer of the City (the "Finance Officer"). The Bonds may be designated such other name or names as determined to be appropriate by the Finance Officer. The Bonds may be issued in one or more series as the Finance Officer may determine, and shall be assigned a separate series designation determined by the Finance Officer for each series issued by the City. The Bonds are authorized to be issued as obligations the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. This authorization to issue the Bonds is effective without any additional action of the City Council and shall be undertaken by the Finance Officer on such date or dates and upon the terms and conditions deemed reasonable by the Finance Officer. The City Council hereby authorizes the sale of the Bonds to the underwriter hereinafter selected by the Finance Officer to purchase the Bonds (the "Underwriter") upon the offer of the Underwriter to purchase the Bonds in accordance with the terms of a Bond Purchase Agreement between the City and the Underwriter (the "Bond Purchase Agreement").

4.02. There shall be prepared, executed and delivered in conjunction with the issuance of the Bonds, in the discretion of the Finance Officer, the following documents: (i) an Indenture of Trust (the "Indenture"), between the City and a financial institution selected by the Finance Officer to act as trustee with respect to the Bonds (the "Trustee"); (ii) the Bond Purchase Agreement; and (iii) such other instruments or documents deemed necessary or appropriate by the Finance Officer with respect to the issuance of, or security for, the Bonds. The Indenture, the Bond Purchase Agreement and such other instruments or documents are hereby authorized to be approved by the Finance Officer, subject to such changes not inconsistent with this Resolution and applicable law.

4.03. The Bonds shall have the maturities, interest rate provisions, shall be dated, numbered, and issued in such denominations, shall be subject to mandatory and optional redemptions and prepayment prior to maturity, shall be executed, sealed, and authenticated in such manner, shall be in such form, and shall have such other details and provisions as are prescribed in the Indenture. The forms of the Bonds shall be included in the Indenture and shall be prepared in substantially such forms in the

Indenture, subject to changes not inconsistent with this Resolution and applicable law, and subject to such changes that are approved by the Finance Officer. Without limiting the generality of the foregoing, the Finance Officer is authorized to approve the original aggregate principal amount of each series of Bonds to be issued under the terms of this resolution (subject to the maximum aggregate principal amount for all series authorized by this resolution), to establish the terms of redemption, the principal amounts subject to redemption, and the dates of redemption of the Bonds, and to approve other changes to the other terms of the Bonds which are deemed by the Finance Officer to be in the best interests of the City. The issuance and delivery of the Bonds shall be conclusive evidence that the Finance Officer has approved the terms and provisions of the Bonds in accordance with the authority granted by this resolution. The proceeds derived from the sale of the Bonds, and the earnings derived from the investment of such proceeds, shall be held, transferred, expended, and invested in accordance with determinations of the Finance Officer.

4.04. The Bonds shall be secured by the terms of the Indenture and shall be payable solely from Available Tax Increments (as defined in the Indenture) that are expressly pledged to the payment of the Bonds pursuant to the terms of the Indenture.

4.05. It is hereby found, determined and declared that the issuance and sale of the Bonds, the execution and delivery by the City of the Indenture and the Bond Purchase Agreement (the “City Bond Documents”), and the performance of all covenants and agreements of the City contained in the City Bond Documents, and of all other acts required under the Constitution and laws of the State of Minnesota to make the Bonds the valid and binding special obligations of the City enforceable in accordance with their terms, are authorized by applicable Minnesota law, including, without limitation, the Tax Increment Act and this Resolution.

4.06. Under the provisions of the Tax Increment Act, and as provided in the Indenture and under the terms of the Bonds, the Bonds are not to be payable from or chargeable against any funds other than the revenues and assets pledged to the payment thereof; the City shall not be subject to any liability thereon other than from such revenues and assets pledged thereto; no holder of any Bonds shall ever have the right to compel any exercise by the City of its taxing powers (other than as contemplated by the pledge of tax increment revenues under the terms of the Indenture) to pay the principal of, premium, if any, and interest on the Bonds, or to enforce payment thereof against any property of the City other than the property expressly pledged thereto; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City other than the revenues or assets expressly pledged thereto; the Bonds shall recite that the Bonds are issued without a pledge of the general or moral obligation of the City, and that the Bonds, including interest thereon, are payable solely from the revenues and assets pledged to the payment thereof; and the Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation of indebtedness.

SECTION 5. DISCLOSURE DOCUMENTS AND CLOSING CERTIFICATES

5.01. The preparation of one or more official statements or other forms of disclosure documents (the “Bond Disclosure Documents”) in conjunction with the offer and sale of the Bonds is hereby authorized. When approved by the Finance Officer of the City, the Bond Disclosure Documents are authorized to be distributed in conjunction with the offer and sale of the Bonds. In order to provide for continuing disclosure with respect to the Bonds, to the extent deemed necessary, required, or appropriate by the Finance Officer, the Finance Officer and the Trustee may execute and deliver an agreement or certificate providing for continuing disclosure with respect to the Bonds.

5.02. If the Notes are issued, the preparation of one or more official statements or other forms of disclosure documents (the “Note Disclosure Documents”) in conjunction with the offer and sale of the

Notes is hereby authorized. When approved by the Finance Officer of the City, the Note Disclosure Documents are authorized to be distributed in conjunction with the offer and sale of the Notes. In order to provide for continuing disclosure with respect to the Notes, to the extent deemed necessary, required, or appropriate by the Finance Officer, the Finance Officer may execute and deliver a certificate providing for continuing disclosure with respect to the Notes.

5.03. The Finance Officer is authorized to furnish to the purchasers of the Bonds, on the date of issuance and sale of the Bonds, a certificate that, to the best of the knowledge of such officer, each Bond Disclosure Document does not, as of the date of closing, and did not, as the time of sale of the Bonds, contain any untrue statement of a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. Unless litigation shall have been commenced and be pending questioning the Bonds, the proceedings for approval of the Bonds, tax increment revenues generated or collected for payment of the Bonds, revenues pledged for payment of the Bonds, or the organization of the City, or incumbency of its officers, at the respective closings, the Finance Officer shall also execute and deliver a suitable certificate as to absence of material litigation, and the Finance Officer shall also execute and deliver a certificate as to payment for and delivery of the Bonds, and the signed approving legal opinion of Kennedy & Graven, Chartered, as to the validity and enforceability of the Bonds and the tax-exempt status of interest on the Bonds.

5.04. If the Notes are issued, the Finance Officer is authorized to furnish to the purchasers of the Notes, on the date of issuance and sale of the Notes, a certificate that, to the best of the knowledge of such officer, each Note Disclosure Document does not, as of the date of closing, and did not, as the time of sale of the Notes, contain any untrue statement of a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. Unless litigation shall have been commenced and be pending questioning the Notes, the proceedings for approval of the Notes, tax increment revenues generated or collected for payment of the Notes, revenues pledged for payment of the Notes, or the organization of the City, or incumbency of its officers, at the respective closings, the Finance Officer shall also execute and deliver a suitable certificate as to absence of material litigation, and the Finance Officer shall also execute and deliver a certificate as to payment for and delivery of the Notes, and the signed approving legal opinion of Kennedy & Graven, Chartered, as to the validity and enforceability of the Notes.

5.05. The City Clerk, the Finance Officer, and other agents, officers, and employees of the City are hereby authorized and directed, individually and collectively, to furnish to the attorneys approving the Bonds, on behalf of the purchasers of the Bonds, certified copies of all proceedings and certifications as to facts as shown by the books and records of the City, and the right and authority of the City to issue the Bonds, and all such certified copies and certifications shall be deemed representations of fact on the part of the City. Such officers, employees, and agents of the City are hereby authorized to execute and deliver, on behalf of the City, all other certificates, instruments, and other written documents that may be requested by bond counsel, the Underwriter, the Purchasers, the Trustee, or other persons or entities in conjunction with the issuance of the Bonds and the expenditure of the proceeds of the Bonds. Without imposing any limitations on the scope of the preceding sentence, such officers and employees are specifically authorized to execute and deliver one or more UCC-1 financing statements, a certificate relating to federal tax matters including matters relating to arbitrage and arbitrage rebate, a receipt for the proceeds derived from the sale of the Bonds, an order to the Trustee, a general certificate of the City, and an Information Return for Tax-Exempt Governmental Obligations, Form 8038-G (Rev. November 2000).

5.06. If the Notes are issued, the City Clerk, the Finance Officer, and other agents, officers, and employees of the City are hereby authorized and directed, individually and collectively, to furnish to the attorneys approving the Notes, on behalf of the purchasers of the Notes, certified copies of all

proceedings and certifications as to facts as shown by the books and records of the City, and the right and authority of the City to issue the Notes, and all such certified copies and certifications shall be deemed representations of fact on the part of the City. Such officers, employees, and agents of the City are hereby authorized to execute and deliver, on behalf of the City, all other certificates, instruments, and other written documents that may be requested by bond counsel, the Underwriter, the Purchasers, the Guarantor, or other persons or entities in conjunction with the issuance of the Notes and the expenditure of the proceeds of the Notes. Without imposing any limitations on the scope of the preceding sentence, such officers and employees are specifically authorized to execute and deliver one or more UCC-1 financing statements, a receipt for the proceeds derived from the sale of the Notes and a general certificate of the City.

5.07. The City Clerk is hereby authorized and directed to certify a copy of this Resolution and cause the same to be filed with the Hennepin County Director of Property Taxation, exercising the powers of the county auditor under Minnesota Statutes, Section 475.63, and to obtain the certificate of the Director of Property Taxation as the registration of the Bonds and the Notes. Copies of this Resolution shall also be delivered to the Finance Officer of the City.

SECTION 6. MISCELLANEOUS

6.01. All agreements, covenants, and obligations of the City contained in this Resolution and in the above-referenced documents shall be deemed to be the agreements, covenants, and obligations of the City to the full extent authorized or permitted by law, and all such agreements, covenants, and obligations shall be binding on the City and enforceable in accordance with their terms. No agreement, covenant, or obligation contained in this Resolution or in the above-referenced documents shall be deemed to be an agreement, covenant, or obligation of any member of the City Council, or of any officer, employee, or agent of the City in that person's individual capacity. Neither the members of the City Council, nor any officer executing the Bonds or the Notes shall be liable personally on the Bonds or the Notes or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the Notes.

6.02. Nothing in this Resolution or in the above-referenced documents is intended or shall be construed to confer upon any person (other than as provided in the Indenture, the Bonds, the Notes, and the other agreements, instruments, and documents hereby approved) any right, remedy, or claim, legal or equitable, under and by reason of this Resolution or any provision of this Resolution.

6.03. If for any reason the Finance Officer, or any other officers, employees, or agents of the City authorized to execute certificates, instruments, or other written documents on behalf of the City shall for any reason cease to be an officer, employee, or agent of the City after the execution by such person of any certificate, instrument, or other written document, such fact shall not affect the validity or enforceability of such certificate, instrument, or other written document. If for any reason the Finance Officer, or any other officers, employees, or agents of the City authorized to execute certificates, instruments, or other written documents on behalf of the City shall be unavailable to execute such certificates, instruments, or other written documents for any reason, such certificates, instruments, or other written documents may be executed by a deputy or assistant to such officer, or by such other officer of the City as in the opinion of the City Attorney is authorized to sign such document.

6.04. The City shall not take any action or authorize any action to be taken in connection with the application or investment of the proceeds of the Bonds or any related activity which would cause the Bonds to be deemed to be "private activity bonds", within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City shall not take any action or authorize any action to be taken in connection with the application or investment of the proceeds of the Bonds or any

related activity which would cause the Bonds to be deemed to be “arbitrage bonds”, within the meaning of Section 148 of the Code. Furthermore, the City shall take all such actions as may be required under the Code to ensure that interest on the Bonds is not and does not become includable in gross income for federal income tax purposes.

6.05. The authority to approve, execute and deliver future amendments to the documents executed and delivered by the City in connection with the transactions contemplated hereby is hereby delegated to the Finance Officer, subject to the following conditions: (a) such amendments do not require the consent of the holders of the Bonds or the Notes or, if required, such consent has been obtained; (b) such amendments do not materially adversely affect the interests of the City as the issuer of the Bonds or the Notes; (c) such amendments do not contravene or violate any policy of the City; (d) such amendments are acceptable in form and substance to the City Attorney, bond counsel or other counsel retained by the City to review such amendments; and (e) the City has received, if necessary, an opinion of bond counsel to the effect that the amendments will not adversely affect the tax-exempt character or interest on the Bonds, if the Bonds are then tax-exempt obligations, and (f) such amendments do not materially prejudice the interests of the owners of the Bonds or the Notes. The authorization hereby given shall be further construed as authorization for the execution and delivery of such certificates and related items as may be required to demonstrate compliance with the agreements being amended and the terms of this Resolution. The execution of any instrument by the Finance Officer shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof. In the absence of the Finance Officer, any instrument authorized by this paragraph to be executed and delivered by the Finance Officer may be executed by such other officer of the City as in the opinion of the City Attorney is authorized to execute and deliver such document.

6.06. Effective Date. This Resolution shall take effect and be in force from and after its approval and publication.