

Authorizing the issuance of a tax increment limited revenue note in substantially the form recited herein in a principal amount not exceeding \$7,000,000 in connection with the Office/Commercial Component of the Midtown Exchange Project.

Whereas, pursuant to Laws of Minnesota 2003, Chapter 127, Article 12, Sections 31-34, and Minneapolis Code of Ordinances, Chapter 415, the City of Minneapolis (the "City"), acting by and through its Department of Community Planning and Economic Development, has been granted the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts, transact business and exercise powers under Minnesota Statutes, Sections 469.001 through 469.134, and 469.174 through 469.179, as amended, and other laws enumerated therein (collectively, the "Project Laws").

Whereas, in furtherance of the objectives of the Project Laws, the City has undertaken a program for commercial revitalization, historic preservation, and the clearance and reconstruction or rehabilitation of blighted, deteriorated, deteriorating, vacant, unused, underused or inappropriately used, areas of the City, and in this connection the City has adopted the Lake Street Center Redevelopment Plan, as modified (the "Plan"), which describes the boundaries and objectives for redevelopment of the area generally bounded by Chicago Avenue, E. Lake Street, 11th Avenue South and E. 28th Street (the "Project Area"); and

Whereas, in furtherance of the Plan, the City is engaged in carrying out a redevelopment project known as the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project (hereinafter referred to as the "Project") through a redevelopment contract (the "Redevelopment Contract") to be entered into by and among the Minneapolis Community Development Agency, the City and Ryan Companies US, Inc. (the "Developer"); and

Whereas, pursuant to the Project Laws, the City has approved the Lake Street Center Tax Increment Finance Plan, as amended by Modification No. 1 to the Lake Street Center Tax Increment Finance Plan dated May 7, 2004, for the Project; and

Whereas, pursuant to Minnesota Statutes, Section 469.178, subd. 4, the City is authorized to issue its tax increment limited revenue notes to finance the public redevelopment costs of the Project; and

Whereas, the City proposes to issue a tax increment limited revenue note to the Developer pursuant to the Redevelopment Contract, which includes a development plan

and commitment by the Developer to cause the development of certain real property located in the Project Area into tenant office and retail space, rental and for-sale housing, a global market, a structured parking facility, a hotel, a transit hub, greenway and pedestrian connections and related site and public improvements;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

1. That it is desirable that the City issue a tax increment limited revenue note (the "Office/Commercial Note") in substantially the following form:

[Form of Note]

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF MINNEAPOLIS**

**TAX INCREMENT LIMITED REVENUE NOTE
(Midtown Exchange Project – Office/Commercial Component)**

The City of Minneapolis (the "City"), hereby acknowledges itself to be obligated and, for value received, promises to pay to the order of Ryan Companies US, Inc., a Minnesota corporation, or its successors and permitted assigns (the "Holder"), solely from the source, to the extent and in the manner hereinafter provided, the principal amount of this Note, being [TBD] or such lesser amount as may equal the certified Public Redevelopment Costs, with interest at the Note Rate, in the installments specified in this Note, on the Payment Dates.

Capitalized terms not defined elsewhere in this Note shall have the meanings below:

“Available Tax Increment” means the Tax Increment received by the City during the period preceding each Payment Date, less (i) the amount of Tax Increment, if any, which the City must pay to the school district, the county and the state pursuant to *Minnesota Statutes*, Sections 469.177, subds. 9, 10, and 11; 469.176, subd. 4h; and 469.175, subd. 1a, as the same may be amended from time to time; and (ii) actual administrative costs of the City in an amount not to exceed 5% of the Tax Increment.

“Certificate of Approved Public Redevelopment Costs” means a certificate in substantially the form attached to the Contract, by which the City certifies the Public Redevelopment Costs pursuant to the terms of the Contract.

“Contract” means that certain Redevelopment Contract by and among the Minneapolis Community Development Agency, the City and the Developer dated July ___, 2004.

“Developer” means Ryan Companies US, Inc; a Minnesota corporation.

“District” means the Lake Street Center Tax Increment Financing District within the Project.

“Maturity Date” means the earlier of (i) February 1 of the year following the final year of Tax Increment collection from the District; and (ii) the date when the principal and interest amount of this Note has been paid in full.

“Note Rate” means six and one-half percent (6.5%) annual interest, computed on the basis of a 30-day month, 360-day year.

“Office/Commercial Component” means approximately 434,000 square feet of the 1928 Building to be developed for office, commercial, retail, laboratory, medical office, education facilities, and/or fitness center and related common areas, parking and improvements as described in the Contract.

“Payment Date” means August 1 of the year of first increment collection from the District and each February 1 and August 1 thereafter until the Maturity Date.

“Project” means the Midtown Exchange Project, which is phase 2 of the Lake Street Center Redevelopment Project.

“Property” means the real property legally described in the attached **Exhibit A** upon which the Office/Commercial Component is to be constructed.

“Public Redevelopment Costs” means actual Public Redevelopment Costs as defined in the Contract, not in excess of \$___ [TBD]___ related to the Office/Commercial Component and which are approved by the City pursuant to the Contract.

“Tax Increment” means that portion of the property taxes generated by the up to 250,000 square foot part of the Property and the Office/Commercial Component leased to and occupied by Allina Health System, plus associated structured parking, that is actually remitted to the City as tax increment under the Tax Increment Act. The Developer must annually certify to the City Allina’s square footage of leased/occupied space and associated structured parking.

“Tax Increment Act” means *Minnesota Statutes*, Section 469.174-469.1791, as amended, or any successor statutes applicable to the District.

On each Payment Date, the City shall pay the Holder an installment equal to the lesser of (i) the Available Tax Increment or (ii) the amount necessary to pay the accrued unpaid interest and the unpaid principal amount of this Note in full. To the extent that on any Payment Date there is insufficient Available Tax Increment to make a scheduled payment, such failure to make a scheduled payment shall not constitute a default under this Note. If the Developer fails to pay all or a portion of the property taxes due and owing on the Office/Commercial Component, then upon such failure to pay, no interest as required by the Note shall accrue on an amount equal to the amount of the Available Tax Increment that would have been paid to the City had such property tax amounts been paid. Upon termination of that certain lease dated _____, 2004, between the Developer and Allina Health System, this Note shall immediately terminate.

Interest shall start to accrue on the initial principal amount of this Note from the date of issue of the Certificate of Approved Public Redevelopment Costs. Each payment under this Note, whether a scheduled payment or any other payment, shall be applied first to current interest, then to accrued unpaid interest and then to the unpaid principal amount of this Note.

On the Maturity Date, this Note shall be deemed paid in full and the City shall have no further obligation under this Note even if the aggregate of the Available Tax Increment that has actually been paid to the Holder on the Payment Dates is less than the full principal and interest amount of this Note. The obligation of the City to make any scheduled payment shall terminate if and to the extent that the full principal and interest amount of this Note has been paid in full. This Note may be prepaid in full or in part at any time without penalty.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by wire transfer, check or draft made payable to the Holder and mailed to the Holder at 50 South 10th Street, Suite 300, Minneapolis, Minnesota 55403, or such other address as the Holder shall provide in writing to the City's notice address as set forth in the Contract.

The Note is a special and limited obligation and not a general obligation of the City, which has been issued by the City pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including *Minnesota Statutes*, Section 469.178, subdivision 4, to aid in financing a "project", as therein defined, of the City consisting generally of defraying certain public redevelopment costs incurred by the Developer within and for the benefit of the Project.

THE NOTE IS NOT A DEBT OF THE STATE OF MINNESOTA (THE "STATE"), OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY OF MINNEAPOLIS, MINNESOTA, EXCEPT THAT THE CITY SHALL BE OBLIGATED TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE LIABLE ON THE NOTE, EXCEPT FOR THE

CITY'S OBLIGATION TO MAKE PAYMENTS FROM AVAILABLE TAX INCREMENT AS SET FORTH HEREIN, NOR SHALL THE NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN AVAILABLE TAX INCREMENT AS SET FORTH HEREIN.

This Note shall not be transferred to any person, unless the City has been provided with an opinion of counsel acceptable to the City that such transfer is exempt from registration and official statement delivery requirements of federal and applicable state securities law and an investment letter reasonably acceptable to the City.

This Note shall not be payable from or constitute a charge upon any funds of the City, and the City shall not be subject to any liability hereon or be deemed to have obligated itself to pay hereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified.

The Holder shall never have or be deemed to have the right to compel any exercise of any taxing power of the City or of any other public body, and neither the City nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance of registration thereof or otherwise.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and the laws of the State of Minnesota to be done, to have happened, 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 this Note is issued pursuant to the Tax Increment Act; and that this Note together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the City of Minneapolis, by action of its City Council, has caused this Note to be executed by the manual signature of its Finance Officer, and has caused this Note to be dated _____, 2004.

CITY OF MINNEAPOLIS

By _____
Patrick Born
Its Finance Officer

Approved as to form:

EXHIBIT A TO NOTE

[Legal Description of the Property]

2. Be It Further Resolved that the form of the Note is hereby approved and shall be executed by the Finance Officer in substantially the form on file, with such changes therein not inconsistent with law as the Finance Officer may approve, which approval shall be conclusively evidenced by the execution thereof.

3. Be It Further Resolved that all actions of the members, employees and staff of the City and the Minneapolis Community Development Agency heretofore taken in furtherance of the issuance of the Note are hereby approved, ratified and confirmed.

4. Be It Further Resolved that the issuance of said Note to the Holder is hereby approved, and the Note is hereby directed to be issued to the Holder, upon the terms and conditions set forth in the Redevelopment Contract.

5. Be It Further Resolved that the Finance Officer is hereby authorized and directed to execute such other documents, agreements and certificates as may be required in connection with the Note.

6. Be It Further Resolved that no provision, covenant or agreement contained in the aforementioned documents, the Note or in any other document related to the Note, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the tax increment revenues which are to be applied to the payment of the Note, as provided therein and in the Redevelopment Contract. The Note shall not constitute a charge, lien or encumbrance, legal or equitable upon any property or funds of the City except that revenue and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Note shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal on the Note or the interest thereon, or to enforce payment hereon against any property of the City. The Note shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

7. Be It Further Resolved that the Note, when executed and delivered, shall contain a recital that it is issued pursuant to the Tax Increment Act, and such recital shall be conclusive evidence of the validity of the Note and the regularity of the issuance thereof, and that all acts, conditions and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Note and to

the execution of the aforementioned documents to happen, exist and be performed precedent to and in the enactment of this resolution, and precedent to issuance of the Note and precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

8. Be It Further Resolved that this resolution shall be in full force and effect from and after its date of publication.