

Authorizing the sale and issuance of the General Obligation Tax Increment Bonds (Mill Quarter Ramp), Series 2005, in the original principal amount of up to \$4,250,000; providing the form and terms of the obligations, pledging certain tax increment revenues. and making certain findings, covenants, and directions relating to such obligations

RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

## SECTION 1. AUTHORIZATION, FINDINGS AND DEFINITIONS

1.01. Prior Project Modifications. Pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the “Redevelopment Act”), the City of Minneapolis (the “City”) established the Industry Square Redevelopment Project Area (the “Industry Square Project”) and adopted the Industry Square Redevelopment Plan (the “Industry Square Plan”) to provide for the public redevelopment activities necessary to assist with a mixed use project proposed in the riverfront area of downtown Minneapolis. Pursuant to the Redevelopment Act and Minnesota Statutes, Section 469.174 through 469.1799, as amended (the “Tax Increment Act”), the City established the boundaries of the West Side Milling District Project (the “West Side Project”) and created the West Side Milling District Tax Increment Financing and Hazardous Substance Subdistrict Plan (the “West Side Plan”) to provide for public redevelopment activities, including rehabilitation of historic buildings and development of a historic interpretive center. The City incorporated the Industry Square Project into the Common Project area (the “Common Project”) pursuant to the terms of the Common Development and Redevelopment Plan and Common Tax Increment Finance Plan (the “Common Plan”) to provide for the public redevelopment of the Common Project.

The City has adopted Modification No. 100 to the Common Project and the Common Plan and Modification No. 19 to the Industry Square Plan to authorize the creation of a new redevelopment tax increment financing district, designated the Park Avenue East TIF District (the “District”), within the Industry Square Project but not within the Common Project, and thus not subject to the obligations of the Common Project. A portion of the property within the District was previously part of the West Side Project, prior to the City’s modification of the West Side Plan on June 6, 2003, in which certain properties were deleted from the West Side Project.

1.02. Park Avenue East TIF District. The parcels included in the District are described as Block 1, Lots 1 and 2, the New Mills District Second Addition, with boundaries shown in the Tax Increment Financing Plan for the District (the “TIF Plan”). The District contains vacated railroad right-of-way property and, as such, qualifies as a redevelopment district as defined in Section 469.174, subdivision 10(a)(2), of the Tax Increment Act (defining a redevelopment TIF district as a project found by resolution of the authority to have one or more of certain conditions, including “vacant, unused underused, inappropriately used, or infrequently used

railyards, rail storage facilities, or excessive or vacated railroad rights of way” reasonably distributed throughout the district).

The District will facilitate the construction of a parking ramp structure (the “Ramp”) on a portion of the property that was removed from the West Side Project, construction of the Park Avenue East Lofts, a luxury condominium development with parking under the building (the “Condominiums”), and future development of lands around and adjacent to the Ramp. The Ramp will contain approximately 324 stalls, including approximately 244 stalls dedicated to public parking (the “Public Parking”) and approximately 80 stalls dedicated to parking for certain nearby apartment units expected to be constructed on lands around and adjacent to the Ramp (the “Private Parking”). Tax increment revenues generated by the District, as well as net parking revenues of the ramp, will be applied to the payment of the debt service on general obligation tax increment bonds issued by the City to construct the Public Parking in the Ramp. In addition, during the 2002 legislative session, the Minnesota Legislature adopted legislation authorizing a grant to the City in the amount of \$2,600,000 to support the construction of the Private Parking in the Ramp and a portion of the Public Parking in the Ramp.

1.03. The Tax Increment Finance Plan. In order to provide for the development of the Ramp in the District and to finance the capital and administration costs and public redevelopment costs with respect to the Ramp, the City is proposing to issue general obligation bonds in the original aggregate principal amount not to exceed \$4,250,000 (the “Bonds”). The proceeds derived from the sale of the Bonds will be applied to the payment of public redevelopment costs with respect to the Ramp and the payment of the costs of issuing the Bonds. Payment of the principal of, premium, if any, and interest on the Bonds will be secured by the full faith and credit of the City and, to the extent necessary for this purpose, the City will levy taxes on all taxable property in the City without limitation as to rate or amount. The Bonds are expected to be paid from: (i) net revenues derived from the Ramp; and (ii) tax increment revenues derived from the District (the “Tax Increment Revenues”).

1.04. Authority to Issue Bonds. The City is authorized to issue the Bonds to provide permanent financing for the Project and to apply the Tax Increment Revenues and other revenues to the payment thereof under Section 469.178 of the Tax Increment Act and Minnesota Statutes, Chapter 475, as amended (the “Municipal Debt Act”). Pursuant to the terms of Section 475.58, subdivision 1, of the Municipal Debt Act, no election is required because the City Council has determined, and hereby affirms, that not less than twenty percent of the public redevelopment costs with respect to the District is estimated to be received from the Tax Increment Revenues.

## SECTION 2. ISSUANCE OF THE BONDS.

2.01. Findings of the City. The City Council hereby finds, determines, and declares that the issuance, sale, and delivery of the Bonds under the terms and conditions, and for the purposes, set forth in this resolution: (i) are authorized by the Redevelopment Act, the Tax Increment Act, and the Municipal Debt Act; (ii) are consistent with the purposes and goals of the City as set forth in the Industry Square Plan and the TIF Plan; (iii) will further the development

and redevelopment purposes for which the Industry Square Project and the District were established; and (iv) are in the best interests of the City.

2.02. Issuance and Sale of the Bonds. In order to finance the costs of the acquisition and construction of the Public Parking component of the Ramp, the City Council hereby authorizes the issuance of the Bonds in the original aggregate principal amount not to exceed \$4,250,000, on such date and upon the terms and conditions determined by the Finance Officer of the City (the "Finance Officer"). The Bonds shall be designated "General Obligation Tax Increment Bonds (Mill Quarter Ramp), Series 2005" or shall be assigned such other designation as the Finance Officer determines.

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 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, to be dated on or after the date of this resolution (the "Bond Purchase Agreement"), between the City and the Underwriter, substantially in the form on file with the City on the date hereof, subject to such changes not inconsistent with this resolution and applicable law that are approved by the Finance Officer.

2.03. Bond Documents. There have been presented to the City Council forms of the following documents: (i) a Trust Indenture, to be dated on or after March 1, 2005 (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) a Standby Bond Purchase Agreement, to be dated on or after March 1, 2005 (the "Liquidity Facility"), by and between the City, the Trustee and the Tender Agent and Dexia Credit Local, acting through its New York Branch (the "Liquidity Facility Provider"); (iii) a Tender Agent Agreement, to be dated on or after March 1, 2005 (the "Tender Agent Agreement"), between the City and the Trustee, or other financial institution selected by the Finance Officer to act as tender agent (the "Tender Agent"); (iv) the Remarketing Agreement, to be dated on or after March 1, 2005 (the "Remarketing Agreement"), between the City and the Underwriter; and (v) the Bond Purchase Agreement. The Indenture, the Liquidity Facility, the Tender Agent Agreement, the Remarketing Agreement, and the Bond Purchase Agreement are hereby approved in substantially the forms on file with the City on the date hereof, subject to such changes not inconsistent with this resolution and applicable law that are approved by the Finance Officer. Without limiting the generality of the foregoing, the Finance Officer is authorized to approve changes in the original aggregate principal amount of the Bonds, to approve changes to 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 any changes to the forms on file with the City on the date hereof.

2.04. Terms of the Bonds. 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 included in the Indenture are approved in substantially the forms in the Indenture, subject to such changes not inconsistent with this resolution and applicable law, and subject to such changes that are approved by the Finance Officer. The issuance and delivery of the Bonds shall be conclusive evidence that the Finance Officer has approved any changes to the forms of the Bonds on file with the City on the date hereof. The proceeds derived from the sale of the Bonds shall be held, transferred, expended, and invested in accordance with the directions of the Finance Officer, subject to any applicable terms of the Indenture, and the earnings from all investments of the proceeds of the Bonds shall be held, transferred, expended, and invested in accordance with directions of the Finance Officer, subject to any applicable terms of the Indenture.

2.05. Pledge of Full Faith and Credit. The full faith and credit of the City are irrevocably pledged for the prompt and full payment of the principal of, premium, if any, and interest on the Bonds when due. It is hereby estimated that the Tax Increment Revenues and other public revenues to be applied to the payment of the debt service on the Bonds, including the earnings derived from the investment of the foregoing, and other revenues available to pay the principal of, premium, if any, and interest on the Bonds, and expected to be applied to the payment of the principal of, premium, if any, and interest on the Bonds, pursuant to the terms of the Indenture, will produce amounts at least five percent in excess of the amounts needed to meet the principal and interest payments when due on the Bonds, but the City shall levy, in addition to all other taxes, a direct tax upon all taxable property in the City without limitation as to rate or amount, if necessary, to pay the principal of and interest on the Bonds when due.

2.06. Revenues to be Applied to the Bonds. The City Council hereby authorizes the application of the Tax Increment Revenues derived by the City from the District to the payment of the debt service on the Bonds, subject to any valid and superior prior pledges of such revenues, and hereby appropriates such Tax Increment Revenues to such purpose in accordance with the terms of the Indenture and to the extent the Finance Officer, in the discretion of the Finance Officer, determines to apply such revenues to such purpose. The City may pledge the Tax Increment Revenues to any other obligations of the City issued prior or subsequent to the issuance of the Bonds. The pledge may be made on a parity with the Bonds or superior to or subordinate to the pledge to the Bonds.

2.07. Conversion to Fixed Rates and Other Elections. The Finance Officer is hereby authorized to elect a conversion of the Bonds from variable-rate obligations to fixed-rate obligations in accordance with the terms of the Indenture on such date or dates and upon such terms and conditions as the Finance Officer determines in his discretion. The Finance Officer may elect a conversion without any additional authorization from the City Council. The Finance Officer is also hereby authorized to make all other elections with respect to the Bonds, including the optional redemption of all or any portion of the Bonds, on such dates as the Finance Officer determines to be in the best interests of the City on such date or dates and upon such terms and conditions as the Finance Officer determines in his discretion. Such elections may be made by the Finance Officer without any additional authorization from the City Council.

2.08. Representation Letter. The form of Blanket Letter of Representations (the “Representation Letter”) proposed to be submitted to The Depository Trust Company, which is on file with the Finance Officer, is hereby approved, and the Finance Officer is authorized to execute and deliver the Representation Letter in substantially the form on file, with such changes therein not inconsistent with applicable law, as the Financial Officer may approve, which approval shall be conclusively evidenced by the execution thereof. Any paying agent or bond registrar subsequently appointed by the City with respect to the Bonds shall agree to take all actions necessary to ensure compliance with all representations of the City in the Representation Letter with respect to the bond registrar and paying agent, respectively.

### SECTION 3. DISCLOSURE DOCUMENTS AND CLOSING CERTIFICATES

3.01. Disclosure of Material Information. The preparation of an Official Statement (or other form of disclosure document) in conjunction with the offer and sale of the Bonds is hereby authorized. When approved by the Finance Officer of the City, the Official Statement (or other form of disclosure document) is 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.

3.02. Certificates as to Disclosure and Litigation. 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, the Official Statement (or other form of 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 or omit to state any 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, proceedings for approval of the Bonds, taxes levied 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 closing, 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.

3.03. Other Certifications. The Mayor, the President of the City Council, the City Clerk, the Finance Officer, and other elected officials, 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 elected officials, 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 Liquidity Facility Provider, 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 elected officials, officers, employees, and agents 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).

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

#### Section 4. Reimbursement Resolution

4.01. Reimbursement Resolution. The United States Department of the Treasury has promulgated final regulations governing the use of the proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid prior to the date of issuance of such bonds. Those regulations, Treasury Regulations, Section 1.150-2 (the “Regulations”), require that the City adopt a statement of official intent to reimburse an original expenditure not later than sixty days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and that the reimbursement allocation made from the proceeds of the bonds occur within eighteen months after the later of: (i) the date the expenditure is paid; or (ii) the date the project is placed in service or abandoned, but in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

The City reasonably expects to reimburse itself for expenditures made within the District and the Industry Square Project in accordance with the requirements of the City from the proceeds of the Bonds in an estimated maximum original aggregate principal amount not exceeding \$4,250,000, after the date of payment of all or a portion of such costs. All reimbursed expenditures will be capital expenditures, costs of issuance of the Bonds, or other expenditures eligible for reimbursement under Treasury Regulations, Section 1.150-2(d)(3), and also qualifying expenditures under the Redevelopment Act and the Tax Increment Act. No expenditures made within the District and Industry Square Project in accordance with the requirements of the City have been made by the City more than sixty days before the date of adoption of this resolution (or any prior reimbursement resolution) other than: (i) expenditures to be paid or reimbursed from sources other than the Bonds; (ii) expenditures permitted to be reimbursed under prior regulations pursuant to the transitional provision contained in Treasury Regulations, Section 1.150-2(j)(2)(i)(B); (iii) expenditures constituting preliminary expenditures within the meaning of Treasury Regulations, Section 1.150-2(f)(2); or (iv) expenditures in a “de minimus” amount (as defined in Treasury Regulations, Section 1.150-2(f)(1)). As of the date hereof, there are no funds of the City reserved, allocated on a long-term basis, or otherwise set

aside (or reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside) to provide permanent financing for the expenditures to be financed from proceeds of the Bonds, other than pursuant to the issuance of the Bonds. This resolution, therefore, is determined to be consistent with the budgetary and financial circumstances of the City as they exist or are reasonably foreseeable on the date hereof.

## Section 5. Miscellaneous

5.01. **Agreements Binding.** 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 shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

5.02. **Rights Conferred.** Nothing in this resolution or in the above-referenced documents is intended or shall be constructed to confer upon any person (other than as provided in the Indenture 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.

5.03. **Validity.** If for any reason the Mayor, President of the City Council, Finance Officer, City Clerk, or any other elected officials, 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 elected official, 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 Mayor, President of the City Council, Finance Officer, City Clerk, or any other elected officials, 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.

5.04. **Tax Covenant.** 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 use of the facilities financed with the proceeds of the Bonds that 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 that 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.

5.05. Rating. The Finance Officer of the City is hereby authorized to seek a rating or ratings for the Bonds from such nationally recognized rating agencies as determined by the Finance Officer; and is hereby authorized to deliver to such rating agencies such information relating to the City and the Bonds as shall be requested by such rating agencies for the purpose of assigning an investment rating to the Bonds.

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