

RESOLUTION  
OF THE  
CITY OF MINNEAPOLIS

RESOLUTION NO. 05 \_\_\_\_\_

Giving approval to a housing program for University Carleton Development, LP, and authorizing the joint issuance of housing revenue bonds under Minnesota Statutes, Chapter 462C, as amended; and authorizing the execution of necessary documents.

WHEREAS, pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Act"), the City of Minneapolis (the "City") is authorized to issue revenue bonds for the purpose of making loans for low and moderate income housing projects; and

WHEREAS, University Carleton Development, LP, a Minnesota limited partnership (the "Company") has proposed that the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "HRA") and the City jointly issue a portion of housing revenue bonds. The revenue bonds will be issued in three series in the aggregate principal amount of \$30,000,000 (the "Revenue Bonds"). The proceeds of the Revenue Bonds will be loaned to the Company to finance a portion of the costs of an approximately 169 unit rental housing development located at 2285 to 2341 University Avenue in the City of Saint Paul (the "Project"); and

WHEREAS, the City, pursuant to the Act, published a notice, a copy of which, with proof of publication, is on file in the office of the City Clerk of the public hearing on the proposal of the Company that the City and HRA jointly finance the Project and the City (through the Community Development Committee of the City Council) did conduct a public hearing pursuant to said notice on October 25, 2005, at which hearing all persons who appeared were given an opportunity to express their views with respect to the proposal which notice, publication and hearing are hereby in all respects approved; and

WHEREAS, pursuant to a Joint Powers Agreement to be entered into by and between the City and the HRA, the City will be the joint issuer with the HRA of a portion of the Revenue Bonds; and

WHEREAS, the proposal calls for the proceeds realized upon the sale of the Revenue Bonds to be loaned to the Company under a revenue agreement wherein the Company will be obligated to make payments under the revenue agreement at the times and in the amounts sufficient to provide for the prompt payment of principal of, premium, if any, and interest on the Bonds and all costs and expenses of the City and HRA incident to the issuance and sale of the Revenue Bonds; and

WHEREAS, the HRA and City have been advised by representatives of the Company that the issuance of the tax exempt bonds will result in substantial savings in the Company's capital costs; and

WHEREAS, the City, the HRA, the Company and the Underwriter (as defined below) of the housing revenue bonds have agreed upon sufficient details of the housing revenue bonds to enable the City to adopt this final bond resolution (the "Resolution") on this date:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Minneapolis, Minnesota, as follows:

1. Proposal for Issuance of Bonds. For the purpose of providing funds to finance the acquisition and construction of the Project the City hereby authorizes the issuance, sale and delivery of the Revenue Bonds. The Revenue Bonds will be in the aggregate principal amount of \$30,000,000; however, the City will be the joint issuer of not more than \$14,000,000 in principal amount and will provide \$11,972,500 of its 2004 Tax Exempt Bond Allocation which the City has heretofore carried forward to calendar year 2005. The Revenue Bonds shall be in such principal amounts, shall bear interest at the rates, shall be numbered, shall be dated, shall mature, shall be subject to redemption prior to maturity, and shall be in such form and have such other details and provisions as may be prescribed in the Indentures (referred to in paragraph 3 below), the forms of which are on file with the City; provided that the maximum interest rate on the Revenue Bonds issued as fixed rate bonds, excluding any taxable equity interest, shall not exceed 9.00% per annum; and the final maturity of the Revenue Bonds shall not be later than 50 years from their date of issuance. The Revenue Bonds shall be special obligations of the HRA and the City payable solely from the funds pledged pursuant to the Indentures. The Revenue Bonds are not to be payable from nor charged upon any funds of the City, the HRA or the City of Saint Paul ("Saint Paul") other than the revenues pledged to their payment, nor is the City or the HRA subject to any liability thereon; no holders of the Revenue Bonds shall ever have the right to compel any exercise of the taxing power of the City, the HRA or Saint Paul to pay any of the principal of, premium, if any, or interest on the Revenue Bonds; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, the HRA or Saint Paul, and each Revenue Bond shall recite that the Bonds, including interest thereon, are payable solely from the revenues pledged to the payment thereof and that no Revenue Bond shall constitute a debt of either issuer within the meaning of any constitutional or statutory limitation. The Revenue Bonds shall contain a recital that they are issued pursuant to the Act and such recital shall be conclusive evidence of the validity and regularity of the issuance thereof.

2. Bond Structure. Pursuant to two separate Loan Agreements, one for the Revenue Bonds to be issued as variable rate bonds (the "Variable Rate Bonds") and one for the Revenue Bonds to be issued as fixed rate bonds (the "Fixed Rate Bonds"), both to be dated as of November 1, 2005 (collectively, the "Loan Agreements"), the proceeds of the Revenue Bonds will be loaned to the Company to finance the Project. The payments to be made by the Company under the Loan Agreements are established so as to produce revenue sufficient to pay the principal of, premium, if any, and interest on the Revenue Bonds when due. When executed, the right, title and interest of the HRA and City in, to and under, among other things, the Loan Agreements (except as herein provided) shall have been assigned to the Trustee pursuant to the Indentures between the HRA, the City, if appropriate, and the Trustee. It is further proposed that the HRA and City assign certain rights under the Loan Agreements to the Trustee as security for payment of the Bonds under the Indentures. The Variable Rate Bonds will be purchased by Dougherty Company, LLC (the "Underwriter") pursuant to a Bond Purchase Agreement among the HRA, the City, the Underwriter and the Company (the "Bond Purchase Agreement"). The

Fixed Rate Bonds will be privately placed with accredited investors. The Company will operate the Project in compliance with the provisions of a Regulatory Agreement by and among the HRA, the Trustee and the Company (the "Regulatory Agreement"). A Tax Compliance Agreement among the Company, the HRA and the Trustee dated as of November 1, 2005 (the "Tax Compliance Agreement") will set forth certain requirements in order to assure the tax exempt status of the Bonds. A Joint Powers Agreement (the "Joint Powers Agreement") among the HRA and the City has been prepared pursuant to which the City and the HRA have agreed to jointly issue up to \$14,000,000 in principal amount of the Revenue Bonds.

3. Forms of Documents Submitted. Pursuant to the preliminary approval of this Council, forms of the following documents have been submitted to the Council for approval:

- (a) the Bond Purchase Agreement;
- (b) the Loan Agreement for the Fixed Rate Bonds;
- (c) the Loan Agreement for the Variable Rate Bonds;
- (d) the Indenture of Trust for the Fixed Rate Bonds;
- (e) the Indenture of Trust for the Variable Rate Bonds;
- (f) the Tax Compliance Agreement;
- (g) the Regulatory Agreement; and
- (h) the Joint Powers Agreement.

4. Findings. It is hereby found, determined and declared that:

- (a) the Project will further the policies of the Act;
- (b) the Project promotes the public welfare by providing necessary housing facilities, so that adequate housing facilities are available to people who work in the City at a reasonable cost;
- (c) the Act authorizes the acquisition, construction and installation of the facilities and equipment to be financed by the Revenue Bonds, the issuance and sale of the Revenue Bonds, the execution and delivery of the Joint Powers Agreement and the Indentures (collectively the "Bond Documents"), the performance of all covenants and agreements of the City and HRA contained in the Bond Documents, and the performance of all other acts and things required under the constitution and laws of the State of Minnesota to make the Bond Documents and Bonds valid and binding obligations of the City and HRA in accordance with their terms;
- (d) it is desirable that the Revenue Bonds be issued by the City and the HRA upon the terms set forth in the Indentures;

(e) the payments under the Loan Agreements are established to produce revenue sufficient to provide for the prompt payment of principal of, premium, if any, and interest on the Revenue Bonds issued under the Indenture when due, and the Loan Agreements and Indentures also provide that the Company is required to pay all expenses of the operation and maintenance of the facilities to be financed by the Revenue Bonds, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the premises of said facilities and payable during the terms of the Loan Agreements and Indentures;

(f) as provided in the Loan Agreements and Indentures, the Revenue Bonds are not to be payable from or charged upon any funds other than the revenue pledged to the payment thereof; the City, the HRA and Saint Paul are not subject to any liability thereon; no holder of any Revenue Bond shall ever have the right to compel any exercise by the City, the HRA or Saint Paul of its or their taxing powers to pay any of the Bonds or the interest or premium thereon, or to enforce payment thereof against any property of the City, the HRA or Saint Paul except the interests of the City, the HRA and Saint Paul in the Loan Agreements which have been assigned to the Trustee under the Indentures; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, the HRA or Saint Paul except the interests of the City, the HRA and Saint Paul in the Loan Agreement which have been assigned to the Trustee under the Indentures; the Revenue Bonds shall recite that the Revenue Bonds do not constitute or give rise to a pecuniary liability or moral obligation of the City, the HRA, Saint Paul, the State of Minnesota or its political subdivisions, and that the Revenue Bonds, including interest thereon, are payable solely from the revenues pledged to the payment thereof; and the Revenue Bonds shall not constitute a debt of the City, the HRA or Saint Paul within the meaning of any constitutional or statutory limitation.

5. Approval of Forms; Execution. Subject to the provisions of paragraph 9 hereof, the forms of the Bond Documents and exhibits thereto and all other documents listed in paragraph 3 hereof are approved substantially in the form submitted. The applicable Indenture, Joint Powers Agreement and Bond Purchase Agreement, in substantially the forms submitted, are directed to be executed in the name and on behalf of the City by the Finance Officer. Pursuant to the Joint Powers Agreement the City has delegated to the HRA the authority to sign all of the other documents described in Paragraph 3. Any other City documents and certificates necessary to the transaction described above shall be executed by the appropriate City officers. Copies of all of the documents necessary to the transaction herein described shall be delivered, filed and recorded as provided herein and in the Loan Agreements and Indentures.

6. Official Statement. The City hereby consents to the preparation and distribution of the Official Statement for the Variable Rate Bonds; provided that it is understood that the City has relied upon the Company and the Underwriter and legal counsel retained by them to assure the accuracy and completeness of the information set forth in the Official Statement and that therefore the City has not made, and will not make, any representations or warranties with respect to the information contained therein, except under the heading "The City". The drafts of the Official Statement on file with the City are hereby designated as "near final" offering memoranda for purposes of Rule 15-c2-12 of the Securities Exchange Commission.

7. Issuance. The City, jointly with the HRA shall proceed forthwith to issue the Bonds, in the form and upon the terms set forth in the applicable Indenture and this Resolution, if and to the extent the City officers determine to proceed with the Project which determination shall be deemed made upon execution of the Bond Documents by the City officers. The Bonds shall be payable or prepayable at such time or times, shall bear interest at such rates and shall be subject to such other terms and conditions as set forth in the Indentures and that the City officers, the Underwriter and the Company shall agree to, which agreement shall be deemed to have been made upon execution of the Indentures by the City officers. The City officers are authorized and directed to execute and deliver the Bonds as prescribed in the Indentures.

8. Records and Certificates. The City Clerk and other officers of the City are authorized and directed to prepare and furnish to the Underwriter certified copies of all proceedings and records of the City relating to the Revenue Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality of the Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the HRA as to the truth of all statements contained therein.

9. Changes in Forms Approved; Absent and Disabled Officers. The approval hereby given to the various documents referred to above includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the City Attorney and by the City officials authorized herein to execute or accept, as the case may be, said documents prior to their execution; and said City officials are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. In the event of absence or disability of the Finance Officer, any of the documents authorized by this Resolution to be executed may be executed without further act or authorization of the Council by any member of the Council or any duly designated acting official, or by such other officer or officers of the Council as, in the opinion of the City Attorney, may act in their behalf.

10. Headings; Terms. Paragraph headings in this Resolution are for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof. Capitalized terms used but not defined herein shall have the meanings given them in the Indentures or Loan Agreements.