

RESOLUTION  
of the  
CITY OF MINNEAPOLIS

AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF A  
MULTIFAMILY HOUSING REVENUE REFUNDING NOTE (ALBRIGHT  
TOWNHOMES PROJECT), SERIES 2005 AND THE EXECUTION AND  
DELIVERY OF DOCUMENTS RELATING THERETO

BE IT RESOLVED by the City Council of the City of Minneapolis (the "Issuer") as follows:

SECTION 1. FINDINGS. The Issuer hereby finds, determines and declares as follows:

1.1. Authority. The Issuer is authorized by the laws of the State of Minnesota, particularly Minnesota Statutes, Chapter 462C, as amended (the "Act"), to carry out the public purposes described therein by issuing revenue obligations and revenue refunding obligations to finance or refinance multifamily rental housing developments and by entering into any agreements made in connection therewith and pledging them as security for the payment of the principal of and interest on any such bonds.

1.2. Prior Bonds. The Issuer has previously issued its \$3,035,000 Multifamily Housing Revenue Bonds (Findley Place Townhomes Project), Series 1994 (the "Prior Bonds") and loaned the proceeds thereof to Exodus/Lyndale/Windsor Limited Partnership ("ELW") to finance the acquisition and rehabilitation of an 89-unit multifamily rental townhome project (the "Project"). ELW subsequently changed its name to CHDC Albright Limited Partnership (the "Borrower") in connection with the transfer of the general partnership interest therein to CHDC Albright, LLC.

1.3. Note. The Borrower has requested that the Issuer issue its Multifamily Housing Revenue Note (Albright Townhomes Project) Series 2005 (the "Note") in an aggregate principal amount not exceeding \$2,105,000, to refund the outstanding principal amount of the Prior Bonds in order to refinance the Project.

1.4. Public Hearing. As required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the Community Development Committee of the City Council of the Issuer on May 17, 2005 held a public hearing regarding the issuance of the Note to finance the Project, following the publication of notice thereof in a newspaper of general circulation in the Issuer not fewer than 14 days prior to the date thereof.

1.5. Determination to Issue Note. The issuance and sale of the Note by the City, pursuant to the Act, are desirable and in the best interest of the Issuer. The Issuer hereby determines to issue the Note and to sell the same to U.S. Bank National Association (the "Lender"), as provided herein.

1.6. Loan Agreement. Pursuant to a Loan Agreement (the "Loan Agreement") to be entered into between the Issuer and the Borrower, the Borrower will agree to repay

the Note in specified amounts and at specified times sufficient to pay in full when due the principal of, premium, if any, and interest on the Note. In addition, the Loan Agreement contains provisions relating to the maintenance and operation of the Project, indemnification, insurance and other agreements and covenants which are required or permitted by the Act and which the Issuer and Borrower deem necessary or desirable for the refinancing of the Project. A draft of the Loan Agreement has been submitted to the Issuer.

1.7. Pledge Agreement. Pursuant to a Pledge Agreement (the “Pledge Agreement”) to be entered into between the Issuer and Lender, the Issuer will pledge and grant a security interest in all of its right, title and interest in the Loan Agreement to the Lender (except for certain rights of indemnification and to reimbursement for certain costs and expenses). A draft of the Pledge Agreement has been submitted to the Issuer.

1.8. Mortgage. Pursuant to a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement (the “Mortgage”) to be executed by the Borrower in favor of the Issuer, the Borrower will secure payment of amounts due under the Loan Agreement and Note by granting to the Issuer a mortgage and security interest in the property described therein. Pursuant to an Assignment of Mortgage to be executed by the Issuer (the “Assignment”), the Issuer will assign the Mortgage to the Lender.

1.9. Tax Compliance Agreement. Certain requirements required to preserve the tax-exempt status of the Note are set forth in a Tax Compliance Agreement (the “Tax Compliance Agreement”) by and between the Issuer, Borrower and Lender. A draft of the Tax Compliance Agreement has been submitted to the Issuer.

1.10. Limited Liability. The Note and the interest thereon shall be special limited obligations of the Issuer. The Note shall not be payable from or charged upon any funds of the Issuer other than the revenues pledged to the payment thereof. The Note shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation on indebtedness. The Note shall not constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers and shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Issuer other than revenues and assets specifically pledged to the payment thereof.

1.11. Project. The Project constitutes a “qualified residential rental project” within the meaning of Section 142(d) of the Code, and a “multifamily housing development” authorized by the Act, and furthers the purposes of the Act.

1.12. Public Welfare. The purpose of refinancing the Project is, and the effect thereof will be, to promote the public welfare by maintaining the Project for use as a multifamily housing development project designed primarily for occupancy by persons and families of low and moderate income, and by encouraging additional rehabilitation of the Project.

1.13. Jurisdiction. The Project is located within the jurisdiction of the Issuer.

1.14. Authorization. The Act authorizes (i) the issuance and sale of the Note, (ii) the execution and delivery by the Issuer of the Loan Agreement, Tax Compliance Agreement, Assignment, Pledge Agreement and Note (together, the "Issuer Documents"), (iii) the performance of all covenants and agreements of the Issuer contained in the Issuer Documents, and (iv) the performance of all other acts and things required under the constitution and laws of the State of Minnesota to make the Issuer Documents the valid and binding obligations of the Issuer in accordance with their terms.

1.15. Payments. The payments under the Loan Agreement have been established to produce revenue sufficient to provide for the prompt payment of principal of, premium, if any, and interest on the Note when due, and the Loan Agreement also provides that the Borrower is required to pay all expenses of the operation and maintenance of the Project, 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 Project and payable during the term of the Loan Agreement.

1.16. No Litigation. There is no litigation pending, or to the actual knowledge of the Issuer, threatened against the Issuer questioning the Issuer's execution or delivery of the Issuer Documents or questioning the due organization of the Issuer, or the powers or authority of the Issuer to issue the Note and undertake the transactions contemplated thereby.

1.17. No Violation. The execution, delivery and performance of the Issuer's obligations under the Issuer Documents do not and will not violate any order against the Issuer of any court or other agency of government, or any indenture, agreement, or other instrument to which the Issuer is a party or by which it or any of its property is bound, or conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument.

## SECTION 2. THE NOTE.

2.1 Authorized Maximum Amount and Form of Note and Interest Rate. The Note issue pursuant to this Resolution shall be in substantially the form on file with the Issuer as of the date hereof, and shall mature in the years and amounts and be subject to redemption as therein provided, as such may be modified by agreement of the Lender, Borrower and Issuer. The Note shall be issued in an amount not to exceed \$2,105,000, the actual amount to be determined by agreement of the Lender and Borrower and the officer of the Issuer specified in Section 2.3 hereof. The Note shall bear interest at a rate not to exceed 8% per annum. The actual interest rate per annum on the Note shall be determined by agreement of the Lender and the Borrower and the officer of the Issuer specified in Section 2.3 hereof prior to closing. The sale of the Note to the Lender at a purchase price equal to the stated amount thereof is hereby accepted. The Issuer acknowledges that the Lender may grant participation interest in

the Notes to other financial institutions in principal amounts of at least \$100,000. The final maturity date of the Note shall be not later than July 1, 2035.

2.2 The Note. The Note shall be dated as of the date of delivery to the Lender, shall be payable at the times and in the manner, shall bear interest at the rate, and shall be subject to such other terms and conditions as are set forth therein.

2.3. Execution of Note. The Note shall be executed on behalf of the Issuer by the Finance Officer of the Issuer (the "Authorized Officer"). In case the Authorized Officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such signatory had remained in office until delivery. In the event of the absence or disability of the Authorized Officer, such officers of the Issuer as, in the opinion of the Issuer's counsel, may act in his behalf, shall without further act or authorization of the Issuer execute and deliver the Note.

2.4. Delivery of Note. Before delivery of the Note, there shall be filed with the Lender (except to the extent waived by the Lender) the following items:

- (a) an executed copy of each of the following documents:
  - (1) the Loan Agreement;
  - (2) the Pledge Agreement;
  - (3) the Mortgage and Assignment;
  - (4) the Tax Compliance Agreement;
- (b) an opinion of counsel for the Borrower as prescribed by the Lender and Bond Counsel;
- (c) the opinion of Bond Counsel as to the validity and tax-exempt status of the Note;
- (d) such other documents and opinions as Bond Counsel may reasonably require for purposes of rendering its opinion required in (c) above or that the Lender may reasonably require for closing.

2.6. Registration of Transfer. The Issuer will cause to be kept at the office of the Finance Officer of the Issuer a Note Register in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of transfers of ownership of the Note. The Note shall be initially registered in the name of the Lender and shall be transferable upon the Note Register by the Lender in person or by its agent duly authorized in writing, upon surrender of the Note together with a written instrument of transfer satisfactory to the Finance Officer, duly executed by the Lender or its duly authorized agent. The Issuer may require, as a precondition to any transfer, that the transferee provide evidence to the Issuer that the transferee is a financial

institution or other accredited investor under the securities laws. The following form of assignment shall be sufficient for said purpose.

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the attached Note of the City of Minneapolis, Minnesota, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer said Note on the Books of said City, with full power of substitution in the premises. The undersigned certifies that the transfer is made in accordance with Section 2.9 of the Resolution authorizing the issuance of the Note.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Registered Owner

Upon such transfer the Finance Officer shall note the date of registration and the name and address of the new Lender in the Note Register and in the registration blank appearing on the Note.

2.7. Mutilated, Lost or Destroyed Note. In case the Note shall become mutilated or be destroyed or lost, the Issuer shall, if not then prohibited by law, cause to be executed and delivered a new Note of like outstanding principal amount, number and tenor in exchange and substitution for and upon cancellation of such mutilated Note, or in lieu of and in substitution for such Note destroyed or lost, upon the Lender's paying the reasonable expenses and charges of the Issuer in connection therewith, and in the case of a Note destroyed or lost, the filing with the Issuer of evidence satisfactory to the Issuer with indemnity satisfactory to it. If the mutilated, destroyed or lost Note has already matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Note prior to payment.

2.8. Ownership of Note. The Issuer may deem and treat the person in whose name the Note is last registered in the Note Register and by notation on the Note, whether or not the Note shall be overdue, as the absolute owner of the Note for the purpose of receiving payment of or on account of the principal balance, redemption price or interest and for all other purposes whatsoever, and the Issuer shall not be affected by any notice to the contrary.

2.9. Limitation on Note Transfers. The Note will be issued without being registered under state or other securities laws, pursuant to an exemption for such issuance; and accordingly the Note may not be assigned or transferred in whole or in part, nor may a participation interest in the Note be given pursuant to any participation agreement, except as an exempt security or as an exempt transaction.

### SECTION 3. MISCELLANEOUS.

3.1. Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions contained herein invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs contained in this Resolution shall not affect the remaining portions of this Resolution or any part thereof.

3.2. Authentication of Transcript. The officers of the Issuer are hereby directed to furnish to Bond Counsel certified copies of this Resolution and all documents referred to herein, and affidavits or certificates as to all other matters which are reasonably necessary to evidence the validity and tax-exemption of the Note. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute recitals of the Issuer as to the correctness of all statements contained therein.

3.3. Authorization to Execute Agreements. The forms of the proposed Issuer Documents are hereby approved in substantially the form on file with the Issuer as of the date hereof, together with 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 Bond Counsel prior to execution of the Issuer Documents and the officer specified in Section 2.3 is authorized to execute the Issuer Documents in the name of and on behalf of the Issuer and to execute and deliver such other documents as Bond Counsel considers appropriate in connection with the issuance of the Note. In the event of the absence or disability of the officer specified in Section 2.3, such officer of the Issuer as, in the opinion of Issuer's counsel, may act in his behalf shall without further act or authorization of the City Council of the Issuer do all things and execute all instruments and documents required to be done or executed by such absent or disabled officer. The execution of any instrument by the appropriate officer of the Issuer herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms thereof.

3.4. Not Qualified Tax-Exempt Obligation. The Note does not qualify as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code.

3.5. Future Amendments. The authority to approve, execute and deliver future amendments to financing documents entered into by the Issuer in connection with the issuance of the Note and consents required under the financing documents is hereby delegated to the Finance Officer of the Issuer, subject to the following conditions: (a) such amendments or consents do not materially adversely affect the interests of the Issuer; (b) such amendments or consents do not contravene or

violate any policy of the Issuer, and (c) such amendments or consents are acceptable in form and substance to counsel retained by the Issuer to review such amendments. 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 may be executed by the officer of the Issuer authorized to act in his place and stead.

3.6. Program. The Issuer has established a governmental program of acquiring purpose investments for qualified residential rental projects. The governmental program is one in which the following requirements of Section 1.148-1(b) of the Treasury Regulations relating to tax-exempt obligations shall be met:

- (a) the program involves the origination or acquisition of purpose investments;
- (b) at least 95% of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, states or political subdivisions, 501(c)(3) organizations, persons who provide housing and related facilities, or any combination of the foregoing;
- (c) at least 95% of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption;
- (d) the program documents prohibit any obligor on a purpose investment financed by the program or any related party to that obligor from purchasing bonds of an issue that finances the program in an amount related to the amount of the purpose investment acquired from the obligor; and the Issuer shall not waive the right to treat the investment as a program investment.

3.7. 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, or pursuant to, the Loan Agreement.