EDA Agenda Item #5
Meeting of Aug. 27, 2018

Brief Description	Resolutions concerning a multi-family residential development by Dominium at 11001 Bren Road East.
Recommendation	Adopt the resolutions

Senior Housing

1) Resolution approving the execution and delivery of documents in connection with a senior housing development

Workforce Housing

2) Resolution approving the execution and delivery of documents in connection with a workforce housing development

Background

Dominium submitted a formal application to redevelop the existing commercial property at 11001 Bren Road East. The proposal includes the removal of the existing building and construction of three new apartment buildings containing 482 senior and general occupancy apartments. The plans for the project were approved at the city council meeting on July 23, 2018.

The plan includes a mix of workforce and senior housing units ranging from one to three bedrooms. The developer is proposing that all units would consist entirely of affordable workforce and senior tenants (55+) earning up to 60% AMI (Area Median Income) (approximately $56,580 for a household of four or $45,300 for a two person household). The rents are structured to be capped at approximately 30% of the income level and are estimated to range from $1,062 for a one-bedroom, $1,273 for a two-bedroom, and $1,471 for a three-bedroom unit (before utility allowances).

On July 23, 2018, the City Council and EDA also adopted the resolutions approving the projects and establishing the tax increment financing district within Opus Redevelopment for the Dominium project, adopted the resolutions approving the contracts for private development, and authorized a grant application through the Metropolitan Council Livable Communities Transit Oriented Design (TOD) Program.

Current Financing Request

Dominium is requesting that the city issue its multifamily revenue bonds to finance the senior and workforce housing projects, TIF notes, and documents related to the contract for private development. Additional information regarding these documents are provided in the attached memos from the city's bond counsel, Julie Eddington, of Kennedy & Graven. A summary of the requested actions is provided below:

Workforce Housing Financing

The developer, Minnetonka Leased Housing Associates II (Dominium Workforce Housing Project), is requesting that the city issue multiple series of multifamily revenue bonds in the amount up to $55,000,000. A portion of these bonds would be used to repay the note that was issued for short-term financing that was approved by the city council on April 16, 2018. Approximately $51,430,000 is expected to be funded by U.S. Bank and BMO Harris to fund the construction of the workforce project. Once construction of the workforce component is complete, Freddie Mac will purchase the tax-exempt note and make a supplemental loan to refund the taxable notes.

The remaining obligation of $3,570,000 will be publicly offered for sale by Dougherty & Company LLC and repayment will be secured through the assignment of the TIF Note issued by the Minnetonka EDA, a guaranty, a pledge of surplus cash, and a mortgage. The attached resolutions for the workforce housing provide the approval of the issuance of the bonds, the housing program, assignment of the TIF Note, and related documents.

The issuance of the multifamily housing revenue bonds will not count towards the city's bank qualification limit of up to $10,000,000 for calendar year 2018. In addition, the borrower is required to pay all debt service and any other fees incurred by the city in relation to the bonds. The request complies with city council policies 2.5 and 2.16 related to tax-exempt financing for multi-family housing projects and post-issuance compliance.

Senior Housing Financing

The developer, Minnetonka Leased Housing Associates III (Dominium Senior Housing Project), is requesting that the city issue multiple series of multifamily revenue bonds in the amount up to $67,500,000. Approximately $63,410,000 is expected to be funded by U.S. Bank and BMO Harris to fund the construction of the senior project. The attached resolutions for the workforce housing provide the approval of the issuance of the bonds, the housing program, and related documents. Once construction of the workforce component is complete, Freddie Mac will purchase the tax-exempt note and make a supplemental loan to refund the taxable notes.

The remaining obligation of $4,090,000 will be publicly offered for sale by Dougherty & Company LLC and repayment will be secured through the assignment of the TIF Note issued by the Minnetonka EDA, a guaranty, a pledge of surplus cash, and a mortgage. The attached resolutions for the senior housing provide the approval of the issuance of the bonds, the housing program, assignment of the TIF Note, and related documents.

The issuance of the multifamily housing revenue bonds will not count towards the city's bank qualification limit of up to $10,000,000 for calendar year 2018. In addition, the borrower is required to pay all debt service and any other fees incurred by the city in relation to the bonds. The request complies with city council policies 2.5 and 2.16 related to tax-exempt financing for multi-family housing projects and post-issuance compliance.

Housing Program

A Housing Program is required by Minnesota Statutes, Chapter 462C, for projects utilizing multifamily housing revenue bonds, and sets forth the proposed plan for the acquisition, construction and equipping of the project and the issuance of conduit revenue obligations to finance the project. The program also explains what the proceeds of the conduit obligations will be used for, the amount and general terms of the conduit revenue obligations, and the affordability requirements relating to the project. The senior and workforce project each have housing programs.

TIF and Development Documents

In conjunction with the contract for private development, which was approved by the city council on July 23, 2018, the council and EDA will be asked to approve a construction addendum and four subordination agreements for the workforce and senior housing projects. The construction addendum outlines the city's expectations for public improvements, project performance, fees and securities, responsibility for costs, and expectations for city acceptance. The subordination agreement secures the city's interests and rights under the contract to for private development. The subordination agreements subordinate the city and EDA's interest in the contract for private development, the declarations of restrictive covenants, and the minimum assessment agreements.

The attached memorandums from Julie Eddington of Kennedy & Graven explain the financing actions in greater detail. Both Ms. Eddington and Mr. Lehnhoff (Ehlers) will be available at the city council meeting on Aug. 27, 2018 to answer any questions regarding the Contracts for Private Development, TIF Documents, Bond Financing, and to answer any additional questions related to the financial request.

Next Steps

The tentative timeline for financing the two developments is as follows:

- Closing on senior housing bonds on or before Sept. 15, 2018
- Closing on workforce housing bonds on or before Oct. 31, 2018

Staff Recommendation

Staff recommends that the EDA adopt the following resolutions related to the Bren Road Development, a multi-family residential development by Dominium, at 11001 Bren Road East; and authorize the EDA president and Executive Director of the EDA to approve non-substantive changes to the documents:

Senior Housing

1) Resolution approving the execution and delivery of documents in connection with a senior housing development

Workforce Housing

2) Resolution approving the execution and delivery of documents in connection with a workforce housing development

Submitted through:
Julie Wischnack, AICP, Community Development Director
Joel Merry, Assistant Finance Director

Originated by:
Alisha Gray, EDFP, Economic Development and Housing Manager

Supplemental Information:

Location Map

List of Senior Housing and Workforce Housing Project Documents

- Link to view documents on website

Memos from Julie Eddington – Kennedy & Graven

Memo from James Lehnhoff – Ehlers

Tax Exempt Financing Policy 2.5

Post Issuance Compliance Policy 2.16

TIF Policy 2.18

Opus Area Housing Map

Affordability Chart

City Council Meeting – July 23, 2018

EDAC Meeting- April 19, 2018

City Council Meeting – April 16, 2018

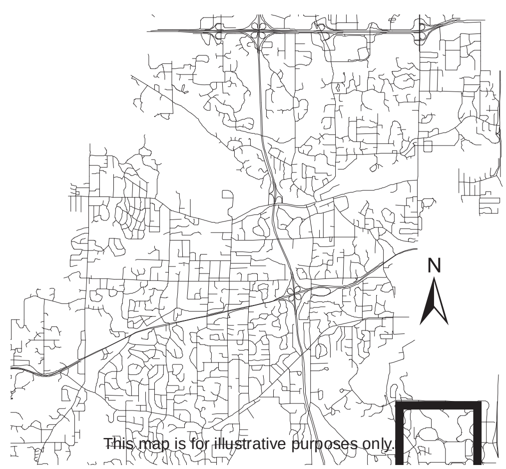
City Council Meeting – December 18, 2017

City Council Meeting– December 4, 2017

EDAC Meeting – November 27, 2017

Location Map

Project: Dominium
Address: 11001 Bren Rd E



CITY OF MINNETONKA

SENIOR HOUSING AND WORK FORCE HOUSING PROJECT DOCUMENTS

Summary of Financing (two series of tax-exempt notes and two series of taxable notes)

Under Project Loan Agreement, Borrower provides the Project Notes. Construction Lenders (U.S. Bank and BMO Harris) fund the Project Notes and the proceeds of the Project Notes are given to the City to fund the Tax-Exempt Funding Loan and Taxable Funding Loan. The proceeds of the Funding Loans pay for the costs of constructing both projects. Once the projects are completed, the "conversation date" occurs and if all conditions of conversion are met, Freddie Mac buys and becomes the lender for the tax-exempt notes and Freddie Mac makes a supplemental loan to take the place of the taxable notes.

Documents relating to Tax-Exempt Notes and Taxable Notes (one set of documents for each of the workforce housing project and the senior housing project)

- Multifamily Notes each with designation as Multifamily Housing Revenue Note (Legends of Minnetonka Project), Series A-1, Series A-2, Series B-1 and Series B-2
  - Sets forth the terms of the Note, including repayment requirements, interest rates, and redemption provisions
- Allonge Endorsement of Multifamily Notes
  - Each allonge assigns all the City's right, title, and interest in the Notes to the Fiscal Agent for the benefit of the purchasers of the Notes
- Funding Loan Agreement
  - Provides for the issuance of the Notes by the City and creates the various funds and accounts relating to the use of the proceeds of the Notes and assigns all the City's rights under the Project Loan Agreement, the Notes, and certain other moneys and securities to the Fiscal Agent on behalf of the Lender
- Project Loan Agreement
  - Provides the terms for the loan of proceeds of the Notes to the Borrower, sets forth the City's administrative fees, and indemnifies the City for any costs, fees, expenses and liability of the Notes
- Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Financing Statement (one for Taxable and Tax-Exempt Notes)
  - Grants a mortgage, security and assignment of leases and rents in the project to the City as security for the Notes
- Assignment of Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Financing Statement
  - Assigns all the City's right, title and interest in the Mortgage to the Fiscal Agent, to the Lenders
- Regulatory Agreement
  - Sets forth the certain rental and occupancy restrictions that the project must meet to comply with state law and federal tax law applicable to tax-exempt bonds
- Housing Program
  - Required by Minnesota Statutes, Chapter 462C and sets forth the proposed plan for the acquisition, construction and equipping of the project and the issuance of conduit revenue obligations to finance the project. The program also explains what the proceeds of the conduit obligations will be used for, the amount and general terms of the conduit revenue obligations, and the affordability requirements relating to the project
- Resolutions
  - The resolution approving each bond transaction also provides authorization for the Minnetonka EDA and the City to sign various closing certificates and other documents necessary to carry out the purposes of the documents approved and the resolutions adopted.

Tax Increment Revenue and Subordinate Multifamily Housing Revenue Bonds, Series 2018C Documents

- Subordinate Indenture of Trust
  - Issues the Subordinate Bonds and creates the various funds and accounts relating to the use of the proceeds of the Subordinate and for the repayment of the Subordinate Bonds
- Subordinate Loan Agreement
  - Provides for the terms for the loan of proceeds of the Subordinate Bonds to the Borrower, sets forth the City's administrative fees, and indemnifies the City for any costs, expenses and liability of the Subordinate Bonds
- Subordinate Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents
  - Provides the Trustee on behalf of bondholders with a subordinate mortgage, assignment of leases and rents relating to the project
- Assignment, Pledge, and Security Agreement
  - Pursuant to this document, the Borrower will pledge and assign its interest in the TIF Note issued by the Minnetonka EDA to the Trustee in order to secure its repayment obligations under the Subordinate Loan Agreement
- Subordinate Guaranty Agreement of Dominium Holdings II, LLC
  - A subordinate guaranty of payments of debt service by an affiliate of the Borrower relating to the Subordinate Bonds
- Subordination Agreement (for Mortgage and Pledge of Surplus Cash)
  - Subordinates the Subordinate Mortgage, Subordinate Guaranty, and the use of surplus cash for repayment of debt service on the Subordinate Bonds to the senior financing
- Bond Purchase Agreement
  - Sets forth the terms of the sale and purchase of the Subordinate Bonds
- Resolutions
  - The resolution approving each bond transaction also provides authorization for the Minnetonka EDA and the City to sign various closing certificates and other documents necessary to carry out the purposes of the documents approved and the resolutions adopted.

TIF and Development Documents

- Construction Addendum to Contract for Private Development (one for each project)
  - Sets forth, among other items, certain construction obligations under the Contract for Private Development including timelines, the payment of certain fees and charges, design and construction of various site improvements, landscaping, the submission of engineering reports, the installation of utilities, erosion and grading requirements, and the ownership of various site improvements and utilities.
- Subordination Agreements related to the Tax-Exempt Notes and Taxable Notes (for Contract for Private Development, Declaration of Restrictive Covenants and Minimum Assessment Agreement) (two agreements for each project – one for tax-exempt notes and one for taxable notes)
  - Subordinates the EDA's rights in the Minimum Assessment Agreement setting forth a minimum market value for the project, Declaration of Restrictive Covenants relating to the affordability of the project and the Contract for Private Development setting forth terms of providing tax increment financing assistance to the borrower to the rights of the Fiscal Agent on behalf of the Lenders under the financing documents relating to the Tax-Exempt Notes and the Taxable Notes. The subordination agreement subordinates the right of the City to require replacement of the property manager. The City and EDA may exercise the remedies of specific performance or injunctive relief to enforce covenants

and agreements of Borrower relating to income, rent, or affordability restrictions contained in the Subordinate Agreements. The EDA has the right to exercise its remedies under the Contract for Private Development upon default by the developer.

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August 20, 2018

Alisha Gray
Economic Development and Housing Manager
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345-1502

Re: Resolution approving the issuance of senior housing revenue obligations for the benefit of Minnetonka Leased Housing Associates III, LLLP

Dear Alisha,

As you know, Minnetonka Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership (the "Borrower"), is working with the City of Minnetonka (the "City") to finance the acquisition, construction, and equipping of approximately 262 units of senior housing to be located at 11001 Bren Road East in the City (the "Senior Housing Project"). The Senior Housing Project will be adjacent to the workforce housing project being developed by Minnetonka Leased Housing Associates II, LLLP. To finance the Senior Housing Project, the Borrower is requesting that the City issue multifamily housing revenue bonds in multiple series, as both taxable and tax-exempt obligations (the "Obligations"), in the estimated aggregate principal amount not to exceed $67,500,000.

The Obligations will be considered "housing bonds" issued pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Act"), and Minnesota Statutes, Chapter 474A, as amended. To satisfy the requirements of the Act, the City must prepare a housing program providing the information required by Section 462C.03, subdivision 1a of the Act (the "Housing Program"). The Obligations will be "private activity bonds" within the meaning of Section 141(a) of the Code but will be "exempt facility bonds" the net proceeds of which are to be used to provide a "qualified residential rental project" within the meaning of Sections 142(a)(7) and 143(d) of the Code and will not affect the City's ability to designate up to $10,000,000 in tax-exempt bonds as "qualified tax-exempt obligations" (or "bank-qualified bonds") for calendar year 2018.

The Obligations will not constitute general or moral obligations of the City, will not be secured by or payable from any property or assets of the City (other than the interests of the City in the loan agreements), and will not be secured by any taxing power of the City. The Obligations will not be subject to any debt limitation imposed on the City, and the issuance of the Obligations will not have any adverse impact on the credit rating of the City, even in the event that the Borrower encounters financial difficulties with respect to the Senior Housing Project.

Below is a brief explanation of the financing structure and the documents that the City officials will be asked to execute.

One portion of the Obligations is expected to be issued in the approximate principal amount of $57,820,000 (the "Notes") and will be issued in two separate series (one tax-exempt and one taxable) to evidence two funding loans (the "Funding Loans") made by U.S. Bank National Association and BMO Harris Bank N.A., as the initial funding lenders. The City will loan the proceeds of the Notes (the "Project Loans") to the Borrower to finance a portion of the Senior Housing Project. The Borrower will provide U.S. Bank National Association, as fiscal agent, with two parity mortgage liens on the Senior Housing Project. Freddie Mac has committed to purchasing the Notes at the conversion date (which will occur after the Senior Housing Project is placed in service). In connection with the Notes, City officials will be asked to execute a Funding Loan Agreement (with respect to the Funding Loans), a Project Loan Agreement (with respect to the Project Loans), four Governmental Notes, two Project Note Allonges, Assignments of Mortgage, and a Regulatory Agreement. A resolution is enclosed approving the issuance of the Notes.

The remaining portion of the Obligations is expected to be issued in the approximate principal amount of $4,090,000 (the "Bonds") and will be publicly offered for sale by Dougherty & Company LLC. To secure its repayment obligations with respect to the Bonds, the Borrower will assign to U.S. Bank National Association (the "Trustee") the Borrower's interest in the TIF Note to be issued by the Minnetonka EDA. The Borrower will provide the Trustee with a subordinate mortgage lien in the Senior Housing Project, which lien will be subordinate to the mortgage liens to be provided with respect to the Notes. The Bonds are also secured by a Guaranty from Dominium Holdings II, LLC and a subordinate pledge of surplus cash. In connection with the issuance of the Bonds, City officials will be asked to execute an Indenture of Trust, a Loan Agreement, an Assignment of Mortgage, a Bond Purchase Agreement, a Subordination Agreement (subordinating the mortgage and the pledge of surplus cash), and the Regulatory Agreement referenced in the preceding paragraph. A resolution is enclosed approving the issuance of the Bonds.

In conjunction with the Contract for Private Development, which has already been approved by the City Council, City officials will be asked to approve the mortgage financing to be obtained by the Borrower and to execute a Construction Addendum and a Subordination Agreement (pursuant to which the City will assign its interests and rights under the Contract for Private Development to the interests and rights of U.S. Bank National Association, as fiscal agent under the Funding Loan Agreement, with respect to the senior financing documents described in the Funding Loan Agreement). A resolution is enclosed approving the execution of these documents.

Following the public hearing, the City Council will be asked to consider the three enclosed resolutions, which provide approval of the issuance of the Obligations, the Housing Program, and the execution of loan documents and related documents. The resolutions each provide that the Mayor and City Manager may sign the documents in substantially the forms on file as of August 27, 2018, which allows modifications of the documents but not substantial changes.

The Borrower will agree to pay the out-of-pocket expenses of the City with respect to this transaction as well as the City's administrative fee.

I will be attending the City Council meeting on August 27, 2018 and can answer any questions that may arise during the meeting. Please contact me with any questions you may have prior to the City Council meeting.

Sincerely,

Julie A. Eddington

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August 20, 2018

Alisha Gray
Economic Development and Housing Manager
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345-1502

Re: Resolution approving the execution by of various agreements with respect to the senior housing development to be located at 11001 Bren Road East

Dear Alisha,

As you know, Minnetonka Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership (the "Developer"), is working with the City of Minnetonka (the "City") to finance the acquisition, construction, and equipping of approximately 262 units of senior housing to be located at 11001 Bren Road East in the City (the "Senior Housing Project"). The Senior Housing Project will be adjacent to the workforce housing project being developed by Minnetonka Leased Housing Associates II, LLLP. The Minnetonka EDA and the City approved the execution of the Contract for Private Development (the "Development Agreement") with the Developer at a prior meeting.

In order to provide financing for the Senior Housing Project, the City expects to issue multiple series of taxable and tax-exempt obligations in a maximum aggregate principal amount of $67,500,000 (the "Obligations") to finance the Senior Housing Project. Portion of the Obligations in the approximate principal amount of $32,410,000 (the "Tax-Exempt Notes") and in the approximate principal amount of $25,410,000 (the "Taxable Notes") will be sold to U.S. Bank National Association and BMO Harris Bank N.A., as initial funding lenders. The remainder of the Obligations in the approximate principal amount of $4,090,000 (the "Bonds") will be publicly offered for sale by an underwriter. As a condition for these financings, the Minnetonka EDA will be asked to execute various subordination agreements.

With respect to the Tax-Exempt Notes and the Taxable Notes, both the Minnetonka EDA and the City are being asked to subordinate their respective rights and interests under the Development Agreement, the Declaration of Restrictive Covenants, and the Minimum Assessment Agreement to the rights of U.S. Bank National Association, as fiscal agent for the Tax-Exempt and Taxable Notes, under the senior financing agreements described in these particular subordination agreements.

With respect to the Bonds, the Minnetonka EDA is being asked to consent to the Developer's assignment to U.S. Bank National Association, as trustee for the Bonds, of the TIF Note to be issued under the terms of the Development Agreement. The revenues derived under the TIF Note will be used by the Borrower to repay its loan of the proceeds of the Bonds.

Enclosed are resolutions to be considered by the Board of Commissioners of the Minnetonka EDA and the City Council of the City at their meetings on August 27, 2018. The resolution to be considered by the Board of Commissioners of the EDA approves the execution of two subordination agreements, the assignment and pledge of the TIF Note, and a construction addendum setting forth the additional terms and responsibilities of the construction of the Senior Housing Project. The resolution to be considered by the City Council of the city approves the execution of the subordination agreements and a construction addendum.

I will be attending the meetings of the Board of Commissioners and the City Council on August 27, 2018 and can answer any questions that may arise during the meetings. Please contact me with any questions you may have prior to the meetings.

Sincerely,

Julie A. Eddington

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August 20, 2018

Alisha Gray
Economic Development and Housing Manager
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345-1502

Re: Resolution approving the issuance of workforce housing revenue obligations for the benefit of Minnetonka Leased Housing Associates II, LLLP

Dear Alisha,

As you know, Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership (the "Borrower"), is working with the City of Minnetonka (the "City") to provide permanent financing for the acquisition, construction, and equipping of approximately 262 units of workforce housing to be located at 10987 and 11015 Bren Road East in the City (the "Workforce Housing Project"). The Workforce Housing Project will be adjacent to the senior housing project being developed by Minnetonka Leased Housing Associates III, LLLP. To finance the Workforce Housing Project, the Borrower is requesting that the City issue multifamily housing revenue bonds in multiple series, as both taxable and tax-exempt obligations (the "Obligations"), in the estimated aggregate principal amount not to exceed $55,000,000. A portion of the proceeds of the Obligations will be used to refund the Multifamily Housing Revenue Note (Preserve at Shady Oak Project), Series 2018, issued by the City on May 7, 2018, to provide short-term financing for the Workforce Housing Project.

The Obligations will be considered "housing bonds" issued pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Act"), and Minnesota Statutes, Chapter 474A, as amended. To satisfy the requirements of the Act, the City must prepare a housing program providing the information required by Section 462C.03, subdivision 1a of the Act (the "Housing Program"). The Obligations will be "private activity bonds" within the meaning of Section 141(a) of the Code but will be "exempt facility bonds" the net proceeds of which are to be used to provide a "qualified residential rental project" within the meaning of Sections 142(a)(7) and 143(d) of the Code and will not affect the City's ability to designate up to $10,000,000 in tax-exempt bonds as "qualified tax-exempt obligations" (or "bank-qualified bonds") for calendar year 2018.

The Obligations will not constitute general or moral obligations of the City, will not be secured by or payable from any property or assets of the City (other than the interests of the City in the loan agreements), and will not be secured by any taxing power of the City. The Obligations will not be subject to any debt limitation imposed on the City, and the issuance of the Obligations will not have any adverse impact on the credit rating of the City, even in the event that the Borrower encounters financial difficulties with respect to the Workforce Housing Project.

Below is a brief explanation of the financing structure and the documents that the City officials will be asked to execute.

One portion of the Obligations is expected to be issued in the approximate principal amount of $45,972,000 (the "Notes") and will be issued in two separate series (one tax-exempt and one taxable) to evidence two funding loans (the "Funding Loans") made by U.S. Bank National Association and BMO Harris Bank N.A., as the initial funding lenders. The City will loan the proceeds of the Notes (the "Project Loans") to the Borrower to finance a portion of the Workforce Housing Project. The Borrower will provide U.S. Bank National Association, as fiscal agent, with two parity mortgage liens on the Workforce Housing Project. Freddie Mac has committed to purchasing the Notes at the conversion date (which will occur after the Workforce Housing Project is placed in service). In connection with the Notes, City officials will be asked to execute a Funding Loan Agreement (with respect to the Funding Loans), a Project Loan Agreement (with respect to the Project Loans), four Governmental Notes, two Project Note Allonges, Assignments of Mortgage, and a Regulatory Agreement. A resolution is enclosed approving the issuance of the Notes.

The remaining portion of the Obligations is expected to be issued in the approximate principal amount of $3,570,000 (the "Bonds") and will be publicly offered for sale by Dougherty & Company LLC. To secure its repayment obligations with respect to the Bonds, the Borrower will assign to U.S. Bank National Association (the "Trustee") the Borrower's interest in the TIF Note to be issued by the Minnetonka EDA. The Borrower will provide the Trustee with a subordinate mortgage lien in the Workforce Housing Project, which lien will be subordinate to the mortgage liens to be provided with respect to the Notes. The Bonds are also secured by a Guaranty from Dominium Holdings II, LLC and a subordinate pledge of surplus cash. In connection with the issuance of the Bonds, City officials will be asked to execute an Indenture of Trust, a Loan Agreement, an Assignment of Mortgage, a Bond Purchase Agreement, and the Regulatory Agreement referenced in the preceding paragraph. A resolution is enclosed approving the issuance of the Bonds.

In conjunction with the Contract for Private Development, which has already been approved by the City Council, City officials will be asked to approve the mortgage financing to be obtained by the Borrower and to execute a Construction Addendum and a Subordination Agreement (pursuant to which the City will assign its interests and rights under the Contract for Private Development to the interests and rights of U.S. Bank National Association, as fiscal agent under the Funding Loan Agreement, with respect to the senior financing documents described in the Funding Loan Agreement). A resolution is enclosed approving the execution of these documents.

Following the public hearing, the City Council will be asked to consider the two enclosed resolutions, which provide approval of the issuance of the Obligations, the Housing Program, and the execution of loan documents and related documents. The resolutions each provide that the Mayor and City Manager may sign the documents in substantially the forms on file as of August 27, 2018, which allows modifications of the documents but not substantial changes.

The Borrower will agree to pay the out-of-pocket expenses of the City with respect to this transaction as well as the City's administrative fee.

I will be attending the City Council meeting on August 27, 2018 and can answer any questions that may arise during the meeting. Please contact me with any questions you may have prior to the City Council meeting.

Sincerely,

Julie A. Eddington

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August 20, 2018

Alisha Gray
Economic Development and Housing Manager
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345-1502

Re: Resolution approving the execution by of various agreements with respect to the workforce housing development to be located at 10987 and 11015 Bren Road East

Dear Alisha,

As you know, Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership (the "Developer"), is working with the City of Minnetonka (the "City") to finance the acquisition, construction, and equipping of approximately 220 units of workforce housing to be located at 10987 and 11015 Bren Road East in the City (the "Workforce Housing Project"). The Workforce Housing Project will be adjacent to the senior housing project being developed by Minnetonka Leased Housing Associates III, LLLP. The Minnetonka EDA and the City approved the execution of the Contract for Private Development (the "Development Agreement") with the Developer at prior meetings.

In order to provide financing for the Workforce Housing Project, the City expects to issue multiple series of taxable and tax-exempt obligations in a maximum aggregate principal amount of $55,000,000 (the "Obligations") to finance the Workforce Housing Project. Portion of the Obligations in the approximate principal amount of $26,930,000 (the "Tax-Exempt Notes") and in the approximate principal amount of $19,042,000,000 (the "Taxable Notes") will be sold to U.S. Bank National Association and BMO Harris Bank N.A., as initial funding lenders. The remainder of the Obligations in the approximate principal amount of $3,570,000 (the "Bonds") will be publicly offered for sale by an underwriter. As a condition for these financings, the Minnetonka EDA will be asked to execute various subordination agreements.

With respect to the Tax-Exempt Notes and the Taxable Notes, both the Minnetonka EDA and the City are being asked to subordinate their respective rights and interests under the Development Agreement, the Declaration of Restrictive Covenants, and the Minimum Assessment Agreement to the rights of U.S. Bank National Association, as fiscal agent for the Tax-Exempt and Taxable Notes, under the senior financing agreements described in these particular subordination agreements.

With respect to the Bonds, the Minnetonka EDA is being asked to consent to the Developer's assignment to U.S. Bank National Association, as trustee for the Bonds, of the TIF Note to be issued under the terms of the Development Agreement. The revenues derived under the TIF Note will be used by the Borrower to repay its loan of the proceeds of the Bonds.

Enclosed are resolutions to be considered by the Board of Commissioners of the Minnetonka EDA and the City Council of the City at their meetings on August 27, 2018. The resolution to be considered by the Board of Commissioners of the EDA approves the execution of two subordination agreements, the assignment and pledge of the TIF Note, and a construction addendum setting forth the additional terms and responsibilities of the construction of the Workforce Housing Project. The resolution to be considered by the City Council of the city approves the execution of the subordination agreements and a construction addendum.

I will be attending the meetings of the Board of Commissioners and the City Council on August 27, 2018 and can answer any questions that may arise during the meetings. Please contact me with any questions you may have prior to the meetings.

Sincerely,

Julie A. Eddington

Memo

To: Alisha Gray, Economic Development and Housing Manager

From: James Lehnhoff - Ehlers

Date: April 6, 2018

Subject: Dominium Project Proposal Review: Digi Site Redevelopment

In November 2017, the City of Minnetonka requested that Ehlers review the development pro forma and Tax Increment Financing (TIF) request from Dominium for their proposal to construct approximately 475 affordable apartments at 11001 Bren Road East. The original redevelopment concept included demolishing the existing office building and constructing 210 general occupancy affordable apartments and 265 age-restricted affordable apartments. To help close a nearly $8.5 million project financing gap, the Economic Development Advisory Commission ("EDAC") and the City Council subsequently considered a $7.6 million TIF request from Dominium (includes a 2% inflationary factor). The remaining gap amount was to be addressed through a combination of project cost reductions and other funding sources.

Since last November, Dominium has conducted additional design work, revised the project budget, and submitted an updated development pro forma for analysis. The revised project proposes a total of 482 apartments—an increase of seven apartments. The "Legends of Minnetonka" includes 262 age-restricted affordable apartments and the "Preserve at Shady Oak" includes 220 general occupancy affordable apartments. As before, all the apartments would be affordable to households at or below 60% of area median income (AMI). The 2017 income limits as published by HUD:

Income Limit by Household Size	
Household Size	60% AMI Income Limit
1	$37,980
2	$43,440
3	$48,840
4	$54,240

HUD has not yet released the 2018 updates

The project must comply with the statutory required income restrictions for the term of the Housing TIF District (statutes do not require rent restrictions). However, the City has extended the compliance period to 30 years and required rent restrictions in prior projects.

Analysis

We have reviewed the updated development pro forma based on general industry standards for construction, land, and project costs; affordable rental rates and operating

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expenses; developer fees; available funding sources; underwriting criteria; and, project cash flow.

While the total development costs (“TDC”) increased from approximately $240,000 per unit to $274,000 per unit, the development pro forma assumptions are generally reasonable and within industry standards in the current market. The cost increase is primarily due to three factors: 1) construction costs, 2) financing costs, and 3) the developer/contractor fee. In addition to construction costs generally increasing in this market, more detailed designs and design changes contributed to a majority of the overall cost increase (i.e. a large retaining wall to address grade changes, shallow groundwater issues, additional stormwater management, and a 5-6 story building instead of the original 4-story building).

The financing costs increased due to higher interest rates and a need to “park” their bond allocation, which adds to the carrying costs. Finally, while the developer/contractor fee increased from the prior analysis, the increase was entirely offset by an even larger deferred fee to help reduce the gap (this is a financing technique used in LIHTC projects that can result in additional tax credit proceeds that actually reduces the overall financing gap). The developer/contractor fees still conform to Minnesota Housing underwriting requirements. The updated summary sources and uses are as follows:

Revised Sources and Uses			
Sources	**Amount**	**Per Unit**	**% of Cost**
First Mortgage	$69,780,000	$144,772	53%
TIF Note Request (26 years with 2% Inflation)	$7,809,000	$16,201	6%
4% LIHTC	$35,623,000	$73,907	27%
Met Council/Hennepin County Grants	$1,500,000	$3,112	1%
Deferred Developer/Contractor Fee (83% of total fee)	$14,494,976	$30,073	11%
Cash from Operations	$3,071,523	$6,372	2%
Total	$132,278,499	$274,437	100%
Uses	**Amount**	**Per Unit**	**% of Cost**
Acquisition Costs	$10,000,000	$20,747	8%
Construction Costs	$87,689,878	$181,929	66%
Professional Services	$4,622,578	$9,590	3%
Financing Costs	$10,684,951	$22,168	8%
Developer/Contractor Fee	$17,439,080	$36,181	13%
Reserves	$1,842,012	$3,822	1%
Total	$132,278,499	$274,437	100%

Dominium has maximized the first mortgage and 4% low-income housing tax credit equity. They expect to apply for $1,500,000 in additional public resources from such entities as Hennepin County and the Metropolitan Council. Finally, Dominium will use future project cash flow from operations for the remaining project costs.

The TIF Note size increased from approximately $7.6 million in the prior analysis to $7.8 million in this analysis because of the additional units and applying the final 2018 property tax rates. However, this also means the property is paying more in annual property taxes than previously assumed. Other than this adjustment to the tax increment calculation, the project cost increases are addressed by Dominium through other sources.

Recommendation

Based upon our review of the developer's pro forma and current market conditions, the proposed development will not reasonably be expected to occur solely through private investment within the reasonably near future. Due to the costs associated with redeveloping the property and constructing housing with affordable rents, this project is feasible only through assistance, in part, from the City's contribution.

TIF assistance would be provided on a "pay-as-you-go" basis in the amount of $7,809,000 over a maximum 26-year term. As discussed at the November meeting, the TIF assistance includes a 2% inflationary factor. The interest rate on the TIF Note will be set at the lesser of 5.15% or the Developer's actual interest rate.

With "pay-as-you-go" TIF assistance, the City does not provide any up-front funding. Instead, the City enters into an agreement to provide tax increment payments that are generated solely from a portion of the development's actual increased property taxes for up to 26 years. The applicant uses those future tax increment payments to obtain additional financing from a private lender. If the tax increment is insufficient to pay the $7,809,000 TIF note in 26 years, the City does not make up the shortfall. Conversely, if the tax increment provides the $7,809,000 before the end of the 26-year term, the City may end the TIF district early.

Please contact me at 651-697-8552 with any questions.

Policy Number 2.5
Tax Exempt Financing for Industrial Development, Health Care Facilities, Multi-Family Housing, and 501 (c)(3) Projects
(Private Activity Tax Exempt Financing)

Purpose of Policy: This policy establishes factors that guide the city council in consideration of applications for tax exempt financing for industrial development, health care facilities, multi-family housing developments, and qualified 501 (c)(3) projects.

Introduction

Under the Minnesota Municipal Industrial Development Act, Minnesota Statutes Sections 469.152 to 469.165 (the “IDR Act”), the city of Minnetonka has the authority to issue industrial development and health care facility bonds or notes to attract or promote economically sound industry, commerce, and health care in the city.

Under Minnesota Statutes, Chapter 462C (the “Housing Act”), the city is authorized to issue housing revenue bonds to finance multi-family residential housing projects for low and moderate income persons and elderly persons. Projects must be embodied in a Housing Program, as defined in the Housing Act.

Additionally, the city may issue tax exempt financing for qualified 501 (c)(3) entities for various project types including housing, health care, nursing homes and educational facilities.

The council is aware that such financing for certain private activities may be of benefit to the city and will consider requests for tax exempt financing subject to this council policy. The council considers tax exempt financing to be a privilege, not a right.

It is the judgment of the council that tax exempt financing is to be used on a selective basis to encourage certain development that offers a benefit to the city as a whole, including significant employment and housing opportunities, as well as for those projects that may be carried out through a qualified non-profit organization. It is the applicant’s responsibility to demonstrate the benefit to the city, both in writing and at the public hearing(s). The applicant should understand that although approval may have been granted previously by the city for the issuance of financing for a similar project or a similar debt structure, the council is not bound by that earlier approval. Each application will be judged on the merits of the project as it relates to the public purpose of the Housing Act or the IDR Act and benefit to the city at the time the request for financing is being considered.

Part A: Standards

Applications must meet all of the following standards to be eligible for consideration:

- At the time of any application for a guide plan amendment, rezoning or site plan approval for a project, whichever occurs first, the applicant must divulge that private activity tax exempt financing will be requested.

- The project must meet the objectives of and be otherwise consistent with the IDR Act or the Housing Act and any other controlling laws.

- The projects must comply with all applicable federal, state, regional, and city laws, including compatibility with the Comprehensive Guide Plan and the development plans and objectives of the city, as well as applicable zoning and land use regulations and ordinances.

- A project application must demonstrate financial feasibility and adequate bond holder security through credit enhancement, rating or a financial review by a third party accounting firm or the city's financial advisor.

- Industrial and health care projects must not be speculative, i.e., they must either be for the applicant's sole use or 60 percent of the square footage must be pre-leased.

- The principal amount of the tax-exempt obligations will be limited to the sum of costs that are financeable with tax-exempt obligations under state and federal law. The proceeds of the tax-exempt obligations cannot be used for working capital expenditures. Capital equipment may be financed with the proceeds of tax-exempt obligations only if the City Council finds the equipment to be essential to the new, redeveloped or expanded business.

Those applications which exceed the minimum standards will generally be considered more favorably than those which only meet these standards.

Part B: Additional Review Standards
Those applications meeting all of the standards listed above will be further reviewed to determine compliance with the following additional review standards. Applications meeting more of the following standards will generally be considered before those which just meet some of them or meet them less extensively:

- Facilitation of the city's development or redevelopment objectives.

- The number and type of additional jobs created or retained in the city.

- For housing projects, the number, type and affordability of new or newly available housing units.

- The projected increase in property tax revenue.

- The amount of equity participation above 10 percent.

- The quality of the project, as represented by renderings, site plans, the applicant's record of development, etc.

- The project's impact on additional city services.

- For projects located outside of the city, the benefit the project brings to the region, including the number of Minnetonka residents and/or businesses served.

The view of individuals and businesses expressed at the public hearing(s) on the project will also be considered.

Part C: Other Provisions

- A project will not normally be given preliminary approval until all city planning and zoning requirements have been met and all related permits and approvals have been issued. Planning and zoning matters may be considered simultaneously with preliminary approval of the project.

- City officials will not deliver documents for the issuance of tax exempt obligations until all required fees have been paid by the applicant to the city and special counsel to the city has issued a favorable opinion on those matters for which special counsel is responsible.

- The council resolution giving preliminary approval to a project must specify:

  - That the approval given terminates at the end of the calendar year from the date of the resolution and may be renewed only upon request of the applicant.

  - That the applicant agrees to pay all required fees and reimburse the city for any and all costs incurred by it in the financing.

  - That the city reserves the right in its sole discretion to withdraw the preliminary approval at any time prior to the issuance of tax exempt obligations for the project upon its determination that the purposes of the appropriate Act and this policy would not be served thereby, or if any material misstatement is made. The council's decision on this matter is uncontestable.

- The director of community development, under the direction of the city manager, is responsible for the administration and processing of applications for tax exempt financing. The director of community development is to prepare and revise, from time to time, necessary application forms and informational material in order to carry out the objectives of the policy.

- The following fees for the processing of applications are established:

  - A non-refundable application fee of $3,500, and

    An administrative fee equal to one-eighth of one percent (.125%) of the principal amount of the bonds. The application fee must accompany the original application. The administrative fee must be paid at or prior to delivery of the bonds to the original purchaser. The proceeds of the administrative fee must be deposited in a special fund of the city to be used to defray administrative costs of the city in the administration of private activity financing.

- The applicant must select a financial advisor acceptable to the city or an underwriter to assist the applicant in preparing all necessary application documents and materials. The financial adviser will subject a letter that establishes the financial feasibility of the project. Applications may, in the alternative, include a signed letter from a responsible financial institution or underwriter indicating that the project is economically feasible and viable and stating that bonds can be successfully sold for the project or that an individual or institution intends to purchase all of the bonds.

  The applicant must receive approval from the appropriate state agencies, secure financing by the end of the calendar year in which approval was given and commence construction within one year of the date of the resolution giving preliminary approval to the project or the housing program. Upon application, the council may approve an extension of the preliminary approval.

- The city is to be reimbursed and held harmless for any out-of-pocket expenses related to the tax exempt financing including, but not limited to, legal fees, financial analyst fees, bond counsel fees, and the city's administrative expenses in connection with the application. The applicant must execute a letter to the city undertaking to pay all such expenses even if they exceed the deposit.

Part D: Miscellaneous Matters

<u>Refundings</u>

The council will approve the refunding of a tax-exempt issue only upon a showing by the applicant of substantial debt service savings and/or the removal of bond covenants significantly impairing the financial feasibility of the project.

For each application for refunding, the non-refundable application fee must be paid together with any city expenses in excess of that fee. If the administrative fees listed in paragraph 5 of Part C were paid for the original bond issue, no new administrative fees are required. If the administrative fees were not paid for the original bond issues, they must be paid for the refunding issue.

<u>Subsequent Proceedings</u>

Where changes to the underlying documents or credit facilities of outstanding bond issues are to be made and require council action, no administrative fee is charged but a non-refundable fee of $2,500 must be deposited with the city to cover administrative costs. No formal application form is required.

<u>Arbitrage and Reporting</u>

The city must be copied on any reporting to bondholders and/or trustees that the borrower produces. The borrower must also undertake arbitrage calculations every five years or more often if required for legal compliance, and copy the city with these calculations.

<u>IRS Examination/Audit</u>

If the borrower is subject to an IRS examination/audit on the tax exempt financing, the city's bond counsel must be involved in a timely fashion on any responses to IRS inquiries. The borrower will reimburse the city for any costs the city occurs related to the examination/audit.

Issue by Another Political Subdivision (Host Approval)
The city will consider requests for approval of tax exempt financing by another political subdivision for projects located in the city of Minnetonka. In these cases, a non-refundable application fee of $250 must be paid and all procedures followed through the approval of the preliminary resolution. No administrative fee is charged.

City as Issuer for Another Political Subdivision
The city may consider requests for tax exempt financing for projects located in another city. Host approval must first be given by the jurisdiction in which the project is located. All projects must meet the city's standards as deemed applicable by the Community Development Director, and application and administrative fees will be collected as called out in Part C.

Deadlines
The council conducts all tax exempt financing matters at regularly scheduled council meetings generally held on the second and fourth Monday of each month. Documents for council consideration must be at the city office ten days preceding the council meeting at which the matter is to be considered. No exceptions to this requirement will be made. In the case of a publicly offered bond issue, the documents, when submitted, may specify a maximum price and maximum effective interest rate if prices and rates have not yet been established.

Public Hearings
Published and mailed notice of any required public hearing may be set and arranged administratively by city staff.

Economic Development Authority as Issuer
Regarding any tax exempt financing for which the Minnetonka Economic Development Authority (EDA) is to be the issuer, the EDA is to follow the adopted council policy applicable to such financing.

Adopted by Resolution No. 84-7547
Council Meeting of August 6, 1984

Adopted by Resolution No. 84-7563
Council Meeting of August 27, 1984

Amended by Council Motion
Council Meeting of November 18, 1985

Amended by Resolution No. 97-104
Council Meeting of July 28, 1997

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2015-019
Council Meeting of March 23, 2015

Policy Number 2.16
Post-Issuance Compliance Procedure and Policy
For Tax-Exemption Governmental Bonds

Purpose of Policy: To ensure that the city complies with its post-issuance compliance obligations under applicable provisions of the code and treasury regulations

Introduction

The city of Minnetonka issues tax-exempt governmental bonds ("TEBs") to finance capital improvements. As an issuer of TEBs, the city is required by sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "code"), and the associated treasury regulations (the "treasury regulations"), to take certain actions after the issuance of TEBs to ensure the continuing tax-exempt status of the bonds. In addition, section 6001 of the code and section 1.6001-1(a) of the treasury regulations impose record retention requirements on the city.

Effective Date and Term

The effective date of this policy is March 5, 2012, and this policy will remain in effect until superseded or terminated by the city council.

Responsible Parties

The finance director is the party primarily responsible for ensuring that the city successfully carries out its post-issuance compliance requirements under federal law. The finance director will be assisted by finance department staff and by other city staff and officials when appropriate. The finance director will also be assisted in carrying out post-issuance compliance requirements by the following organizations:

- Bond counsel
- Financial advisor
- Paying agent (the person, organization, or officer of the city primarily responsible for providing paying agent services for the city); and
- Rebate analyst (the organization primarily responsible for providing rebate analyst services for the city).

The finance director is responsible for assigning post-issuance compliance responsibilities to finance department staff, other city staff, bond counsel, paying agent, and rebate analyst. The finance director may use other professional service organizations as necessary to ensure compliance with the city's post-issuance compliance requirements. The finance director will provide training and educational resources to city staff responsible for ensuring compliance with this policy.

Post-Issuance Compliance Actions

The finance director will take the following post-issuance compliance actions or verify that they have been taken on behalf of the city with respect to each issue of TEBs:

- The finance director will prepare a transcript of principal documents (this action will be the primary responsibility of bond counsel).

- The finance director will file with the Internal Revenue Service (the "IRS"), within the time limit imposed by code section 149(e) and applicable treasury regulations, an information return for tax-exempt governmental obligations, form 8038-G (this action will be the primary responsibility of bond counsel).

- The finance director will prepare an "allocation memorandum" for each issue of TEBs in accordance with the provisions of treasury regulations, section 1.148-6(d)(1). This memorandum will account for the allocation of the TEB proceeds to expenditures not later than the earlier of:

    - eighteen months after the later of the date the expenditure is paid, or the date any project financed by the TEBs is placed in service; or

    - sixty days after the earlier of the fifth anniversary of the issue date of the TEBs, or 60 days after the retirement of the TEBs.

- The finance director will identify proceeds of TEBs that must be yield-restricted and will monitor the investments of those funds to ensure that the yield does not exceed the applicable restrictions.

- The finance director will determine whether the city is subject to the rebate requirements of code section 148(f) regarding each issue of TEBs. The finance director will determine whether the city is eligible for any of the temporary periods for unrestricted investments and is eligible for any of the spending exceptions to the rebate requirements, for each issue of TEBs. The finance director will contact the rebate analyst (and, if appropriate, bond counsel) before the fifth anniversary of the issuance date of each issue of TEBs and each fifth anniversary thereafter to arrange for calculations of the rebate requirements for such TEBs. If a rebate payment is required to be paid by the city, the finance director will prepare or cause to be prepared the arbitrage rebate, yield reduction and penalty in lieu of arbitrage rebate, form 8038-T, and submit the form to the IRS with the required rebate payment. If the city is authorized to recover a rebate payment previously paid, the finance director will prepare or cause to be prepared the request for recovery of overpayments under arbitrage rebate provisions, form 8038-R, and submit the form to the IRS.

Procedures for Monitoring, Verification, and Inspections
The finance director will institute such procedures as the finance director deems necessary and appropriate to monitor the use of the proceeds of TEBs issued by the city, to verify that certain post-issuance compliance actions have been taken by the city, and to provide for the inspection of the facilities financed with the proceeds of such bonds. At a minimum, the finance director will establish the following procedures:

- The finance director will monitor the use of the proceeds of TEBs to: (1) ensure compliance with the expenditure and investment requirements under the temporary period provisions set forth in treasury regulations, section 1.148-2(e); (2) ensure compliance with the safe harbor restrictions on the acquisition of investments set forth in treasury regulations, section 1.148-5(d); (3) ensure that the investments of any yield-restricted funds do not exceed the yield to which such investments are restricted; and (4) determine whether there has been compliance with the spend-down requirements under the spending exceptions to the rebate requirements set forth in treasury regulations, section 1.148 7.

- The finance director will monitor the use of all bond-financed facilities in order to: (1) determine whether private business uses of bond-financed facilities have exceeded the *de minimis* limits set forth in code section 141(b) as a result of leases and subleases, licenses, management contracts, research contracts, naming rights agreements, or other arrangements that provide special legal entitlements to nongovernmental persons; and (2) determine whether private security or payments that exceed the *de minimis* limits set forth in code section 141(b) have been provided by nongovernmental persons regarding such bond-financed facilities. The finance director will provide training and educational resources to any city staff who have the primary responsibility for the operation, maintenance, or inspection of bond-financed facilities regarding the limitations on the private business use of bond-financed facilities and the limitations on private security or payments regarding bond-financed facilities.

- The finance director will undertake the following for each outstanding issue of city TEBs: (1) an annual review of the books and records maintained by the city for such bonds; and (2) an annual physical inspection of the facilities financed with the proceeds of such bonds, conducted by the finance director with the assistance with any city staff who have the primary responsibility for the operation, maintenance, or inspection of such facilities.

Record Retention Requirements

The finance director will collect and retain the following records regarding each issue of city TEBs and the facilities financed with the proceeds of such bonds: (1) audited financial statements of the City; (2) appraisals, demand surveys, or feasibility studies for the facilities to be financed with the proceeds of such bonds; (3) publications, brochures, and newspaper articles related to the bond financing; (4) trustee or paying agent statements; (5) records of all investments and the gains (or losses) from such investments; (6) paying agent or trustee statements regarding investments and investment earnings; (7) reimbursement resolutions and expenditures reimbursed with the proceeds of such bonds; (8) allocations of proceeds to expenditures (including costs of issuance) and the dates and amounts of such expenditures (including requisitions, draw schedules, draw requests, invoices, bills, and cancelled checks for such expenditures); (9) contracts entered into for the construction, renovation, or purchase of bond-financed facilities; (10) an asset list or schedule of all bond-financed depreciable property and any depreciation schedules for such assets or property; (11) records of the purchases and sales of bond-financed assets; (12) private business uses of bond-financed facilities that arise after the issue date through leases and subleases, licenses, management contracts, research contracts, naming rights agreements, or other arrangements that provide special legal entitlements to nongovernmental persons and copies of any such agreements or instruments; (13) arbitrage rebate reports and records of rebate and yield reduction payments; (14) resolutions or other actions taken by the governing body after the issue date regarding such bonds; (15) formal elections authorized by federal law that are taken regarding such bonds; (16) relevant correspondence relating to such bonds; (17) documents related to guaranteed investment contracts or certificates of deposit, credit enhancement transactions, and financial derivatives entered into after the issue date; (18) copies of all form 8038Ts and form 8038-Rs filed with the IRS; and (19) the transcript prepared regarding such TEBs.

The records collected by the city will be stored in any format deemed appropriate by the finance director and will be retained for a period equal to the life of the relevant TEBs (which includes the life of any bonds issued to refund any portion of such TEBs or to refund any refunding bonds) plus three years.

Remedies
The finance director will become acquainted with the remedial actions under treasury regulations, section 1.141-12, to be used if private business use of bond-financed facilities exceeds the *de minimis* limits under code section 141(b)(1). The finance director will become acquainted with the tax exempt bonds voluntary closing agreement program described in notice 2008-31, 2008-11 I.R.B. 592, to be used as a means for the city to correct any post-issuance infractions of federal law regarding outstanding TEBs.

Continuing Disclosure Obligations
In addition to the federal law requirements, the city has agreed to provide continuing disclosure, such as annual financial information and material event notices, pursuant to a continuing disclosure certificate or similar document (the "continuing disclosure document") prepared by bond counsel and made a part of the transcript for each issue of city bonds that is subject to continuing disclosure requirements under 17 C.F.R. section 240 ("rule 15c2-12"). The continuing disclosure documents are executed by the city to assist the bond underwriters in meeting their obligations under rule 15c2-12. The finance director is primarily responsible for undertaking, and monitoring compliance with, such continuing disclosure obligations.

Other Post-Issuance Actions
If the finance director determines that additional action not identified in this policy must be taken to ensure the continuing tax-exempt status of any issue of city TEBs, the finance director will take such action if authorized to do so. If the finance director determines that this policy must be amended or supplemented to ensure the continuing tax-exempt status of any issue of city TEBs, the finance director will recommend to the city council that this policy be so amended or supplemented.

Taxable Governmental Bonds
Most of the provisions of this policy, other than the continuing disclosure obligations, are not applicable to taxable governmental bonds. On the other hand, if an issue of taxable governmental bonds is later refunded with the proceeds of an issue of TEBs, then the uses of the proceeds of the taxable governmental bonds and the uses of the facilities financed with the proceeds of the taxable governmental bonds will be relevant to the tax-

exempt status of the governmental refunding bonds. Therefore, if there is any reasonable possibility that an issue of taxable governmental bonds may be refunded, in whole or in part, with the proceeds of an issue of TEBs, then for purposes of this policy, the finance director will treat the issue of taxable governmental bonds as if such issue were an issue of TEBs and will carry out and comply with the requirements of this policy regarding such taxable governmental bonds. The finance director will seek the advice of bond counsel as to whether there is any reasonable possibility of issuing TEBs to refund an issue of taxable governmental bonds.

Qualified 501(c)(3) Bonds
If the city issues bonds to finance a facility to be owned by the city but which may be used, in whole or in substantial part, by a nongovernmental organization that is exempt from federal income taxation under code section 501(c)(3) (a “501(c)(3) organization”), the city may elect to issue the bonds as “qualified 501(c)(3) bonds” the interest on which is exempt from federal income taxation. Although such qualified 501(c)(3) bonds are not governmental bonds, the finance director may treat such bonds as if they were TEBs and will comply with the requirements of this policy regarding such bonds. Alternatively, in cases where compliance activities are reasonably within the control of the relevant 501(c)(3) organization, the finance director may determine that all or some portion of compliance responsibilities described in this policy will be assigned to the relevant organization.

Conduit Bonds
The city may also issue tax-exempt bonds, the proceeds of which are loaned to certain private entities, including qualified 501(c)(3) organizations (referred to as “conduit bonds”). The city will require, as part of approval of any conduit bonds, that the borrower assumes the duties of post-issuance compliance described in this policy, including provisions for reporting to the city.

Adopted by Resolution No. 2012-
Council Meeting of March 5, 2012

Policy Number 2.18
Tax Increment Financing and Tax Abatement

Purpose of Policy: This policy establishes criteria which guide the economic development authority and the city council when considering the use of tax increment financing and tax abatement tools in conjunction with proposed development.

Introduction

Under the Minnesota Statutes Sections 469.152 to 469.1799, the city of Minnetonka has the authority to establish tax increment financing districts (TIF districts). Tax increment financing is a funding technique that takes advantage of the increases in tax capacity and property taxes from development or redevelopment to pay public development or redevelopment costs. The difference in the tax capacity and the tax revenues the property generates after new construction has occurred, compared with the tax capacity and tax revenues it generated before the construction, is the captured value, or increments. The increments then go to the economic development authority and are used to repay public indebtedness or current costs the development incurred in acquiring the property, removing existing structures or installing public services. The fundamental principle that makes tax increment financing viable is that it is designed to encourage development that would not otherwise occur.

Under Minnesota Statutes, Sections 469.1812 to 469.1815, the city of Minnetonka has the right to abate property taxes. A city may grant an abatement of some or all of the taxes or the increase in taxes it imposes on a parcel of property if the city expects the benefits of the proposed abatement agreement to at least equal the costs of the proposed agreement. Abatement would be considered a reallocation or rededication of taxes for specific improvements or costs associated with development rather than a “refund” of taxes.

It is the judgment of the city council that TIF and abatement are appropriate tools that may be used when specific criteria are met. The applicant is responsible for demonstrating the benefit of the assistance, particularly addressing the criteria below. The applicant should understand that although approval may have been granted previously by the city for a similar project or a similar mechanism, the council is not bound by that earlier approval. Each application will be judged on the merits of the project as it relates to the public purpose.

TAX INCREMENT FINANCING

The Economic Development Authority (EDA), as authorized by the city, will be responsible to determine that (1) a project would not occur “but for” the assistance provided through tax increment financing; and (2) no other development would occur on the relevant site without tax increment assistance that could create a larger market value increase than the increase expected from the proposed development (after adjusting for the value of the tax increment). At the time of any application for a Comprehensive Guide Plan amendment, rezoning or site plan approval for a project, whichever occurs first, the applicant must divulge that TIF financing will be requested.

Projects eligible for consideration of tax increment financing include but are not limited to the following:

- Projects must be compatible with the Comprehensive Guide Plan (or acquire an amendment) and the development and redevelopment objectives of the city.

- Priority will be given to those projects which:

    - are within the “village areas” identified in the city’s most recently adopted Comprehensive Guide Plan;

    - are mixed use or residential in nature, and include affordable housing units which meet the city’s affordable housing standards;

    - contain amenities or improvements which benefit a larger area than the identified development;

    - improve blighted or dilapidated properties, provide cohesive development patterns, or improve land use transitions; or

    - maximize and leverage the use of other financial resources.

Costs Eligible for Tax Increment Financing Assistance

The EDA will consider the use of tax increment financing to cover project costs as allowed for under Minnesota Statutes. The types of project costs that are eligible for tax increment financing are as follows:

Utilities design	Site related permits
Architectural and engineering fees directly attributable to site work	Soils correction
Earthwork/excavation	Utilities (sanitary sewer, storm sewer, and water)
Landscaping	Street/parking lot paving
Streets and roads	Curb and gutter
Street/parking lot lighting	Land acquisition
Sidewalks and trails	Legal (acquisition, financing, and closing fees)
Special assessments	Surveys
Soils test and environmental studies	Sewer Access Charges (SAC) and Water Access Charges (WAC)

Title insurance	Landscape design

Forms of Assistance

Tax increment financing will generally be provided on a “pay-as-you-go” basis wherein the EDA compensates the applicant for a predetermined amount for a stated number of years. The EDA will have the option to issue a TIF Note with or without interest, where the principal amount of the TIF Note is equal to the amount of eligible project costs incurred and proven by the developer. In all cases, semi-annual TIF payments will be based on available increment generated from the project. TIF payments will be made after collection of property taxes.

Fiscal Disparities

TIF Districts will generally be exempt from the contribution to fiscal disparities. Tax revenues for fiscal disparities, generated by the TIF project, will be the responsibility of properties inside the district. The exception to this policy is when MN Statutes require that fiscal disparities be paid from within a TIF District, as is the case with Economic Development Districts.

TAX ABATEMENT

The tax abatement tool provides the ability to capture and use all or a portion of the property tax revenues within a defined geographic area for a specific purpose. Unlike TIF, tax abatement must be approved by each major authority under which the area is taxed, and therefore, usually only city property taxes will be abated. In practice, it is a tax “reallocation” rather than an exemption from paying property taxes. Tax abatement is an important economic development tool that, when used appropriately, can be useful to accomplish the city’s development and redevelopment goals and objectives. Requests for tax abatement must serve to accomplish the city’s targeted goals for development and redevelopment, particularly in the designated village center areas. At the time of any application for a Comprehensive Guide Plan amendment, rezoning or site plan approval for a project, whichever occurs first, the applicant must divulge that tax abatements will be requested.

Projects Eligible for Tax Abatement Assistance

Projects eligible for consideration of property tax abatement include but are not limited to the following:

- Projects must be compatible with the Comprehensive Guide Plan (or acquire an amendment) and the development and redevelopment objectives of the city; and

- Priority will be given to those projects which:

    - increase or preserve the tax base

    - provide employment opportunities in the City of Minnetonka;

- provide, help acquire or construct public facilities;
- finance or provide public infrastructure;
- improve blighted or dilapidated properties, provide cohesive development patterns, or improve land use transitions; or
- produce long-term affordable housing opportunities.

Fiscal Disparities

Tax revenues for fiscal disparities, generated by the abatement project, will be the responsibility of properties inside the district.

REVIEW PROCESS

All applications for TIF and tax abatement will be reviewed by city's community development director. After review by the city's financial consultant, the community development director may refer the request to the EDA. The EDA will hold appropriate public hearings and receive public input about the use of the financial tools. The EDA will provide a recommendation regarding the assistance to the city council.

The city council must consider, along with other development decisions, the request for assistance and will make the final decision as to the amount, length, and terms of the agreement.

Adopted by Resolution No. 2014-074
Council Meeting of July 21, 2014

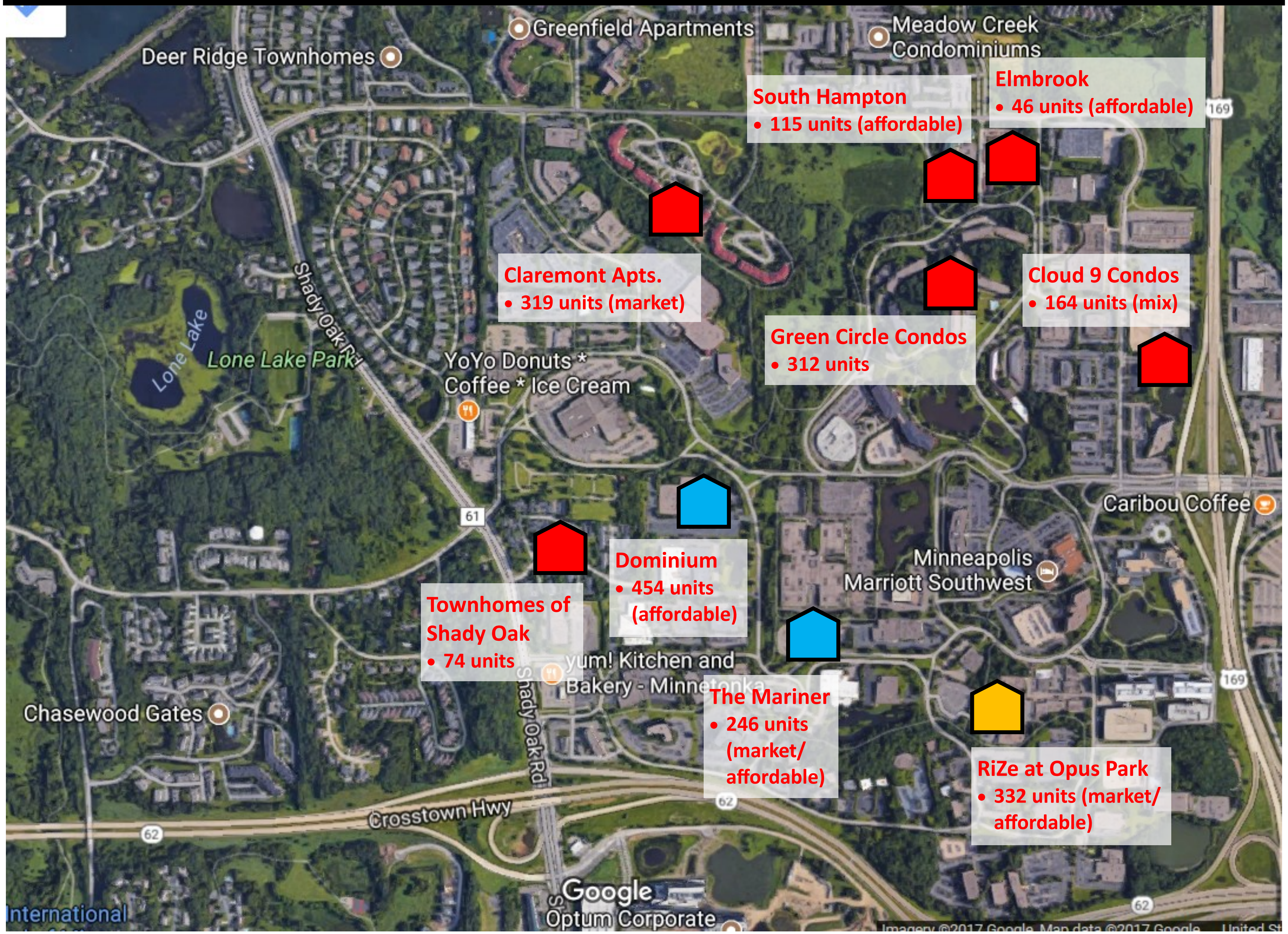
Opus Housing

November 2017

1,030 existing units

332 units under construction

700 units proposed



Name of Project	Number of Affordable Units	Total Assistance	Years of Affordability	Assistance per Unit, per Year	Affordability Level
Dominium Apartments	**482**	**7,890,000 (est)**	**30**	**$540**	**60% AMI**
Newport Partners (Mariner)	55	$556,179 (est)	30	$337	60% AMI
Homes Within Reach (2004-2012 grant years)	35	$1,740,000	99	$502	80% AMI
The Ridge	52	$1,050,000	30	$673	60% AMI
Shady Oak Redevelopment	49	$1,209,000 (est)	30	$822	60%AMI
West Ridge Market (Crown Ridge, Boulevard Gardens, Gables, West Ridge)	185	$8,514,000	30	$1,534	*Crown Ridge* —60% AMI Boulevard Gardens—60% AMI Gables—initially 80% AMI, now no income limit West Ridge—50% AMI
Beacon Hill (apartments)	62	$2,484,000	25	$1,602	50% AMI
Ridgebury	56	$3,243,000	30	$1,930	Initially--80% AMI Now no income limit
Glen Lake (St. Therese, Exchange)	43	$4,800,000	30	$3,721	60% AMI
Cedar Point Townhomes	9	$512,000	15	$3,792	50% AMI
Tonka on the Creek	20	$2,283,000	30	$3,805	50% AMI
At Home (Rowland)	21	$2,500,000	30	$3,968	50% AMI
Applewood Pointe	9	$1,290,000	Initial Sale/Ongoing maximum %	$4,777	80% AMI

EDA Resolution No. 2018-________

Resolution approving the execution and delivery of documents in connection with a senior housing development

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Be it resolved by the Board of Commissioners (the "Board") of the Economic Development Authority in and for the City of Minnetonka, Minnesota (the "Authority") as follows:

Section 1. Background.

1.01. The Authority previously approved a Contract for Private Development (the "Development Agreement"), between the Authority, the City of Minnetonka (the "City"), and Minnetonka Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership (the "Developer"), pursuant to which the Developer agreed to acquire certain property (the "Development Property") and develop approximately 262 affordable apartment units for seniors, to be located at 11001 Bren Road East in the City, with one hundred percent (100%) of the apartment units made affordable to seniors at or below sixty percent (60%) of the area median income (the "Minimum Improvements"). In consideration for the construction of the Minimum Improvements, the Authority approved the issuance of a Tax Increment Revenue Note (the "TIF Note") in the maximum principal amount of $4,161,000, to reimburse the Developer for certain qualified costs related to the Minimum Improvements if certain conditions set forth in the Development Agreement are met.

1.02. Pursuant to the Development Agreement, the Developer has agreed to execute a Declaration of Restrictive Covenants to be recorded against the Development Property and setting forth the income and rent restrictions required by the Development Agreement and a Minimum Assessment Agreement to be recorded against the Development Property and setting forth the minimum assessed value for the Development Property.

1.03. The Developer has requested that the City issue several series of revenue obligations in the maximum aggregate principal amount of $67,500,000 (the "Obligations") and loan the proceeds thereof to the Developer to assist in financing the Minimum Improvements.

1.04. A portion of the Obligations in the approximate principal amount of $32,410,000 (the "Tax-Exempt Notes") and a portion of the Obligations in the approximate principal amount of $26,910,000 (the "Taxable Notes") are expected to be issued by the City to evidence funding loans (the "Funding Loans") made by U.S. Bank National Association, a national

EDA Resolution No. 2018-________

Resolution approving the execution and delivery of documents in connection with a workforce housing development

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Be it resolved by the Board of Commissioners (the "Board") of the Economic Development Authority in and for the City of Minnetonka, Minnesota (the "Authority") as follows:

Section 1. Background.

1.01. The Authority previously approved a Contract for Private Development (the "Development Agreement"), between the Authority, the City of Minnetonka (the "City"), and Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership (the "Developer"), pursuant to which the Developer agreed to acquire certain property (the "Development Property") and develop approximately 220 workforce housing apartment units, to be located at 10987 and 11015 Bren Road East in the City, with one hundred percent (100%) of the apartment units made affordable to individuals and their families at or below sixty percent (60%) of the area median income (the "Minimum Improvements"). In consideration for the construction of the Minimum Improvements, the Authority approved the issuance of a Tax Increment Revenue Note (the "TIF Note") in the maximum principal amount of $3,648,000, to reimburse the Developer for certain qualified costs related to the Minimum Improvements if certain conditions set forth in the Development Agreement are met.

1.02. Pursuant to the Development Agreement, the Developer has agreed to execute a Declaration of Restrictive Covenants to be recorded against the Development Property and setting forth the income and rent restrictions required by the Development Agreement and a Minimum Assessment Agreement to be recorded against the Development Property and setting forth the minimum assessed value for the Development Property.

1.03. The Developer has requested that the City issue several series of revenue obligations in the maximum aggregate principal amount of $55,000,000 (the "Obligations") and loan the proceeds thereof to the Developer to assist in financing the Minimum Improvements.

1.04. A portion of the Obligations in the approximate principal amount of $26,930,000,000 (the "Tax-Exempt Notes") and a portion of the Obligations in the approximate principal amount of $19,042,000 (the "Taxable Notes") are expected to be issued by the City to evidence funding loans (the "Funding Loans") made by U.S. Bank National Association, a national banking association, and BMO Harris Bank N.A., a national banking association (together the "Funding Lender"), pursuant to a Funding Loan Agreement (the "Funding Loan Agreement") between the City, U.S. Bank National Association, a national banking association, as fiscal agent (the "Fiscal Agent"), and U.S. Bank National Association, a national banking association, as administrative agent for the Funding Lender. As a condition of the Funding Loans, the Authority is required to subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents defined and described in the Funding Loan Agreement.

1.05. A portion of the Obligations in the approximate principal amount of $3,570,000 (the "Subordinate Bonds") is expected to be issued by the City under the terms of a Subordinate Indenture of Trust between the City and U.S. Bank National Association, a national banking association (the "Bond Trustee"). The City will loan the proceeds of the Subordinate Bonds to the Developer pursuant to a Subordinate Loan Agreement (the "Subordinate Loan Agreement") between the City and the Developer. The Developer has proposed to pledge and assign its interest in the TIF Note to the Bond Trustee in order to secure its repayment obligations under the Subordinate Loan Agreement. The Subordinate Bonds are also secured by a Subordinate Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents by the Developer in favor of the City and a Subordinate Guaranty Agreement by Dominium Holdings II, LLC in favor of the Bond Trustee.

1.06. There has been presented before this Board a form of Assignment, Pledge, and Security Agreement (the "Security Agreement") proposed to be executed by the Developer and the Bond Trustee, pursuant to which the Developer will assign and pledge its interest in the TIF Note to the Bond Trustee and the Authority will consent to the assignment and pledge thereof.

1.07. There has also been presented before this Board a form of Subordination Agreement related to the Tax-Exempt Notes (the "Tax-Exempt Notes Subordination Agreement") proposed to be entered into between the Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.08. There has also been presented before this Board a form of Subordination Agreement related to the Taxable Notes (the "Taxable Notes

Subordination Agreement") proposed to be entered into between the Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.09. There has also been presented before this Board a form of Construction Addendum to Contract for Private Development (Dominium Workforce Housing Development) (the "Construction Addendum") proposed to be executed by the Authority, the City, and the Developer, which sets forth the rights and responsibilities of each party with respect to certain construction obligations under the Developer Agreement.

Section 2. The Agreements.

2.01. The Board approves the Security Agreement, the Tax-Exempt Notes Subordination Agreement, the Taxable Notes Subordination Agreement, and the Construction Addendum (collectively, the "Agreements") in substantially the forms on file in City Hall. The President and Executive Director are hereby authorized and directed to execute and deliver the Agreements. All of the provisions of the Agreements, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Agreements shall be substantially in the forms on file with the Authority which are hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the President and the Executive Director, in their discretion, shall determine, and the execution thereof by the President and the Executive Director shall be conclusive evidence of such determination.

2.02. The President and the Executive Director are hereby authorized and directed to execute other agreements and certificates deemed necessary to carry out the intentions of the Agreements and this resolution.

Section 3. Approval of Financing.

3.01 Pursuant to the terms of Section 7.1 of the Development Agreement, the Authority hereby approves the issuance of the Obligations by the City for the benefit of the Developer for the purpose of financing the Minimum Improvements.

Section 4. Miscellaneous.

4.01. This resolution shall be effective from and after the date hereof.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota on August 27, 2018.

____
Brad Wiersum, President

ATTEST:

____
David E. Maeda, Secretary

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 27, 2018.

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Secretary

banking association, and BMO Harris Bank N.A., a national banking association (together the "Funding Lender"), pursuant to a Funding Loan Agreement (the "Funding Loan Agreement") between the City, U.S. Bank National Association, a national banking association, as fiscal agent (the "Fiscal Agent"), and U.S. Bank National Association, a national banking association, as administrative agent for the Funding Lender. As a condition of the Funding Loans, the Authority is required to subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents defined and described in the Funding Loan Agreement.

1.05. A portion of the Obligations in the approximate principal amount of $4,090,000 (the "Subordinate Bonds") is expected to be issued by the City under the terms of a Subordinate Indenture of Trust between the City and U.S. Bank National Association, a national banking association (the "Bond Trustee"). The City will loan the proceeds of the Subordinate Bonds to the Developer pursuant to a Subordinate Loan Agreement (the "Subordinate Loan Agreement") between the City and the Developer. The Developer has proposed to pledge and assign its interest in the TIF Note to the Bond Trustee in order to secure its repayment obligations under the Subordinate Loan Agreement. The Subordinate Bonds are also secured by a Subordinate Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents by the Developer in favor of the City and a Subordinate Guaranty Agreement by Dominium Holdings II, LLC in favor of the Bond Trustee.

1.06. There has been presented before this Board a form of Assignment, Pledge, and Security Agreement (the "Security Agreement") proposed to be executed by the Developer and the Bond Trustee, pursuant to which the Developer will assign and pledge its interest in the TIF Note to the Bond Trustee and the Authority will consent to the assignment and pledge thereof.

1.07. There has also been presented before this Board a form of Subordination Agreement related to the Tax-Exempt Notes (the "Tax-Exempt Notes Subordination Agreement") proposed to be entered into between the Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.08. There has also been presented before this Board a form of Subordination Agreement related to the Taxable Notes (the "Taxable Notes Subordination Agreement") proposed to be entered into between the

Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.09. There has also been presented before this Board a form of Construction Addendum to Contract for Private Development (Dominium Senior Housing Development) (the "Construction Addendum") proposed to be executed by the Authority, the City, and the Developer, which sets forth the rights and responsibilities of each party with respect to certain construction obligations under the Developer Agreement.

Section 2. The Agreements.

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2.02. The President and the Executive Director are hereby authorized and directed to execute other agreements and certificates deemed necessary to carry out the intentions of the Agreements and this resolution.

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Section 4. Miscellaneous.

4.01. This resolution shall be effective from and after the date hereof.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota on August 27, 2018.

____
Brad Wiersum, President

ATTEST:

____
David E. Maeda, Secretary

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 27, 2018.

____
Secretary