



**Agenda**  
**Minnetonka Economic Development Authority**  
**Monday, July 26, 2021**  
**Following the regular meeting**  
**Council Chambers**

1. Call to Order
2. Roll Call: Kirk-Schack-Carter-Calvert-Schaeppi-Coakley-Wiersum
3. Approval of Agenda
4. Approval of Minutes:
  - A. July 12, 2021 EDA meeting
5. Business Items:
  - A. Marsh Run Tax Increment Financing Note "Birke"  
Recommendation: Adopt the resolution (4 votes)
6. Adjourn

**Minutes**  
**Minnetonka Economic Development Authority**  
**Monday, July 12, 2021**

**1. Call to Order**

Wiersum called the meeting to order at 9:38 p.m.

**2. Roll Call**

Commissioners Kissy Coakley, Brian Kirk, Rebecca Schack, Susan Carter, Deb Calvert, Bradley Schaeppi and President Brad Wiersum were present.

**3. Approval of Agenda**

Schack moved, Kirk seconded a motion to accept the agenda, as presented.

All voted "yes." Motion carried.

**4. Approval of Minutes:**

**A. June 14, 2021 EDA meeting**

Kirk moved, Calvert seconded a motion to accept the minutes, as presented.

All voted "yes." Motion carried.

**5. Business Items:**

**A. Wellington Apartments at 10901 Red Circle Drive**

Community Development Director Julie Wischnack gave a presentation covering the contract and points of clarification for EDA contract language 6.3, 4.5 and the contract end date on the TIF note as Aug 1, 2030.

Schack moved, Calvert seconded a motion to adopt EDA Res. 2021-010 and authorized EDA and city officials to approve non-substantive changes to the contract for private development.

All voted "yes." Motion carried.

**6. Adjournment**

Calvert moved, Kirk seconded a motion to adjourn the meeting at 10:06 p.m.

All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman  
City Clerk



**Economic Development Authority  
Agenda Item #5A  
Meeting of July 26, 2021**

**Title:** Marsh Run Tax Increment Financing Note "Birke"  
**Report From:** Alisha Gray, EDFP, Economic Development and Housing Manager  
**Submitted through:** Geralyn Barone, Executive Director  
Julie Wischnack, AICP, Community Development Director

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**Action Requested:**  Motion  Informational  Public Hearing  
**Form of Action:**  Resolution  Ordinance  Contract/Agreement  Other  N/A  
**Votes needed:**  4 votes  5 votes  N/A  Other

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**Summary Statement**

Resolution approving the Tax Increment Financing Note and related documents for the Birke.

**Recommended Action**

Adopt the resolution.

**Strategic Profile Relatability**

- |  |  |
|--|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community                      |
| <input type="checkbox"/> Sustainability & Natural Resources          | <input checked="" type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management           | <input type="checkbox"/> Community Inclusiveness                       |
| <input type="checkbox"/> N/A   |  |

Statement: Balance community-wide interests and respect Minnetonka's unique neighborhoods while continuing community reinvestment.

**Financial Consideration**

Is there a financial consideration?  No  Yes \$4,200,000  
Financing sources:  Budgeted  Budget Modification  New Revenue Source  
 Use of Reserves  Other [Enter]

Statement: The project will utilize tax increment financing to assist with affordable housing.

### **Background**

On [Mar. 18, 2019](#), the city council and EDA approved the planning entitlements, Contract for Private Development, and tax increment financing for the Marsh Run project at 11650 and 11706 Wayzata Blvd. The approval included up to \$4.8 million to assist with the project.

### **Tax Increment Financing Note**

The developer has finished construction and is now requesting that the city issue the tax increment financing note. In March 2019, the city and EDA approved up to \$4.8 million as a Pay-as-You-Go- Note to assist with the qualifying costs that included land acquisition, site preparation, and underground parking. The EDA approved the interest rate for the note as the lesser of 5% or the developer's actual interest rate.

As required by the Contract for Private Development, the developer has provided evidence of the qualified costs for review prior to the issuance of the note. Upon review, Ehlers determined that the assistance would be reduced to \$4.2 million based upon actual project costs and the conditions outlined in the lookback provision. The new note will be issued in the amount of \$4.2 million with an interest rate of 2.99%, with the first payment available on Aug. 1, 2021, through Feb. 1, 2038.

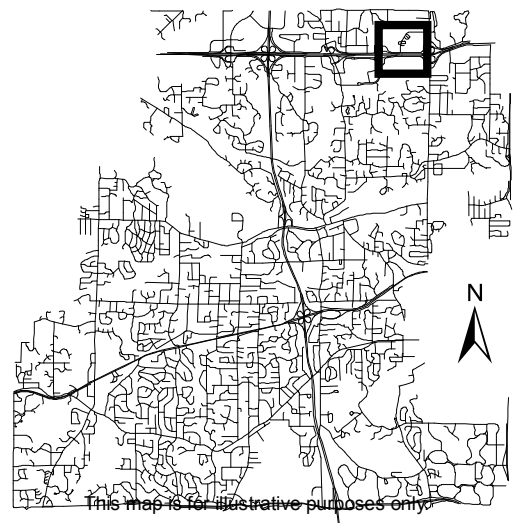
The contract also requires the developer to sign the TIF Note Investment Letter, clarifying the assistance and TIF note conditions. Julie Eddington, the city's EDA counsel, will be available to answer any questions.





### Location Map

Project: Doran - Marsh Run Apartments  
Address: 11650 & 11706 Wayzata Blvd



This map is for illustrative purposes only.



UNITED STATE OF AMERICA  
STATE OF MINNESOTA  
HENNEPIN COUNTY  
ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE  
CITY OF MINNETONKA

No. R-1

\$4,200,000

TAX INCREMENT REVENUE NOTE (MARSH RUN PROJECT)  
SERIES 2021

<u>Rate</u>	<u>Date of Original Issue</u>
2.99%	March 8, 2021

The Economic Development Authority in and for the City of Minnetonka, Minnesota (the “Authority”), for value received, certifies that it is indebted and hereby promises to pay to DC-OV Minnetonka, LLC, a Minnesota limited liability company, or registered assigns (the “Owner”), the principal sum of \$4,200,000 and to pay interest thereon at the rate of 2.99% per annum, as and to the extent set forth herein.

1. Payments. Principal and interest (the “Payments”) will be paid on August 1, 2021, and each February 1 and August 1 thereafter to and including February 1, 2038 (the “Payment Dates”), in the amounts and from the sources set forth in Section 3 herein. Payments will be applied first to accrued interest, and then to unpaid principal.

Payments are payable by mail to the address of the Owner or any other address as the Owner may designate upon thirty (30) days’ written notice to the Authority. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Interest. Interest at the rate stated herein will accrue on the unpaid principal, commencing on the date of original issue. Interest shall accrue on a simple basis and will not be added to principal. Interest will be computed on the basis of a year of three hundred sixty (360) days and charged for actual days principal is unpaid.

3. Available Tax Increment. Payments on this Note are payable on each Payment Date in the amount of and solely payable from Available Tax Increment. “Available Tax Increment” means, on each Payment Date, ninety percent (90%) of the Tax Increment attributable to the Development Property and paid to the Authority by Hennepin County, Minnesota in the six (6) months preceding the Payment Date, all as the terms are defined in the Contract for Private Development, dated April 5, 2019 (the “Agreement”), between the Authority and the Owner. Available Tax Increment will not include any Tax Increment if, as of any Payment Date, there is an uncured Event of Default (as defined in the Agreement) under the Agreement; provided, however, once an Event of Default is cured, any Tax Increment previously withheld shall be deemed Available Tax Increment on the next Payment Date.

The Authority will have no obligation to pay principal of and interest on this Note on each Payment Date from any source other than Available Tax Increment, and the failure of the Authority to pay the entire amount of principal or interest on this Note on any Payment Date will not constitute a default hereunder as long as the Authority pays principal and interest hereon to the extent of Available Tax Increment. The

Authority will have no obligation to pay unpaid balance of principal or accrued interest that may remain after the final Payment on February 1, 2038.

4. Optional Prepayment. The principal sum and all accrued interest payable under this Note is prepayable in whole or in part at any time by the Authority without premium or penalty. No partial prepayment will affect the amount or timing of any other regular payment otherwise required to be made under this Note.

5. Termination. At the Authority's option, this Note will terminate and the Authority's obligation to make any payments under this Note will be discharged upon the occurrence of an Event of Default on the part of the Developer as defined in Section 9.1 of the Agreement, but only if the Event of Default has not been cured in accordance with Section 9.2 of the Agreement.

6. Nature of Obligation. This Note is one of an issue in the total principal amount of \$4,200,000 all issued to aid in financing certain public development costs and administrative costs of a Development District undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and is issued pursuant to an authorizing resolution (the "Resolution") duly adopted by the Authority on December 17, 2018, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 through 469.1794, as amended. This Note is a limited obligation of the Authority which is payable solely from Available Tax Increment pledged to the payment hereof under the Resolution. This Note and the interest hereon will not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the Authority. Neither the State of Minnesota, nor any political subdivision thereof will be obligated to pay the principal of or interest on this Note or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on this Note or other costs incident hereto.

7. Estimated Tax Increment Payments. Any estimates of Tax Increment prepared by the Authority or its financial advisors in connection with the TIF District or the Agreement are for the benefit of the Authority, and are not intended as representations on which the Owner may rely.

THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY THAT THE AVAILABLE TAX INCREMENT WILL BE SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THIS NOTE.

8. Registration and Transfer. This Note is issuable only as a fully registered note without coupons. As provided in the Resolution, and subject to certain limitations set forth therein, this Note is transferable upon the books of the Authority kept for that purpose at the principal office of the Community Development Director of the City, by the Owner hereof in person or by the Owner's attorney duly authorized in writing, upon surrender of this Note together with a written instrument of transfer satisfactory to the Authority, duly executed by the Owner. Upon the transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by the Authority with respect to the transfer or exchange, there will be issued in the name of the transferee a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same dates.

This Note will not be transferred to any person other than an affiliate, or other related entity, of the Owner unless the Authority has been provided with an investment letter in a form substantially similar to the investment letter submitted by the Owner or a certificate of the transferor, in a form satisfactory to the Authority, that the transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws.



IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed in order to make this Note a valid and binding limited obligation of the Authority according to its terms, have been done, do exist, have happened, and have been performed in due form, time and manner as so required.

IN WITNESS WHEREOF, the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of the Date of Original Issue specified above.

**ECONOMIC DEVELOPMENT  
AUTHORITY IN AND FOR THE CITY OF  
MINNETONKA, MINNESOTA**

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
President

\_\_\_\_\_  
**REGISTRATION PROVISIONS**

The ownership of the unpaid balance of the within Note is registered in the bond register of the Authority's Executive Director, in the name of the person last listed below.

Date of Registration

Registered Owner

Signature of Executive Director

March 8, 2021

DC-OV Minnetonka, LLC  
7803 Glenroy Road  
Suite 200  
Bloomington, MN 55439  
Federal ID # \_\_\_\_\_

To: Economic Development Authority in and for the City of Minnetonka, Minnesota (the “Authority”)  
Attention: Executive Director

Date: March 8, 2021

Re: Tax Increment Revenue Note, Series 2021, in the original aggregate principal amount of \$4,200,000

The undersigned, as owner (the “Owner”) of \$4,200,000 in principal amount of the above-captioned Note (the “Note”) pursuant to a resolution of the Authority adopted on July 26, 2021 (the “Resolution”), hereby represents to you as follows:

1. We understand and acknowledge that the TIF Note is delivered to the Owner as of this date pursuant to the Resolution and the Contract for Private Development, dated April 5, 2019 (the “Contract”), between the Authority, the City of Minnetonka, Minnesota, and the Owner.

2. We understand that the TIF Note is payable as to principal and interest solely from Available Tax Increment as defined in the TIF Note and the provisions of the Contract.

3. We understand that the TIF Note accrues interest as provided in the TIF Note.

4. We further understand that any estimates of Tax Increment prepared by the Authority or its municipal advisors in connection with the TIF District, the Contract or the TIF Note are for the benefit of the Authority, and are not intended as representations on which the Owner may rely.

5. We acknowledge and understand that, if at any time, the Owner fails to meet the housing income restrictions required for a housing tax increment district as set forth in Minnesota Statutes, Section 469.174, subdivision 11 and Section 469.1761, and therefore, the tax increment district will no longer qualify as a housing tax increment district, no further payments will be made under the TIF Note.

6. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the above-stated principal amount of the TIF Note.

7. We acknowledge that no offering statement, prospectus, offering circular or other comprehensive offering statement containing material information with respect to the Authority and the TIF Note has been issued or prepared by the Authority, and that, in due diligence, we have made our own inquiry and analysis with respect to the Authority, the TIF Note and the security therefor, and other material factors affecting the security and payment of the TIF Note.

8. We acknowledge that we have either been supplied with or have access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Authority, the TIF Note and the security therefor, and that as a reasonable investor we have been able to make our decision to purchase the above-stated principal amount of the TIF Note.

9. We have been informed that the TIF Note (i) is not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, or under federal securities laws or

regulations, (ii) will not be listed on any stock or other securities exchange, and (iii) will carry no rating from any rating service.

10. We acknowledge that neither the Authority nor Kennedy & Graven, Chartered has made any representations as to the status of interest on the TIF Note for state or federal income tax purposes.

11. All capitalized terms used herein have the meaning provided in the Contract unless the context clearly requires otherwise.

12. The Owner's federal tax identification number is \_\_\_\_\_.

13. We acknowledge receipt of the TIF Note as of the date hereof.

**DC-OV MINNETONKA, LLC**

By: Marsh Development, LLC, a Minnesota limited liability company  
Its: Manager

By: \_\_\_\_\_  
Name: Anne T. Behrendt  
Its: President

## EDA Resolution No. 2021-

### Resolution approving the issuance of a tax increment revenue note for the benefit of DC-OV Minnetonka, LLC

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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. Authorization; Award of Sale.

- 1.01. The Authority has heretofore approved the establishment of Marsh Run Tax Increment Financing District (the "TIF District") within Development District No. 1 (the "Development District"), and has adopted a tax increment financing plan for the purpose of financing certain improvements within the Development District.
- 1.02. Pursuant to Minnesota Statutes, Section 469.178, the Authority is authorized to issue and sell its bonds for the purpose of financing a portion of the public development costs of the Development District. The bonds are payable from all or any portion of revenues derived from the TIF District and pledged to the payment of the bonds. The Authority hereby finds and determines that it is in the best interests of the Authority that it issue and sell its Tax Increment Revenue Note (Marsh Run Project), Series 2021 (the "Note"), in the aggregate principal amount of \$4,200,000, for the purpose of financing certain public costs of the Development District.
- 1.03. Pursuant to the Contract for Private Development, dated April 5, 2019 (the "Agreement") between the Authority and DC-OV Minnetonka, LLC (the "Owner"), the Note will be sold to the Owner. The Note will be dated as of the date of delivery and will bear interest at the rate of 2.99% per annum to the earlier of maturity or prepayment. In exchange for the Authority's issuance of the Note to the Owner, the Owner will pay certain costs related to land acquisition and site preparation, and other costs eligible to be reimbursed with tax increment related to the Minimum Improvements (as defined in the Agreement) pursuant to Section 3.4 of the Agreement. The Note will be delivered to the Owner in the principal amount of \$4,200,000. Interest shall not accrue on the Note until the Owner provides the Authority with written evidence of its expenditures related to land acquisition and site preparation, and other costs eligible to be reimbursed with tax increment related to the Minimum Improvements in an amount at least equal to \$4,200,000.

Section 2. TIF Note.

- 2.01. The Note will be in substantially the form set forth in EXHIBIT A attached hereto, with the blanks to be properly filled in and the principal amount and payment schedule adjusted as of the date of issue.

Section 3. Terms, Execution and Delivery.

- 3.01. The Note will be issued as a single typewritten note numbered R-1. The Note will be issuable only in fully registered form. Principal of and interest on the Note will be payable by check or draft issued by the Registrar described herein.
- 3.02. Principal of and interest on the Note will be payable by mail to the owner of record thereof as of the close of business on the fifteenth day of the month preceding the Payment Date, whether or not the day is a business day.
- 3.03. The Authority hereby appoints the Authority's Executive Director to perform the functions of registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the Authority and the Registrar with respect thereto will be as follows:
- (a) The Registrar will keep at its office a bond register in which the Registrar will provide for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.
  - (b) Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee or transferees, a new Note of a like aggregate principal amount and maturity, as requested by the transferor. Notwithstanding the foregoing, the Note will not be transferred to any person other than an affiliate, or other related entity, of the Owner unless the Authority has been provided with an investment letter in a form substantially similar to the investment letter submitted by the Owner or a certificate of the transferor, in a form satisfactory to the Authority, that the transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until the Payment Date.
  - (c) The Note surrendered upon any transfer will be promptly cancelled by the Registrar and thereafter disposed of as directed by the Authority.
  - (d) When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on the Note or separate instrument of transfer is legally authorized. The Registrar will incur no liability for its refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.
  - (e) The Authority and the Registrar may treat the person in whose name the Note is at any time registered in the bond register as the absolute owner of the Note, whether the Note is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Note and for all other purposes, and all the payments so made to any registered owner or upon the owner's order will be valid and effectual to satisfy and discharge the liability of the Authority upon the Note to the extent of the sum or sums so paid.



- (f) For every transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee, or other governmental charge required to be paid with respect to the transfer or exchange.
- (g) In case any Note becomes mutilated or be lost, stolen, or destroyed, the Registrar will deliver a new Note of like amount, maturity dates and tenor in exchange and substitution for and upon cancellation of the mutilated Note or in lieu of and in substitution for the Note lost, stolen, or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case the Note lost, stolen, or destroyed, upon filing with the Registrar of evidence satisfactory to it that the Note was lost, stolen, or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance, and amount satisfactory to it, in which both the Authority and the Registrar will be named as obligees. The Note so surrendered to the Registrar will be cancelled by it and evidence of the cancellation will be given to the Authority. If the mutilated, lost, stolen, or destroyed Note has already matured or been called for redemption in accordance with its terms, it will not be necessary to issue a new Note prior to payment.

3.04. The Note will be prepared under the direction of the Executive Director of the Authority and will be executed on behalf of the Authority by the signatures of its President and its Executive Director. In case any officer whose signature appears on the Note ceases to be the officer before the delivery of the Note, the signature will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. When the Note has been so executed, it will be delivered by the Authority to the Owner.

#### Section 4. Security Provisions.

4.01. The Authority hereby pledges to the payment of the principal of and interest on the Note all Available Tax Increment as defined in the Note. Available Tax Increment will be applied to payment of the principal of and interest on the Note in accordance with the terms of the form of Note set forth in EXHIBIT A of this resolution.

4.02. Until the date the Note is no longer outstanding and no principal thereof or interest thereon (to the extent required to be paid pursuant to this resolution) remains unpaid, the Authority will maintain a separate and special "Bond Fund" to be used for no purpose other than the payment of the principal of and interest on the Note. The Authority irrevocably agrees to appropriate to the Bond Fund in each year Available Tax Increment. Any Available Tax Increment remaining in the Bond Fund will be transferred to the Authority's account for the TIF District upon the payment of all principal and interest to be paid with respect to the Note.

#### Section 5. Certification of Proceedings.

5.01. The officers of the Authority are hereby authorized and directed to prepare and furnish to the Owner of the Note certified copies of all proceedings and records of the Authority, and the other affidavits, certificates, and information as may be

required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all the certified copies, certificates, and affidavits, including any heretofore furnished, will be deemed representations of the Authority as to the facts recited therein.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on July 26, 2021.

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Brad Wiersum, President

Attest:

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Becky Koosman, 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 meeting held on July 26, 2021.

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Becky Koosman, Secretary

**EXHIBIT A****FORM OF NOTE**

UNITED STATE OF AMERICA  
 STATE OF MINNESOTA  
 HENNEPIN COUNTY  
 ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE  
 CITY OF MINNETONKA

No. R-1

\$4,200,000

TAX INCREMENT REVENUE NOTE (MARSH RUN PROJECT)  
 SERIES 2021

<u>Rate</u>	<u>Date of Original Issue</u>
2.99%	March 8, 2021

The Economic Development Authority in and for the City of Minnetonka, Minnesota (the "Authority"), for value received, certifies that it is indebted and hereby promises to pay to DC-OV Minnetonka, LLC, a Minnesota limited liability company, or registered assigns (the "Owner"), the principal sum of \$4,200,000 and to pay interest thereon at the rate of 2.99% per annum, as and to the extent set forth herein.

1. Payments. Principal and interest (the "Payments") will be paid on August 1, 2021, and each February 1 and August 1 thereafter to and including February 1, 2038 (the "Payment Dates"), in the amounts and from the sources set forth in Section 3 herein. Payments will be applied first to accrued interest, and then to unpaid principal.

Payments are payable by mail to the address of the Owner or any other address as the Owner may designate upon thirty (30) days' written notice to the Authority. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Interest. Interest at the rate stated herein will accrue on the unpaid principal, commencing on the date of original issue. Interest shall accrue on a simple basis and will not be added to principal. Interest will be computed on the basis of a year of three hundred sixty (360) days and charged for actual days principal is unpaid.

3. Available Tax Increment. Payments on this Note are payable on each Payment Date in the amount of and solely payable from Available Tax Increment. "Available Tax Increment" means, on each Payment Date, ninety percent (90%) of the Tax Increment attributable to the Development Property and paid to the Authority by Hennepin County, Minnesota in the six (6) months preceding the Payment Date, all as the terms are defined in the Contract for Private Development, dated April 5, 2019 (the "Agreement"), between the Authority and the Owner. Available Tax Increment will not include any Tax Increment if, as of any Payment Date, there is an uncured Event of Default (as defined in the Agreement) under the Agreement; provided,

however, once an Event of Default is cured, any Tax Increment previously withheld shall be deemed Available Tax Increment on the next Payment Date.

The Authority will have no obligation to pay principal of and interest on this Note on each Payment Date from any source other than Available Tax Increment, and the failure of the Authority to pay the entire amount of principal or interest on this Note on any Payment Date will not constitute a default hereunder as long as the Authority pays principal and interest hereon to the extent of Available Tax Increment. The Authority will have no obligation to pay unpaid balance of principal or accrued interest that may remain after the final Payment on February 1, 2038.

4. Optional Prepayment. The principal sum and all accrued interest payable under this Note is prepayable in whole or in part at any time by the Authority without premium or penalty. No partial prepayment will affect the amount or timing of any other regular payment otherwise required to be made under this Note.

5. Termination. At the Authority's option, this Note will terminate and the Authority's obligation to make any payments under this Note will be discharged upon the occurrence of an Event of Default on the part of the Developer as defined in Section 9.1 of the Agreement, but only if the Event of Default has not been cured in accordance with Section 9.2 of the Agreement.

6. Nature of Obligation. This Note is one of an issue in the total principal amount of \$4,200,000 all issued to aid in financing certain public development costs and administrative costs of a Development District undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and is issued pursuant to an authorizing resolution (the "Resolution") duly adopted by the Authority on December 17, 2018, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 through 469.1794, as amended. This Note is a limited obligation of the Authority which is payable solely from Available Tax Increment pledged to the payment hereof under the Resolution. This Note and the interest hereon will not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the Authority. Neither the State of Minnesota, nor any political subdivision thereof will be obligated to pay the principal of or interest on this Note or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on this Note or other costs incident hereto.

7. Estimated Tax Increment Payments. Any estimates of Tax Increment prepared by the Authority or its financial advisors in connection with the TIF District or the Agreement are for the benefit of the Authority, and are not intended as representations on which the Owner may rely.

THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY THAT THE AVAILABLE TAX INCREMENT WILL BE SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THIS NOTE.

8. Registration and Transfer. This Note is issuable only as a fully registered note without coupons. As provided in the Resolution, and subject to certain limitations set forth therein, this Note is transferable upon the books of the Authority kept for that purpose at the principal office of the Executive Director of the Authority, by the Owner hereof in person or by the Owner's attorney duly authorized in writing, upon surrender of this Note together with a written

instrument of transfer satisfactory to the Authority, duly executed by the Owner. Upon the transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by the Authority with respect to the transfer or exchange, there will be issued in the name of the transferee a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same dates.

This Note will not be transferred to any person other than an affiliate, or other related entity, of the Owner unless the Authority has been provided with an investment letter in a form substantially similar to the investment letter submitted by the Owner or a certificate of the transferor, in a form satisfactory to the Authority, that the transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed in order to make this Note a valid and binding limited obligation of the Authority according to its terms, have been done, do exist, have happened, and have been performed in due form, time and manner as so required.

IN WITNESS WHEREOF, the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of the Date of Original Issue specified above.

**ECONOMIC DEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF  
MINNETONKA, MINNESOTA**

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
President

**REGISTRATION PROVISIONS**

The ownership of the unpaid balance of the within Note is registered in the bond register of the Authority's Executive Director, in the name of the person last listed below.

<u>Date of Registration</u>	<u>Registered Owner</u>	<u>Signature of Executive Director</u>
<u>March 8, 2021</u>	DC-OV Minnetonka, LLC 7803 Glenroy Road, Suite 200 Bloomington, MN 55439 Federal ID # _____	_____