



Agenda
Minnetonka Economic Development Authority
Monday, September 13, 2021
Following the 6:30 p.m. regular meeting
Council Chambers

1. Call to Order
2. Roll Call: Calvert-Schaeppi-Coakley-Kirk-Schack-Carter-Wiersum
3. Approval of Agenda
4. Approval of Minutes:
 - A. August 23, 2021 EDA meeting
5. Business Items:
 - A. Appoint Mike Funk as Acting Executive Director to the Economic Development Authority
Recommendation: Adopt the resolution approving the appointment (4 votes)
 - B. Items related to the Birke at 11700 Wayzata Blvd
Recommendation: Adopt the resolution (4 votes)
 - C. Items related to the Affordable Housing Trust Fund
Recommendation: Adopt the resolution (4 votes)
 - D. 2022 Preliminary HRA Levy
Recommendation: Adopt the resolution setting a preliminary HRA levy (4 votes)
6. Adjourn

Minutes
Minnetonka Economic Development Authority
Monday, Aug. 23, 2021

1. Call to Order

Wiersum called the meeting to order at 8:39 p.m.

2. Roll Call

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

3. Approval of Agenda

Calvert moved, Kirk seconded a motion to approve the agenda, as presented.

All voted "yes". Motion carried.

4. Approval of Minutes:

A. July 26, 2021 EDA meeting

Calvert moved, Kirk seconded a motion to approve 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 report on the item and summarized the recommended action.

Casey Dzieweczynski, a representative of the developer, thanked city staff for making these changes to the contract.

Calvert stated the changes to the contract make the language clearer than in the previous iteration.

Calvert moved, Schack seconded a motion to adopt EDA Res. 2021-012 approving a contract for private development, a subordination agreement, and the issuance of a tax increment revenue note.

All voted "yes". Motion carried.

6. Adjournment

Calvert moved, Kirk seconded a motion to adjourn the meeting at 8:46 p.m.

All voted "yes". Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk



**Economic Development Authority
Agenda Item #5A
Meeting of September 13, 2021**

Title: EDA Acting Executive Director

Report From: Alisha Gray, EDFP, Economic Development and Housing Manager

Submitted through: Mike Funk, Acting Executive Director
Julie Wischnack, AICP, Community Development Director

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

Summary Statement

This action establishes Mike Funk as the acting executive director for the economic development authority (EDA).

Recommended Action

Adopt the resolution appointing Mike Funk as the acting executive director for the economic development authority.

Strategic Profile Relatability

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

Statement: N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Background

On [Aug. 9, 2021](#), the city council adopted a motion appointing Mike Funk as the acting city manager, as a temporary assignment of additional duties from Sept. 11, 2021, until the starting date of the new city manager.

The bylaws of the Economic Development Authority (EDA), adopted on [Feb. 08, 2021](#), state that the executive director of the EDA shall be the city manager. This action temporarily appoints Mike Funk as the acting executive director of the EDA from Sept. 11, 2021, until the starting date of the new city manager.

EDA Resolution No. 2021-

Resolution appointing acting executive director

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 was created pursuant to Minnesota Statutes, Sections 469.090 through 469.1082, as amended, and was authorized to transact business and exercise its powers by a resolution adopted by the City Council of the City of Minnetonka, Minnesota.

1.02. The Authority has determined a need to appoint an Acting Executive Director.

Section 2. Approval.

2.01. The Board hereby appoints Mike Funk as the Acting Executive Director of the Authority. Authority staff and counsel are hereby directed to take all steps necessary to effect the appointment.

Section 3. Effective Date.

3.01. This resolution shall be effective upon adoption.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on Sept. 13, 2021.

Brad Wiersum, President

Attest:

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 Sept. 13, 2021.

Becky Koosman, Secretary



**Economic Development Authority
Agenda Item #5B
Meeting of September 13, 2021**

Title: Birke at 11700 Wayzata Blvd

Report From: Alisha Gray, EDFP, Economic Development and Housing Manager

Submitted through: Mike Funk, Acting Executive Director
Julie Wischnack, AICP, Community Development Director

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

Summary Statement

Doran Companies is requesting a collateral assignment of the contract for private development in connection with the refinancing of the construction financing for the Birke project located at 11700 Wayzata Blvd.

Recommended Action

Adopt the resolution approving a collateral assignment of contract for private development with the Economic Development Authority in and for the City of Minnetonka, Minnesota, DC-OV Minnetonka, LLC (Doran Companies), and Nationwide Life Insurance Company.

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: The Birke project contributed to the city's affordable housing goals.

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: Birke is seeking a private refinance of the construction loan for the project.

Background

On [March 18, 2019](#), the city council and economic development authority approved the contract for private development and tax increment financing with DC-OV Minnetonka, LLC (for the Birke), located at 11700 Wayzata Blvd. The construction of the Birke is now complete, and the developer is seeking to privately refinance the construction loan with Nationwide Life Insurance Company. As a condition of the refinancing, the lender requires that the developer assign the interest of the development agreement and related documents and TIF note to the lender as collateral for the security of the loan. The collateral agreement also subordinates the city and EDA rights in the development agreement; however, the city and EDA maintain the rights and remedies under the development agreement.

The resolution authorizes the council to execute and deliver all documents necessary to facilitate the collateral assignment to the developer. The council must approve a similar action to approve the request. Julie Eddington, the city's EDA counsel, will be available at the meeting to answer any questions related to this request.

Attachments:

Resolution
Collateral Assignment

**COLLATERAL ASSIGNMENT
OF CONTRACT FOR PRIVATE DEVELOPMENT**

THIS COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE DEVELOPMENT (this “Assignment”) is made and entered into as of the ____ day of September, 2021, by and among the **ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA**, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), the **CITY OF MINNETONKA, MINNESOTA**, a municipal corporation organized and existing under the laws of the State of Minnesota (the “City”), **DC-OV MINNETONKA, LLC**, a Minnesota limited liability company (the “Developer”), and **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation (the “Lender”).

Recitals

WHEREAS, the City, the Authority and the Developer have entered into that certain Contract for Private Development dated as of April 5, 2019 (the “Development Agreement”), pertaining to, among other things, the construction of an apartment complex with approximately 175 units, including underground and structured first floor parking (the “Project”), all located on property legally described on Exhibit A attached hereto and hereby made a part hereof (the “Property”); and

WHEREAS, the Development Agreement has been filed of record in the Office of the Registrar of Titles, Hennepin County, Minnesota on April 9, 2019, as Document No. T05604590; and

WHEREAS, pursuant to the Development Agreement, the City has issued a Tax Increment Revenue Note in the amount of \$4,200,000 (the “TIF Note”) to the Developer; and

WHEREAS, the Developer and the Lender have entered into that certain Loan Agreement of even date herewith (the “Loan Agreement”), pursuant to which the Lender has agreed to make a loan to the Developer in the principal amount of up to \$37,000,000 (the “Loan”), and the Developer's obligation to repay such Loan is evidenced by that certain Promissory Note dated September ____, 2021 (the “Lender Note”), executed in favor of the Lender in the original principal amount of \$37,000,000; and

WHEREAS, the Lender Note is secured by that certain Mortgage and Security Agreement of even date herewith (the "Mortgage"), executed by the Developer in favor of the Lender and encumbering the Property; and

WHEREAS, the Mortgage has been filed of record in the Office of the Registrar of Titles, Hennepin County, Minnesota on _____ as Document No. _____; and

WHEREAS, the Lender has required, as an express condition to entering into the Loan Agreement, that the Developer assign its rights under the Development Agreement to the Lender to secure the obligations of the Developer under the Lender Note, the Loan Agreement and the Mortgage.

NOW, THEREFORE, in consideration of the recitals set forth above and incorporated herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer hereby agrees as follows:

1. Capitalized terms used herein but not otherwise defined herein shall have the meaning set forth in the Loan Agreement.

2. The Developer hereby collaterally assigns to the Lender all of its right, title and interest in and to the Development Agreement, together with all documents and agreements attached as exhibits thereto, and all amendments, addenda and modifications thereof, whether made now or hereafter, to secure the obligations of the Developer under the Lender Note, the Loan Agreement and the Mortgage.

3. The Developer hereby represents and warrants that there have been no prior assignments of its rights under the Development Agreement (other than to Lender) which have not been terminated prior to the date hereof, that the Development Agreement is a valid and enforceable agreement, that neither the City, the Authority nor the Developer is in default thereunder and that all covenants, conditions and agreements have been performed as required therein, except those not to be performed until after the date hereof. The Developer agrees not to sell, assign, pledge, mortgage or otherwise transfer or encumber its interest in the Development Agreement as long as this Assignment is in effect. The Developer irrevocably appointed the Lender as its attorney-in-fact to demand, receive and enforce the Developer's rights under the Development Agreement for and on behalf of and in the name of the Developer or, at the option of the Lender, in the name of the Lender, with the same force effect as the Developer could do if this Assignment had not been made, but only to be exercised by the Lender following the occurrence and during the continuance of an Event of Default.

4. This Assignment shall constitute a perfected, absolute and present assignment, provided that the Lender shall have no right under this Assignment to enforce the provisions of the Development Agreement or the TIF Note or exercise any rights or remedies under this Assignment until an Event of Default (as defined in the Loan Agreement) shall occur and be continuing.

5. Upon the occurrence and during the continuance of an Event of Default, without affecting any of the Lender's rights or remedies against the Developer under any other instrument or agreement, the Developer shall be deemed to have irrevocably appointed the Lender as the Developer's attorney-in-fact to exercise any or all of the Developer's rights in, to and under this Assignment and to give appropriate receipts, releases and satisfactions on behalf of the Developer in connection with the performance by any party to the Development Agreement and to do any or all other acts in the Developer's name or in the Lender's own name that the Developer could do under the Development Agreement with the same force and effect as if this Assignment had not been made. In addition, the Lender shall have the right to exercise and enforce any and all rights and remedies available after and during the continuance of a default to a secured party under the Uniform Commercial Code as adopted in the State of Minnesota. If notice to the Developer of any intended disposition of collateral or of any intended action as required by law in any particular instance, such notice shall be deemed commercially reasonable if given in writing at least ten (10) days prior to the intended disposition or other action. The Developer hereby authorizes the Lender to deliver a copy of this Assignment to any other party to the Development Agreement to verify the rights granted to the Lender hereunder. The City and the Authority are authorized and directed by the Developer to tender performance of its obligations under the Development Agreement to the Lender upon presentation of a copy of this Assignment.

6. The City and the Authority hereby consent and agree to the terms and conditions of this Assignment. The City and the Authority further represent and warrant to the Lender that the Development Agreement is a valid agreement enforceable against the City and the Authority in accordance with its terms, that neither the City nor the Authority is in default thereunder and that all covenants, conditions and agreements of the City and the Authority have been performed as required therein, except those not to be performed until after the date thereof. To the best knowledge of the City and the Authority, the Developer is not in default under the Development Agreement and all covenants, conditions and agreements have been performed as required therein, except those not to be performed until after the date thereof.

7. The City and the Authority agree to provide the Lender with copies of any notice of default given under the Development Agreement, and agree that the Lender shall have the right, but not the obligation, to cure such default within the time period set forth in the Development Agreement.

8. The parties agree that no change or amendment that would materially and adversely affect the amount or timing of receipt of Available Tax Increment, as defined in the Development Agreement, shall be made to the terms of the Development Agreement without the prior written consent of the Lender.

9. The City and the Authority hereby acknowledge and agree that, pursuant to Article IV of the Development Agreement, the City and the Authority have approved the Construction Plans (as that term is defined in the Development Agreement) in connection with the construction of the Project.

10. The City and the Authority acknowledge that the rights of the City and the Authority with respect to receipt and application of any proceeds of insurance as set forth in Article V of the Development Agreement shall, in all respects, be subject and subordinate to the rights of the Lender under the Loan Agreement and Mortgage.

11. Notwithstanding the provisions of Article VI of the Development Agreement, the City and the Authority acknowledge that the agreement by the Developer to pay real estate taxes as set forth in Section 6.1 of the Development Agreement is not the personal obligation of, nor shall any such provision of Article VI impose any personal obligation upon, the Lender, except to the extent the Lender assumes the Developer's obligations under the Development Agreement and seeks to enforce the Developer's rights thereunder after an Event of Default as described in Section 5 hereof.

12. Pursuant to Section 7.1 of the Development Agreement, the City and the Authority hereby agree that the foregoing commitments provided by Developer are approved.

13. Pursuant to Section 7.3 of the Development Agreement, the City and the Authority hereby agree that all of their respective rights under the Development Agreement shall be subject and subordinate to the Mortgage. Notwithstanding the foregoing, the City and the Authority shall continue to have the right to exercise all of their rights and remedies under Article IX of the Development Agreement, the Declaration (as defined in the Development Agreement), and the Minimum Assessment Agreement (as defined in the Development Agreement).

14. This Assignment can be waived, modified, amended, terminated or discharged only explicitly in a writing signed by the Lender. A waiver by the Lender shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the Lender's rights or remedies hereunder. All rights and remedies of the Lender shall be cumulative and shall be exercised singularly or concurrently, at the Lender's option, and any exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other.

15. No provision of this Assignment shall be deemed or construed to alter, amend or modify, in any way, the rights and obligations of the City or the Authority against the Developer as set forth and contained in the Development Agreement.

16. Any notice, request, demand or other communication hereunder shall be deemed duly given if delivered or postage prepaid, certified or registered, addressed to the party as set forth below:

If to the City:
City of Minnetonka, Minnesota
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345
Attention: City Manager

If to the Authority:

Economic Development Authority in and for the City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345
Attention: Community Development Director

If to the Developer:

DC-OV Minnetonka, LLC
7803 Glenroy Road, Suite 200
Bloomington, Minnesota 55439
Attention: Legal Department

With a copy to:

Brian S. McCool
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402

If to the Lender:

Nationwide Life Insurance Company
One Nationwide Plaza, Fifth Floor
Columbus, Ohio 43215
Attention: Real Estate Investments (1-05-701)
Loan No: 00-1103330

18. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

[Remainder of page intentionally left blank; signature pages follow]

[SIGNATURE PAGE TO COLLATERAL ASSIGNMENT OF CONTRACT FOR DEVELOPMENT]

CITY:

CITY OF MINNETONKA, MINNESOTA

By: _____
Name: Brad Wiersum
Title: Mayor

By: _____
Name: Michael Funk
Title: Acting City Manager

STATE OF _____ :
: ss:
COUNTY OF _____ :

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Brad Wiersum (who is known to me personally or who has produced a driver's license as identification), the Mayor of the City of Minnetonka, Minnesota, a municipal corporation organized and existing under the laws of the State of Minnesota, for and on behalf of said municipal corporation.

Notary Public

(Notary seal)

STATE OF _____ :
: ss:
COUNTY OF _____ :

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Michael Funk (who is known to me personally or who has produced a driver's license as identification), the acting City Manager of the City of Minnetonka, Minnesota, a municipal corporation organized and existing under the laws of the State of Minnesota, for and on behalf of said municipal corporation.

Notary Public

(Notary seal)

[Signatures continue on next page]

[SIGNATURE PAGE TO COLLATERAL ASSIGNMENT OF CONTRACT FOR DEVELOPMENT]

DEVELOPER:

DC-OV MINNETONKA, LLC,
a Minnesota limited liability company

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

By: _____

Print Name: _____

Title: _____

STATE OF _____ :
: ss:
COUNTY OF _____ :

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____ (who is known to me personally or who has produced a driver's license as identification), the _____ of Marsh Development, LLC, a Minnesota limited liability company, the Manager of DC-OV Minnetonka, LLC, a Minnesota limited liability company, for and on behalf of said limited liability company.

Notary Public

(Notary seal)

[Signatures continue on next page]

[SIGNATURE PAGE TO COLLATERAL ASSIGNMENT OF CONTRACT FOR DEVELOPMENT]

LENDER:

NATIONWIDE LIFE INSURANCE COMPANY, an Ohio corporation

By: _____

Name: Michael C. Beidelman

Title: Senior Investment Professional
Real Estate Investments
Authorized Signatory

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

Sworn to and acknowledged before me, a Notary Public in and for said state, by Michael C. Beidelman, the Authorized Signatory of Nationwide Life Insurance Company, an Ohio corporation, for and on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunder subscribed my name and affixed my notarial seal on this ____ day of _____, 2021.

This is an acknowledgement clause. No oath or affirmation was given to the signer for this notarial act.

Notary Public

EXHIBIT A

(Legal Description)

Real property in the City of Minnetonka, County of Hennepin, State of Minnesota, described as follows:

Lot 1, Block 1, Marsh Run, Hennepin County, Minnesota.

(Certificate of Title No. _____)

EDA Resolution No. 2021-_____

Resolution approving a collateral assignment of contract for private development with the City of Minnetonka, Minnesota, DC-OV Minnetonka, LLC, and Nationwide Life Insurance Company

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 was created pursuant to Minnesota Statutes, Sections 469.090 through 469.1082, as amended, and was authorized to transact business and exercise its powers by a resolution adopted by the City Council of the City of Minnetonka, Minnesota (the "City").
- 1.02. The Authority and the City have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and facilitate the development of affordable housing.
- 1.03. The Authority and the City established the Marsh Run Tax Increment Financing District (the "TIF District") within Development District No. 1 in the City.
- 1.04. The Authority, the City, and DC-OV Minnetonka, LLC, a Minnesota limited liability company (the "Developer"), entered into a Contract for Private Development, dated April 5, 2019 (the "Development Agreement"), pursuant to which the Developer agreed to acquire certain property (the "Development Property") within the TIF District and construct an apartment complex with approximately 175 units, with twenty percent (20%) of the apartment units made affordable to families at or below fifty percent (50%) of the area median income, including underground and structured first-floor parking (the "Minimum Improvements"), and the Authority agreed to issue to the Developer a tax increment revenue note (the "TIF Note") in the maximum principal amount of \$4,200,000 to reimburse the Developer for qualified costs of the Minimum Improvements.
- 1.05. Nationwide Life Insurance Company, an Ohio corporation (the "Lender"), has agreed to make a loan to the Developer in the amount of approximately \$37,000,000 (the "Lender Loan") to finance a portion of the costs of the Minimum Improvements.
- 1.06. As a condition for providing the Lender Loan, the Lender requires that the Developer assign to the Lender all of its right, title, and interest in and to the Development Agreement (including any documents and agreements attached to the Development Agreement). The Lender also requires that the Authority deliver the TIF Note, upon issuance, to the Lender to be held as collateral security for the Lender Loan.

1.07. There has been presented before the Board a Collateral Assignment of Contract for Private Development (the "Collateral Assignment") proposed to be entered into between the Authority, the City, the Developer, and the Lender, pursuant to which the Developer will assign to the Lender all of the Developer's right, title, and interest in and the Development Agreement (including any documents and agreements attached to the Development Agreement) and the Authority will deliver the TIF Note to the Lender as collateral security for the Lender Loan. The Collateral Assignment also subordinates the City's and the Authority's rights in the Development Agreement to the rights of the Lender under the Lender Loan documents. The City and the Authority maintain their ability to exercise their rights and remedies under the Development Agreement.

Section 2. Approvals.

2.01. The President and Executive Director are hereby authorized and directed to execute and deliver the Collateral Assignment. All of the provisions of the Collateral Assignment, 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 Collateral Assignment shall be substantially in the form on file with the Authority, which is 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 to execute and deliver to the Developer any and all documents deemed necessary to carry out the intentions of this resolution and the Collateral Assignment.

Section 3. Effective Date.

3.01. This resolution shall be effective upon adoption.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on Sept. 13, 2021.

Brad Wiersum, President

Attest:

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 Sept. 13, 2021.

Becky Koosman, Secretary



**Economic Development Authority
Agenda Item #5C
Meeting of September 13, 2021**

Title: Resolutions pertaining to the Affordable Housing Trust Fund

Report From: Alisha Gray, EDFP, Economic Development and Housing Manager

Submitted through: Mike Funk, Acting Executive Director
Julie Wischnack, AICP, Community Development Director

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

Summary Statement

This action transfers existing tax increment pooling balances into the affordable housing trust fund (AHTF) and authorizes the city and economic development authority (EDA) to utilize the AHTF to pay for commitments for the Minnetonka Station and Doran projects (affordable units).

Recommended Action

Adopt the resolutions:

- 1) Resolution transferring pooled tax increment from tax increment financing districts in the City of Minnetonka for affordable housing purposes; and
- 2) Resolution amending EDA Resolution No. 2021-004 relating to an interfund loan for advance of certain costs in connection with a grant in the principal amount of \$553,000 for a multifamily housing development; and
- 3) Resolution amending EDA Resolution No. 2021-008 relating to an interfund loan for advance of certain costs in connection with a grant in the principal amount of \$280,000 for a multifamily housing development.

Strategic Profile Relatability

- | | |
|---|--|
| <input checked="" 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 | |

This action supports affordable housing production.

Financial Consideration

Is there a financial consideration? No Yes \$4,961,680
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other Existing Tax Increment Pooling

This action is to transfer the existing tax increment pooling balance to the affordable housing trust fund and utilize the fund to pay for previously approved affordable housing commitments.

Background

On [Nov. 23, 2020](#), the city council adopted an ordinance to establish an affordable housing trust fund (AHTF). The AHTF was the only mechanism that allowed the city to spend its HRA levy for rental assistance and other eligible housing activities. In 2020, the city council allocated \$150,000 from the HRA levy to provide emergency rental assistance to households negatively affected by COVID-19, and approved an additional \$50,000 for rental assistance in 2021. The city collaborated with ICA to disburse those funds to eligible households.

State Statute 462C.16 provides authority for local governments to establish an AHTF for the purposes of:

- Making grants, loans, and loan guarantees for the development, rehabilitation, or financing of housing;
- Matching other funds from federal, state, or private resources for housing projects;
- Providing down payment assistance, rental assistance, and homebuyer counseling services;
- And to pay for administrative expenses, up to 10 percent of the balance of the fund.

Under the statute, cities can finance the trust fund with any money available to the local government. Sources of these funds include, but are not limited to:

- Donations
- Bond proceeds
- Grants and loans from state, federal, or private sources
- Appropriations by local government to the fund
- Investment earnings of the fund
- Housing and redevelopment authority levies

Affordable Housing Trust Fund Balance and Uses

Over the past several years, staff has advocated for a tool that would allow the city to have flexibility in using the city's pooled tax increment financing for affordable housing production in the city. In July 2021, Minnetonka sought and received special legislation with the cities of Richfield and Saint Louis Park to transfer the existing tax increment pooling funds to an affordable housing trust fund, enabling the city to use those funds for a wider variety of affordable housing development uses. The most impactful of these changes is the city's ability to use the funds for a range of affordability within a specific project. Previously, the city was limited to using pooled funds to produce 20% of the units at 50% AMI or 40% at 60% AMI, which was not financially feasible for all projects. The special legislation that allows the city to

transfer these dollars into the AHTF gives the city the ability to determine the level of affordability that fits each project and is not restricted by the previous affordable housing regulations. The special legislation is temporary and allows the city to make transfers for affordable housing efforts through Dec. 31, 2026. The balance could be transferred back to the development fund in future years if the special legislation is not extended in 2026.

Staff reviewed the city's tax increment financing pooling balance with the city's financial consultant, Ehlers and Associates, and is recommending that the balance be transferred to the AHTF. There is currently a balance of \$4,961,680 of pooled tax increment collected through 2019 and 2020 available to transfer to the AHTF. Staff proposes preserving the 2020 pooled tax increment from Boulevard Gardens, Tonka on the Creek, and Rowland for future administrative needs. If it is not needed for administrative expenses, it could be transferred to the AHTF in the future.

Pooling for Affordable Housing								
Year	Beacon Hill (Housing)	Boulevard Gardens (Redevelopment)	Tonka on the Creek (Housing)	Applewood Pointe (Redevelopment)	Rowland (Housing)	Marsh Run (Housing)	Shady Oak Crossing (Redevelopment)	Total
To Date	\$ 677,365	\$ 3,753,602	\$ 147,196	\$ -	\$ 124,242	\$ -	\$ -	\$ 4,702,406
2020	\$ 259,275	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 259,275
TOTAL	\$ 936,640	\$ 3,753,602	\$ 147,196	\$ -	\$ 124,242	\$ -	\$ -	\$ 4,961,680

Minnetonka Station and Shady Oak Apartments

On [March 8, 2021](#) and [June 14, 2021](#) the economic development authority and city council approved interfund loans through the development fund to provide grants to Minnetonka Station located at 10400 Bren Road East and Shady Oak Apartments located at 5959 Shady Oak Road. The previously adopted resolutions approved interfund loans from the Development Fund to make a grant to Shady Oak Apartments, LLC in the amount of \$280,000 and a grant to Minnetonka Multifamily 1 LLC in the amount of \$553,000. Following these approvals, the city received special legislation to transfer the existing tax increment pooling funds to a newly created affordable housing trust fund. Staff is recommending that the trust fund act as the new source of grant funding for these projects, now that it is available for that purpose. This action will preserve the balance in the development fund for other eligible uses that extend beyond affordable housing. Both interfund loans will be repaid with tax increment generated from property within the Opus Business Park Tax Increment Financing District

The city and EDA will both have resolutions related to these actions. Julie Eddington, the city's EDA attorney, has prepared the documents associated with the Opus Renewal and Renovation District. Ms. Eddington will be available to answer any questions.

Supplemental Information:

- Memo from Julie Eddington, Kennedy and Graven
- Memo From Stacie Kvilvang, Ehlers
- Minnetonka TIF Special Legislation
- [2020 TIF Management Plan](#)
- [Opus Tax Increment District](#)



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September 3, 2021

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

Re: City and EDA Matters for September 13, 2021

Dear Alisha,

This letter provides a brief explanation regarding the following matters:

Tax Increment Special Legislation

During the past first special session, the state legislature passed a law allowing the City of Minnetonka (the “City”) and the Economic Development Authority in and for the City of Minnetonka (the “EDA”) to transfer tax increment accumulated for housing and redevelopment purposes to the City’s Affordable Housing Trust Fund. Before the special law becomes effective, a majority of the City Council must approve the special law, and the City Clerk must file the resolution and a certificate with the Secretary of State. A resolution meeting this requirement, along with the form of filing certificate, is enclosed for consideration by the City Council.

Transfer of TIF to Affordable Housing Trust Fund

The City and the EDA would like to use pooled tax increment from certain tax increment financing districts and transfer such pooled tax increment to the Affordable Housing Trust Fund. To do so, the EDA needs to authorize the transfer of pooled tax increment from the Beacon Hill Tax Increment Financing District, Boulevard Gardens Tax Increment Financing District, the Rowland Tax Increment Financing District, and the Tonka on the Creek Tax Increment Financing District. Enclosed is a resolution for consideration by the EDA, which authorizes the transfer of pooled tax increment from these tax increment financing districts to the Affordable Housing Trust Fund. Also enclosed is a resolution for consideration by the City, which accepts the transfer of the pooled tax increment financing districts to fund the Affordable Housing Trust Fund.

As noted in the resolutions, the pooled tax increment that is transferred to the Affordable Housing Trust Fund may only be used for making grants, loans, and loan guarantees for development, rehabilitation or financing of housing or providing matches for other federal, state, or private resources for housing projects.

Amendments to Interfund Loan Resolutions

The EDA previously adopted resolutions approving interfund loans from its Development Fund to make a grant to Shady Oak Apartments, LLC in the amount of \$280,000 and a grant to Minnetonka Multifamily 1 LLC in the amount of \$553,000 from its Development Fund. However, the EDA has since determined to instead make the interfund loans from funds within the City's Affordable Housing Trust Fund. Both interfund loans will be repaid with tax increment generated from property within the Opus Business Park Tax Increment Financing District. Enclosed are resolutions amending the interfund loan resolutions initially adopted to approve the interfund loan resolutions for the grants. Also enclosed are two resolutions for the City Council to approve the interfund loans from the Affordable Housing Trust Fund.

Assignment for Birke Project

In 2019 the City, the EDA, and DC-OV Minnetonka, LLC, as developer, executed a Contract for Private Development pursuant to which the developer agreed to construct an affordable housing project with approximately 175 units, and the EDA agreed to reimburse the developer with tax increment in the amount of up to \$4,200,000 for qualified costs of the project. The developer is receiving a loan from Nationwide Life Insurance Company, as lender, to finance a portion of the costs of the project. Prior to making the loan, the lender requires that the developer assign its interest in and rights under the agreement to the lender, that the City and EDA will subordinate their rights under the agreement to those of the lender under the loan documents, and that the EDA will deliver the tax increment revenue note to the lender upon issuance. Enclosed are resolutions for consideration by the City and the EDA approving a collateral assignment of the contract to the lender.

Please contact me with any questions.

Sincerely,

Julie Eddington

MEMORANDUM

TO: Alisha Gray – Economic Development Housing Manager

FROM: Stacie Kvilvang - Ehlers

DATE: September 13, 2021

SUBJECT: 2021 TIF Legislation and Affordable Housing Trust Fund

During the 2021 legislative session, the State approved Minnesota Sessions Laws 2021, 1st Special Session, Chapter 14, Article 9, Section 5 (the “Special Legislation”). The Special Legislation authorizes the City/EDA to transfer tax increment accumulated for housing purposes from its housing TIF districts and redevelopment TIF districts to the City’s Affordable Housing Trust Fund (AHTF).

The Special Legislation allows the City/EDA to provide grants, loans, and loan guarantees for the development, rehabilitation, or financing of housing; or match other funds from federal, state, or private resource for housing projects. Housing projects are not defined in the Special Legislation, but it is the intent of the City/EDA to use it for rental and for-sale housing projects in accordance with its AHTF guidelines.

The City’s EDA has until December 31, 2026 to transfer the funds to its AHTF. In addition, the City/EDA has to provide a report to the Chair and ranking Minority Leader of the House and Senate Tax Committees by February 1, 2024 and February 1, 2026 detailing the housing projects financed with the transferred funds, including the percentage of area median income provided, total cost per project, number of units and income and rent limitations. In order to implement the Special Legislation, the City is required to approve it and submit the resolution and appropriate form to the Secretary of State, **prior to the beginning of the next legislative session**.

The City has seven (7) districts as noted below that could transfer funds, but only four (4) currently have eligible balances as of December 31, 2020 to transfer as noted:

Pooling for Affordable Housing								
Year	Beacon Hill (Housing)	Boulevard Gardens (Redevelopment)	Tonka on the Creek (Housing)	Applewood Pointe (Redevelopment)	Rowland (Housing)	Marsh Run (Housing)	Shady Oak Crossing (Redevelopment)	Total
To Date	\$ 677,365	\$ 3,753,602	\$ 147,196	\$ -	\$ 124,242	\$ -	\$ -	\$ 4,702,406
2020	\$ 259,275	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 259,275
TOTAL	\$ 936,640	\$ 3,753,602	\$ 147,196	\$ -	\$ 124,242	\$ -	\$ -	\$ 4,961,680

Staff will review the TIF funds annually to determine future transfers, up until December 31, 2026 per the Special Legislation. At this time, based upon current projections, it is estimated the City/EDA may have an additional \$1.2 million to transfer to the AHTF, bringing the total to approximately \$6.2M.

Please contact me at 651-697-8506 with any questions.

Sec. 5. **CITIES OF MINNETONKA, RICHFIELD, AND ST. LOUIS PARK;
TEMPORARY TRANSFER OF INCREMENT AUTHORIZED.**

Subdivision 1. **Transfer of increment.** (a) The city of Minnetonka, or its economic development authority, may transfer tax increment accumulated for housing development purposes under Minnesota Statutes, section 469.1763, subdivision 2, paragraph (b) or (d), to the housing trust fund established by the city of Minnetonka under Minnesota Statutes, section 462C.16. Increment transferred under this paragraph must be used as provided in subdivision 2.

(b) The city of Richfield, or its housing and redevelopment authority, may transfer tax increment accumulated for housing development purposes under Minnesota Statutes, section 469.1763, subdivision 2, paragraph (b) or (d), to the housing trust fund established by the city of Richfield under Minnesota Statutes, section 462C.16. Increment transferred under this paragraph must be used as provided in subdivision 2.

(c) The city of St. Louis Park, or its economic development authority, may transfer tax increment accumulated for housing development purposes under Minnesota Statutes, section 469.1763, subdivision 2, paragraph (b) or (d), to the housing trust fund established by the city of St. Louis Park under Minnesota Statutes, section 462C.16. Increment transferred under this paragraph must be used as provided in subdivision 2.

Subd. 2. **Allowable use.** Tax increment transferred under subdivision 1 must be used only to:

(1) make grants, loans, and loan guarantees for the development, rehabilitation, or financing of housing; or

(2) match other funds from federal, state, or private resources for housing projects.

Subd. 3. **Annual financial reporting.** Tax increment transferred under this section is subject to the annual reporting requirements under Minnesota Statutes, section 469.175, subdivision 6.

Subd. 4. **Legislative report.** By February 1, 2024, and February 1, 2026, each city must issue a report to the chairs and ranking minority members of the legislative committees with jurisdiction over taxes and property taxes. The report must include detailed information relating to each housing project financed with increment transferred under this section, including, when applicable, the percentage of area median income relative to each housing project, the total cost per housing project, the number of units per housing project, and income and rent limitations required under federal, state, or local law for each housing project.

Subd. 5. **Expiration.** The authority to make transfers under subdivision 1 expires December 31, 2026.

EFFECTIVE DATE. (a) Subdivision 1, paragraph (a), is effective the day after the governing body of the city of Minnetonka and its chief clerical officer comply with the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Subdivision 1, paragraph (b), is effective the day after the governing body of the city of Richfield and its chief clerical officer comply with the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(c) Subdivision 1, paragraph (c), is effective the day after the governing body of the city of St. Louis Park and its chief clerical officer comply with the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

EDA Resolution No. 2021-_____

Resolution transferring pooled tax increment from tax increment financing districts in the City of Minnetonka for affordable housing purposes

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. Recitals.

- 1.01. The Legislature of the State of Minnesota passed a special law authorizing the City of Minnetonka, Minnesota (the "City") or the Authority to transfer tax increment accumulated for housing development purposes under Minnesota Statutes, Section 469.1763, subdivision 2(b) or (d) to the housing trust fund established by the City, all as provided in Laws of Minnesota 2021, First Special Session, Chapter 14, Article 9, Section 5 (the "Special Law"), in particular subdivision 1(a) thereof.
- 1.02. Pursuant to the Special Law, the authority to make such transfers shall expire on December 31, 2026.
- 1.03. On the date hereof, the City Council adopted a resolution approving the Special Law.
- 1.04. The Authority has proposed to transfer pooled tax increment from the following tax increment financing districts within the City to the City for purposes of funding the Affordable Housing Trust Fund:
- (a) from the Beacon Hill Tax Increment Financing District, a housing district, the amount of \$677,365;
 - (b) from the Rowland Tax Increment Financing District, a housing district, the amount of \$124,242;
 - (c) from the Tonka on the Creek Tax Increment Financing District, a housing district, the amount of \$147,196; and
 - (d) from the Boulevard Gardens Tax Increment Financing District, a redevelopment district, the amount of \$3,753,602.
- 1.05. The pooled tax increment transferred to the Affordable Housing Trust fund may be returned to the appropriate Authority tax increment fund if the funds are not spent on or before December 31, 2026.

Section 2. Approvals.

- 2.01. The Authority hereby approves the transfer of pooled tax increment from the tax increment financing districts as set forth in Section 1.04 hereof to fund the City's Affordable Housing Trust Fund.

- 2.02. The Authority may amend this resolution to provide for additional transfers of pooled tax increment to fund the Affordable Housing Trust Fund.
- 2.04. The tax increment transferred to the Affordable Housing Trust Fund must be accounted for separately and may be used only for the following purposes: making grants, loans, and loan guarantees for development, rehabilitation or financing of housing or providing matches for other federal, state, or private resources for housing projects.
- 2.03. This resolution is effective upon approval.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota on Sept. 13, 2021.

Brad Wiersum, President

ATTEST:

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 duly authorized meeting held on Sept. 13, 2021.

Becky Koosman, Secretary

EDA Resolution No. 2021-_____

Resolution amending EDA Resolution No. 2021-004 relating to an interfund loan for advance of certain costs in connection with a grant in the principal amount of \$553,000 for a multifamily housing development

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. Recitals.

- 1.01. The City of Minnetonka, Minnesota (the "City") and the Authority intend to establish the Opus Business Park Tax Increment Financing District (the "TIF District"), a renewal and renovation district, within Development District No. 1 in the City, pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the "TIF Act").
- 1.02. The Authority may incur certain costs related to the TIF District, which costs may be financed on a temporary basis from available Authority funds.
- 1.03. Under Section 469.178, subdivision 7 of the TIF Act, the Authority is authorized to advance or loan money from any fund from which such advances may be legally made in order to finance expenditures that are eligible to be paid with tax increments under the TIF Act.
- 1.04. The Authority entered into a Contract for Private Development, dated March 16, 2021 (the "Agreement"), with Minnetonka Multifamily 1 LLC, a Minnesota limited liability company (the "Developer"), pursuant to which the Developer will agree to develop an approximately 275-unit multifamily housing rental development, including parking (the "Minimum Improvements").
- 1.05. To make the Minimum Improvements economically feasible, the Authority has agreed pursuant to the Agreement to provide a grant to the Developer in the principal amount of \$553,000 (the "Authority Grant") for certain redevelopment costs related to the Minimum Improvements, including but not limited to land acquisition, demolition, underground parking, excavation/grading, and utilities costs.
- 1.06. Pursuant to EDA Resolution No. 2021-004, adopted by the Board on March 8, 2021 (the "Original Interfund Loan Resolution"), the Authority authorized the use of funds within the Authority's Development Fund to make the Authority Grant to the Developer.
- 1.07. The Authority intends to reimburse itself for the Authority Grant from tax increments derived from property within the TIF District (the "Interfund Loan") in accordance with the terms of the Original Interfund Loan Resolution.

1.08. The Authority has determined to amend the Original Interfund Loan Resolution to provide that the Authority will use tax increment deposited in the City's Affordable Housing Trust Fund to make the Authority Grant to the Developer.

Section 2. Approvals.

2.01. The Original Interfund Loan Resolution is hereby amended to provide that the Authority Grant will be made from funds within the City's Affordable Housing Trust Fund.

2.02. Unless otherwise amended by this resolution, the Original Interfund Loan Resolution shall remain in full force and effect.

2.03. This resolution is effective upon approval.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota on Sept. 13, 2021.

Brad Wiersum, President

ATTEST:

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 duly authorized meeting held on Sept. 13, 2021.

Becky Koosman, Secretary

EDA Resolution No. 2021-_____

Resolution amending EDA Resolution No. 2021-008 relating to an interfund loan for advance of certain costs in connection with a grant in the principal amount of \$280,000 for a multifamily housing development

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. Recitals.

- 1.01. The City of Minnetonka, Minnesota (the "City") and the Authority intend to establish the Opus Business Park Tax Increment Financing District (the "TIF District"), a renewal and renovation district, within Development District No. 1 in the City, pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the "TIF Act").
- 1.02. The Authority may incur certain costs related to the TIF District, which costs may be financed on a temporary basis from available Authority funds.
- 1.03. Under Section 469.178, subdivision 7 of the TIF Act, the Authority is authorized to advance or loan money from any fund from which such advances may be legally made in order to finance expenditures that are eligible to be paid with tax increments under the TIF Act.
- 1.04. The Authority entered into a Contract for Private Development, dated July 27, 2021 (the "Agreement"), with Shady Oak Apartments, LLC, a Minnesota limited liability company (the "Developer"), pursuant to which the Developer will agree to develop an approximately 350-unit multifamily housing rental development, including parking (the "Minimum Improvements").
- 1.05. To make the Minimum Improvements economically feasible, the Authority has agreed pursuant to the Agreement to provide a grant to the Developer in the principal amount of \$280,000 (the "Authority Grant") for certain redevelopment costs related to the Minimum Improvements, including but not limited to land acquisition, demolition, underground parking, excavation/grading, and utilities costs.
- 1.06. Pursuant to EDA Resolution No. 2021-008, adopted by the Board on June 14, 2021 (the "Original Interfund Loan Resolution"), the Authority authorized the use of funds within the Authority's Development Fund to make the Authority Grant to the Developer.
- 1.07. The Authority intends to reimburse itself for the Authority Grant from tax increments derived from property within the TIF District (the "Interfund Loan") in accordance with the terms of the Original Interfund Loan Resolution.

1.08. The Authority has determined to amend the Original Interfund Loan Resolution to provide that the Authority will use tax increment deposited in the City’s Affordable Housing Trust Fund to make the Authority Grant to the Developer.

Section 2. Approvals.

2.01. The Original Interfund Loan Resolution is hereby amended to provide that the Authority Grant will be made from funds within the City’s Affordable Housing Trust Fund.

2.02. Unless otherwise amended by this resolution, the Original Interfund Loan Resolution shall remain in full force and effect.

2.03. This resolution is effective upon approval.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota on Sept. 13, 2021.

Brad Wiersum, President

ATTEST:

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 duly authorized meeting held on Sept. 13, 2021.

Becky Koosman, Secretary



**Economic Development Authority
Agenda Item #5D
Meeting of September 13, 2021**

Title: 2022 Preliminary HRA Levy

Report From: Alisha Gray, EDFP, Economic Development and Housing Manager

Submitted through: Geralyn Barone, Executive Director
Julie Wischnack, AICP, Community Development Director

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

Summary Statement

This action sets the preliminary 2022 HRA levy at \$325,000 and recommends the city council adopt the levy in December 2021.

Recommended Action

Adopt the resolution setting a preliminary 2022 HRA tax levy and budget.

Strategic Profile Relatability

Financial Strength & Operational Excellence Safe & Healthy Community
 Sustainability & Natural Resources Livable & Well-Planned Development
 Infrastructure & Asset Management Community Inclusiveness
 N/A

This action sets the preliminary 2022 HRA tax levy and budget.

Financial Consideration

Is there a financial consideration? No Yes \$325,000
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

This action sets the preliminary 2022 HRA tax levy and budget.

Background

The city's first levy for housing and redevelopment began in 2009. State law limits levies, and the maximum rate is 0.0185 percent of a city's taxable market value. This equals approximately \$2 million in Minnetonka. For 2022, the annual Housing and Redevelopment Authority (HRA) was \$225,000 to accommodate housing programs, business outreach, and Southwest Light Rail Transit (SWLRT). At the June 21 study session, the council reviewed the 2022–2026 Economic Improvement Program (EIP), which recommends the 2022 HRA levy increase by \$25,000 for a total levy of \$325,000. The table below shows the history of the amounts and the uses of the HRA levy.

Year	Amount/Rate	Use
2009	\$100,000 .001171%	Homes Within Reach
2010	\$175,000 .002121%	•Village Center Master Planning (\$75,000) •Housing programs (\$100,000)
2011	\$175,000 .002233%	•Village Center Master Planning (\$85,000) •Housing programs (\$90,000)
2012	\$175,000 .002233%	•Village Center Master Planning (\$75,000) •Housing programs (\$100,000)
2013	\$175,000 .002324%	•Village Center Master Planning (\$75,000) •Housing programs (\$100,000)
2014	\$175,000 .002330%	•Marketing (\$75,000) •Livable Communities Fund (\$100,000)
2015	\$175,000 .002196%	•Marketing (\$75,000) •Village Center Master Planning (\$100,000)
2016	\$175,000 .002126%	•SWLRT (\$75,000) •Housing Programs (\$75,000) •Business Outreach (\$25,000)
2017	\$175,000 .002187%	•SWLRT (\$75,000) •Housing Programs (\$100,000)
2018	\$250,000 .00251%	•SWLRT (\$75,000) •Housing Programs (\$75,000) •Homes Within Reach (\$100,000)
2019	\$300,000 .00309%	•SWLRT (\$75,000) •Housing Programs (\$100,000) •Homes Within Reach (\$100,000) •Business Outreach (\$25,000)
2020	\$225,000 .00125%	•SWLRT (\$75,000) •Homes Within Reach (\$25,000) •Housing Loans (\$100,000) •Business Outreach (\$25,000)
2021	\$300,000 .00290%	•SWLRT (\$75,000) •Housing Loans (\$100,000) •Business Outreach (\$25,000) •Emergency Housing (\$50,000) •Emergency Business (\$25,000)

HRA Levy Funded Programs

Housing Loan Programs

There continues to be a steady amount of interest in the city's housing loan programs. As of Aug. 30, 2021, approximately \$438,100 remained available for Minnetonka Home Enhancement and Welcome to Minnetonka loan programs out of a total of \$1,129,492 committed to the programs through the HRA levy and loan repayments since the programs began. With the current available balance, there is enough funding for approximately 29 new loans. Without additional funding committed, the funds would be depleted in 10 years, assuming four new loans are made each year during that timeframe.

Homes within Reach/West Hennepin Affordable Housing Land Trust (HWR/WHAHLT)

- The 2022-2026 EIP recommends funding \$125,000 per year in 2022-2026 for affordable housing initiatives, not specifically recommended to fund HWR.
 - The 2021-2025 EIP did not include funding for HWR in 2021.

Business

Business Outreach

There is a fund balance of \$75,540 to assist with business outreach. Staff dedicated a portion of these funds to distribute a business newsletter to engage the business community. This effort supports business retention and expansion in the community. The inaugural edition of the Thrive Newsletter was distributed in July 2018. In 2021, staff added an additional newsletter, bringing the yearly publications to three. Online subscribers to business-related content through the city have grown to 909 as of the end of August 2021.

The pandemic has made in-person business retention and expansion visits difficult to conduct. To better understand the business climate within the city, staff is working with a consultant to conduct a business climate survey that will attempt to survey every business within the city. The purpose of the survey will be to provide insight to staff on the current business issues, how staff can better serve the business community, and to inform the development or modification of business programming. Survey results will be available in Fall/Winter 2021. A full report will be shared with the EDAC and council.

Additionally, staff is developing a business resource brochure to be used when meeting with businesses and developers. The proposed EIP for 2022-2026 recommends funding of \$25,000 to continue expanding business outreach efforts.

Southwest Light Rail Transit (SWLRT)

In July 2015, the city council committed \$2 million towards the SWLRT Green Line Extension project. Initially funded through the Special Assessment Construction Fund, partial payback will occur from the HRA levy funds over a 10-year period for a total of \$750,000. The proposed EIP for 2022-2026 indicated a cost of \$75,000 per year funded through the HRA levy for 2022-2026.

Recommendation

On Sept. 13, 2021, the city council will vote to adopt the 2022-2026 EIP, which recommends the 2022 HRA levy to be set at \$325,000 (up from its 2021 level of \$300,000). The indicated uses of the funds are Southwest LRT (\$75,000), Housing Loan Programs (\$100,000), Business Outreach (\$25,000), and Affordable Housing (\$125,000).

At its July 8, 2021 meeting, the EDAC discussed a recommendation for a preliminary HRA levy of \$325,000, which is the same recommendation as the proposed 2022-2026 EIP. The EDAC will review the HRA levy and proposed budget at its Oct. 21, 2021, meeting. The discussion and any further input on the 2022 levy and proposed expenditures will be provided at the council study session meeting in November.

During the [Aug. 16, 2021](#), city council budget study session, the city council discussed the preliminary HRA levy. This included on postponing a funding decision for Homes Within Reach until the November budget study session. At this time, \$125,000 would be allocated to Affordable Housing rather than HWR. Per the discussion, a 2022 preliminary HRA levy of \$325,000 and a 2022 HRA budget is illustrated below:

(\$ thousands)	EIP	EDAC	Proposed
SW Light Rail	\$75	\$75	\$75
Homes within Reach	125	125	0
Affordable Housing			125
Housing Loans	100	100	100
Business Outreach	25	25	25
Total HRA Levy	\$325	\$325	\$325

Staff recommends adopting the resolution approving the 2022 Preliminary HRA Levy.

Supplemental information:

[EDAC Meeting – July 8, 2021 \(2022-2026 EIP\)](#)

- [Unofficial Minutes](#)

[City Council Study Session – June 21, 2021 \(2022-2026 EIP\)](#)

[City Council Study Session – Aug. 16, 2021](#)

EDA Resolution No. 2021

Resolution setting a preliminary 2022 HRA tax levy and budget

Be it resolved by the Economic Development Authority of the city of Minnetonka, Minnesota, as follows:

Section 1. Background.

- 1.01. On May 2, 1988, by Resolution 88-8637 and amended on May 9, 1994, by Resolution 94-9715, the city council established the Economic Development Authority (EDA) of the City of Minnetonka, and effective June 15, 1988, transferred to the EDA the control, authority, and operation of all projects and programs of the city's Housing and Redevelopment Authority (HRA). On Mar. 8, 2010, the city council became the appointed EDA.
- 1.02. Minnesota Statutes 469.033, Subdivision 6 authorizes housing and redevelopment authorities the power to levy a tax upon all taxable property within its district to finance housing and redevelopment programs subject to the consent of the city council.
- 1.03. The law and council resolutions further require the EDA to file a budget in accordance with the budget procedure of the city in the same manner as required of executive departments of the city and all actions of the authority to be approved by the city council.
- 1.04. State law requires the city to certify to the county a preliminary HRA tax levy by Sept. 30, 2021, and a final HRA budget and levy to be adopted, approved, and certified to the county by Dec. 28, 2021.

Section 2. Findings.

- 2.01. The EDA finds that an annual budget and tax levy of \$325,000 for levy in 2021, collectible in 2022, will fund housing and redevelopment activities of the authority in 2022.

Section 3. Authorization.

- 3.01. The preliminary 2022 HRA budget and tax levy are hereby approved.
- 3.02. The City Clerk is hereby directed and ordered to transmit a certified copy of the resolution to the Hennepin County Director of Property Tax and Public Records.

Adopted by the Economic Development Authority of the City of Minnetonka, Minnesota, on this 13th day of Sept. 2021.

Brad Wiersum, President

Attest:

Becky Koosman, Secretary

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 EDA of the City of Minnetonka, Minnesota, at a duly authorized meeting held on Sept. 13, 2021.

Becky Koosman, Secretary