



**SPECIAL CONCURRENT CITY COUNCIL AND HOUSING AND REDEVELOPMENT  
AUTHORITY WORKSESSION  
RICHFIELD MUNICIPAL CENTER, BARTHOLOMEW ROOM  
MAY 20, 2019  
5:30 PM**

Call to order

1. Redevelopment Priorities

Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**

**WORK SESSION REPORT**  
**SPECIAL CONCURRENT CITY COUNCIL AND**  
**HOUSING AND REDEVELOPMENT AUTHORITY**  
**WORK SESSION**  
**5/20/2019**

REPORT PREPARED BY: John Stark, HRA Executive Director/  
Community Development Director  
5/15/2019

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/16/2019

**ITEM FOR WORK SESSION:**

Redevelopment Priorities: Why, What, When, Where?

**EXECUTIVE SUMMARY:**

Community Development staff will facilitate a discussion related redevelopment priorities in the City. The agenda for the evening will be as follows:

- 5:15-5:30 Food served
- 5:30-5:45 Introductory Presentation
- 5:45-5:55 "Why do we redevelop?" exercise
- 5:55-6:20 Analysis of potential priority topics & redevelopment areas:
  - ) Cedar Avenue Corridor
  - ) Penn Avenue Corridor
  - ) East 66th Street Corridor
  - ) 494 Corridor
  - ) Downtown Richfield
  - ) Housing needs (e.g. townhomes, accessible housing, supportive housing, apartment rehab., market rate rental)
  - ) Missing uses (e.g. creative space, entertainment-oriented, light industrial, brew pub/tap room)
- 6:20-6:45 Prioritization exercise
- 6:45-6:55 Recap/wrap-up

**DIRECTION NEEDED:**

The intent of this work session is to establish a shared set of priorities, based on the newly adopted Comprehensive Plan, for the next 12-18 months.

**PRINCIPAL PARTIES EXPECTED AT THE MEETING:**

Community Development staff



**REGULAR HOUSING AND REDEVELOPMENT AUTHORITY MEETING  
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS  
MAY 20, 2019  
7:00 PM**

Call to Order

Approval of the minutes of the: (1) Special concurrent City Council and Housing and Redevelopment Authority meeting of April 15, 2019; (2) Regular Housing and Redevelopment Authority meeting of April 15, 2019; and (3) Special concurrent City Council, Housing and Redevelopment Authority, and Planning Commission work session of May 7, 2019.

**AGENDA APPROVAL**

1. Approval of the Agenda
2. **Consent Calendar contains several separate items which are acted upon by the HRA in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further HRA action on these items is necessary. However, any HRA Commissioner may request that an item be removed from the Consent Calendar and placed on the regular agenda for HRA discussion and action. All items listed on the Consent Calendar are recommended for approval.**
  - A. Consider adoption of a resolution authorizing the Housing and Redevelopment Authority to affirm the monetary limits on statutory municipality tort liability.  
Staff Report No. 18
  - B. Consider adoption of a resolution authorizing execution of a Development Agreement with the West Hennepin Affordable Land Housing Trust, dba Homes Within Reach, for the acquisition, rehabilitation and sale of houses under the New Home Program utilizing Federal Fiscal Year 2018 Community Development Block Grant funds.  
Staff Report No. 19
  - C. Consider adoption of a resolution approving an Assumption Agreement between NHH Companies, LLC, Cedar Point Investments LLC, and the Housing and Redevelopment Authority.  
Staff Report No. 20
  - D. Consider adoption of a resolution adopting a modification to the Tax Increment Financing Plan for the Lyndale Gardens Tax Increment Financing District.  
Staff Report No. 21
3. Consideration of items, if any, removed from Consent Calendar

**PUBLIC HEARINGS**

4. Continuation of a public hearing from April 15, 2019 and consider adoption of a resolution authorizing the sale of 6310 Irving Avenue South to Twin Cities Habitat for Humanity and the approval of a Contract for Private Development for the construction of a single family home.

Staff Report No. 22

5. Public hearing and consider adoption of a resolution approving a Contract for Private Development with MWF Properties for redevelopment of the City Garage South site at 7700 Pillsbury Avenue S with 55 units of affordable workforce housing.

Staff Report No. 23

**HRA DISCUSSION ITEMS**

6. HRA Discussion Items

**EXECUTIVE DIRECTOR REPORT**

7. Executive Director's Report

**CLAIMS AND PAYROLLS**

8. Claims and Payrolls
9. Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**



**HOUSING AND REDEVELOPMENT  
AUTHORITY MEETING MINUTES**  
Richfield, Minnesota

**Special Concurrent City Council and  
Housing and Redevelopment Authority  
Work Session**

**April 15, 2019**

**CALL TO ORDER**

The work session was called to order by Chair Supple at 5:45 p.m. in the Bartholomew Room.

*HRA Members Present:* Mary Supple, Chair; Pat Elliott; Maria Regan Gonzalez; and Sue Sandahl.

*HRA Members Absent:* Erin Vrieze Daniels.

*Council Members Present:* Maria Regan Gonzalez, Mayor; Mary Supple; Edwina Garcia; and Simon Trautmann.

*Council Members Absent:* Ben Whalen

*Staff Present:* Katie Rodriguez, City Manager; John Stark, HRA Executive Director/Community Development Director; Julie Urban, Housing Manager; and Kate Aitchison, Housing Specialist.

<b>Item #1</b>	<b>DISCUSS EMERSON LANE HOUSING PROPOSALS</b>
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Housing Manager Julie Urban provided an introduction to the topic. Housing Specialist Kate Aitchison provided an overview of the memo distributed on April 11th, 2019.

Executive Director Stark added that each scenario discussed needs more work and research, but until there is more guidance from policymakers, staff is unwilling to undertake further expenses. Additionally, in terms of financing there is more work that needs to be done to ensure that the site can support housing at these price points, on the part of the developer and the city.

Housing Manager Urban provided a simple pro/con overview of each development scenario for 1-, 2- or 5-home scenarios on the property.

Councilmember Trautmann asked for clarification on the per lot subsidy. Chair Supple responded and clarified how the subsidy per lot was reached.

Executive Director Stark noted that while this property was originally purchased for three Richfield Rediscovered homes, the extraordinary costs of the infrastructure improvements on the site do not make it feasible to recommend three or four homes on the site.

Commissioner Sandahl asked about the tax values that the City/HRA could expect from new homes on the site. Housing Specialist Aitchison stated that the estimated taxes to the City and HRA would be approximately \$2,050 per home, annually, based on a home value of approximately \$330,000.

Commissioner Elliott asked if an appraisal as originally done at the time of acquisition. Housing Manager Urban stated that yes, an appraisal had been conducted.

Commissioner Elliott asked if any other uses have been considered for the property. Housing Manager Urban responded that staff has reached out to other departments and the Minnesota Department of Transportation (MnDOT), but there have been no other entities interested in the property. The acquisition of the property was always intended for the Richfield Rediscovered program.

Commissioner Elliott asked why 3 or 4 homes were not being discussed. Housing Manager Urban and Executive Director Stark clarified that the HRA would be required to further subsidize the project in a scenario where 3 or 4 homes were to be built, so staff had eliminated those scenarios from consideration. (29:30)

Councilmember Garcia stated she understands that the purpose of the purchase of the property was to replace housing units that were previously lost.

Chair Supple asked about stormwater management on site, and how it would be monitored to ensure it doesn't negatively impact the neighbors. Housing Manager Urban explained that stormwater management is always reviewed, in Richfield Rediscovered and with all developments. This is either addressed in the Administrative Review Committee (ARC) process, or in the Building Permit process. A Stormwater Management Plan would also likely be required as part of a 5-home scenario.

Chair Supple also inquired about the widening of Emerson Lane as part of a development. Housing Manager Urban responded that it would be discussed during the ARC process with input from various departments.

Commissioner Sandahl asked about the adjacent land to the west and north, and whether it was owned by MnDOT. Housing Manager Urban responded that it is owned by MnDOT, and the city will need to address the long, narrow section to the north of the site.

Mayor Regan Gonzalez stated that she had been on the property. She asked if it would be possible to develop two higher-valued homes and a third lot that would be sold as vacant land to an adjacent neighbor. Housing Manager Urban stated that it could be considered, but that it would depend on the proposal and the site plan.

Chair Supple asked about the procedure for another party submitting a proposal for development of the site. Executive Director Stark explained the process for existing programs, and stated that if the neighbors are interested they should contact the city and put something together. Staff would put some timeframes on the process.

Councilmember Trautmann clarified that it would be a scheduled timeline for a proposal with clear parameters for moving forward. Executive Director Stark responded that yes, staff would review proposals and provide a timeline.

John Powell, 6800 Emerson Lane, spoke on behalf of the neighbors. The neighbors stated that they understand that housing is important to the city, and that there should be thoughtful consideration for the best use of the property. They questioned whether developing five homes would be consistent with the nearby lot sizes and character of the existing neighborhood. The neighbors feel like the two-home scenario would allow current residents the opportunity to buy a larger home and

remain residents. They stated that they have reached out and talked with contractors about the costs to develop the property. They stated they were hearing numbers of \$500,000-\$600,000, which is higher than what is being presented. The neighbors asked why Lynwood Blvd is zoned differently than Emerson Avenue and Emerson Lane.

Housing Manager Urban stated that she believes it is because the lots on Lynwood Blvd are larger, and that the lots on Emerson Avenue are not large enough to justify the different type of zoning.

Mr. Powell asked about ongoing costs for road maintenance for the new public road, and/or the widening of Emerson Lane. He also stated the neighbor's concerns about increased traffic on the roads, and whether any pedestrian safety improvements would be added as part of the development. There are also concerns about parking overflow onto Emerson Avenue or Emerson Lane.

Chair Supple moved the conversation to the policy questions of: 1) Is housing the appropriate use for this site, and 2) If housing is appropriate, what number of homes do you support?

Commissioner Sandahl stated her support for housing on this site, as it wouldn't be appropriate under another use. She stated her support for the development of 5 homes, as it provides the best return on investment for the HRA, and the most opportunities for housing. She stated her understanding of the concern shown by the neighbors. She stated that this development could be seen as part of a new neighborhood, and would be a good place for people to live.

Councilmember Trautmann read a statement provided by Councilmember Whalen who wasn't in attendance.

Councilmember Garcia stated she agrees with Commissioner Sandahl, but that we do need to work to accommodate the neighbors, while still providing housing opportunities in this tight housing market. She stated her belief that the land needs to be used for housing.

Councilmember Trautmann asked for staff input on the financial responsibility of the city for development costs on the lot, especially in the case of over-runs. Executive Director Stark responded that the estimated development costs are estimates at this point. It is difficult to predict any specific requirements on these elements from a preliminary plan. Executive Director Stark stated that a public conversation would be had if the HRA was being asked to contribute more to the development of the property. He also stated that the Public Works department hasn't shown any concern over the maintenance of additional public road on this site.

Councilmember Trautmann stated he is still concerned about the unknown costs of this property, and would also like to keep in mind the goals of the city's Inclusionary Housing Policy as we evaluate each site.

Mayor Regan Gonzalez stated that she supports housing on the site. She stated she doesn't feel like there is enough information available to decide whether or two or five homes would be most appropriate. She stated her desire to understand the feasibility of a two-home proposal at a higher price-point, or a proposal for three lots, with one lot being sold as vacant land to the neighbor. She stated her support for giving the neighbors a chance to put forward a proposal.

Executive Director Stark explained the appraisal process and how it would take into consideration the land use and development costs.

Commissioner Elliott stated the site seems to be a good place for two higher-valued, larger homes.

Executive Director Stark clarified the difference in road infrastructure for the two- or five-home scenarios. A private driveway would be required for the two-home scenario versus a full public road that would be required for the five-home scenario.

Chair Supple stated her support for housing on the site. She stated that the two-homes scenario seems like a better fit, if there is a feasible proposal for it. She stated she could support five homes if that is the only feasible proposal, but that 1, 3 or 4 homes would not be acceptable.

Councilmember Trautmann encouraged those interested to possibly work together on the development of this property.

Commissioner Elliott asked if the HRA could potentially sell land to remain vacant, or if that would be in violation of our Comprehensive Plan. Executive Director Stark stated that the HRA could make that decision if a proposal came before them with a different type of land use.

Councilmember Trautmann stated his concern that the costs would increase and the HRA would be responsible for those added costs. Housing Manager Urban stated that a Development Agreement would be negotiated as part of the HRA’s approval for the land sale, and would address the possibility of additional costs and the responsibilities of the developer and the HRA.

Executive Director Stark stated that the purpose of the work session is to narrow down what we should explore further.

Commissioner Sandahl clarified that housing seems to be the unanimous decision, and appreciated Mr. Whalen’s comments. She stated her support for the HRA to act in a fiscally-responsible manner.

Executive Director Stark reviewed the conversation and stated he understands that staff would continue to look at housing on the site, and would accept proposals for 2- or 5-homes. If the neighbors are interested in putting forward a proposal, they need to come in with a plan for the development of 2- or 5- homes. Staff will continue to look at both scenarios at this point.

Chair Supple thanked Dustin Endres with Endres Custom Homes, along with the neighbors and staff for all the work done on this proposal and for the development of the property.

**ADJOURNMENT**

The work session was adjourned by unanimous consent at 6:58 p.m.

Date Approved: May 20, 2019

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Mary B. Supple  
HRA Chair

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Kate Aitchison  
Housing Specialist

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John Stark  
Executive Director



# HOUSING AND REDEVELOPMENT AUTHORITY MEETING MINUTES

Richfield, Minnesota

## Regular Meeting

### April 15, 2019

<b>CALL TO ORDER</b>
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The meeting was called to order by Chair Supple at 7:03 p.m. in the Council Chambers.

*HRA Members Present:* Mary Supple, Chair; Pat Elliott; Maria Regan Gonzalez; and Sue Sandahl.

*HRA Members Absent:* Erin Vrieze Daniels.

*Staff Present:* John Stark, Executive Director; Julie Urban, Housing Manager; and Kate Aitchison, Housing Specialist.

<b>APPROVAL OF THE MINUTES OF THE: (1) REGULAR HOUSING AND REDEVELOPMENT AUTHORITY MEETING OF JANUARY 15, 2019; (2) SPECIAL CONCURRENT CITY COUNCIL, HOUSING AND REDEVELOPMENT AUTHORITY, AND PLANNING COMMISSION WORK SESSION OF FEBRUARY 11, 2019; (3) REGULAR HOUSING AND REDEVELOPMENT AUTHORITY MEETING OF FEBRUARY 19, 2019; AND (4) SPECIAL CONCURRENT CITY COUNCIL, HOUSING AND REDEVELOPMENT AUTHORITY, AND PLANNING COMMISSION MEETING OF MARCH 26, 2019.</b>
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M/Regan Gonzalez, S/Sandahl to approve the Regular Housing and Redevelopment Authority meeting of January 15, 2019; Special concurrent City Council, Housing and Redevelopment Authority, and Planning Commission work session of February 11, 2019; Regular Housing and Redevelopment Authority meeting of February 19, 2019; and Special concurrent City Council, Housing and Redevelopment Authority, and Planning Commission meeting of March 26, 2019.

Motion carried 4-0.

<b>Item #1</b>	<b>APPROVAL OF THE AGENDA</b>
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M/Elliott, S/Sandahl to approve the agenda.

Motion carried 4-0.

<b>Item #2</b>	<b>CONSENT CALENDAR</b>
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Executive Director Stark presented the Consent Calendar:

- A. Consider the approval of a proposed adjustment of payment standard for the Section 8 Rent Assistance voucher program. (S.R. No. 14)
- B. Consider the approval of a Right of Entry Agreement with Twin Cities Habitat for Humanity for 6310 Irving Avenue. (S.R. No. 15)

M/Sandahl, S/Regan Gonzalez to approve the consent calendar.

Motion carried 4-0.

<b>Item #3</b>	<b>CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM CONSENT CALENDAR</b>
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None.

<b>Item #4</b>	<b>CONTINUE A PUBLIC HEARING TO CONSIDER THE SALE OF 6310 IRVING AVENUE TO TWIN CITIES HABITAT FOR HUMANITY FOR THE CONSTRUCTION OF A SINGLE-FAMILY HOME. (S.R. NO. 16)</b>
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Housing Specialist Kate Aitchison presented Staff Report No. 16.

M/Sandahl, S/Regan Gonzalez to continue the public hearing for the sale of 6310 Irving Avenue to Twin Cities Habitat for Humanity to May 20, 2019.

Motion carried 4-0.

<b>Item #5</b>	<b>CONSIDER REVISIONS TO THE INCLUSIONARY HOUSING POLICY WITH REGARDS TO HOUSING AND REDEVELOPMENT SCATTERED-SITE PROGRAMS. (S.R. NO. 17)</b>
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Housing Manager Julie Urban presented Staff Report No. 17.

M/Supple, S/Regan Gonzalez to adopt a revised Inclusionary Housing Policy, clarifying language relating to the Housing and Redevelopment Authority's scattered-site housing programs.

Commissioner Elliott asked for clarification on the calculation of TIF financing and net present value for the broader Inclusionary Housing Policy. Executive Director Stark responded that the city has been consistent in how it calculates TIF estimates, and that while the Inclusionary Housing Policy is a new written policy, it has informally been the policy for the past 25 years.

Commissioner Elliot also asked for clarification on the formulas for contributions in lieu of affordable housing, in redevelopment scenarios where there is not a housing component. Staff explained the process that would occur in those scenarios, and how a contribution would be brought forward to policymakers. The funds would be put into the Housing and Redevelopment Fund, and any use of the funds would have to fall under the state statutes that guide those funds.

Commissioner Regan Gonzalez stated her support for the revisions to the policy.

Commissioner Sandahl and Chair Supple also stated their support for the revisions to the policy.

Motion carried 4-0.

<b>Item #6</b>	<b>HRA DISCUSSION ITEMS</b>
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Chair Supple described the policymaker's tour of the Chamberlain Apartments, which are currently under construction. The building will include 15 accessible apartments. The tour also provided information on sound attenuation standards.

Commissioner Regan Gonzalez also stated her support and excitement for the project, and hopes to see the apartments house families.

Chair Supple also stated that the developer plans to meet with the neighbors to discuss concerns and next steps.

Commissioner Sandahl asked for details on the Citizen Planner Training to be held on May 7th. Executive Director Stark provided more information about the training session.

<b>Item #7</b>	<b>EXECUTIVE DIRECTOR REPORT</b>
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Executive Director Stark provided an update on some of the projects that are under development in the community:

The Chamberlain Apartments now has a live website, [www.chamberlainapartments.com](http://www.chamberlainapartments.com). They are hoping to have models open in June 2019, and residents moving in by September 2019.

RF64, the project across from Target and Home Depot in the Cedar Point II development area, is also working on launching a website and will soon be working with potential residents. There have been some minor revisions to the townhome-portion of the project. It is likely that first stage of construction will begin soon.

The Lyndale Gardens site is well-underway. The apartment-portion and townhome-portion are both under construction. The TIF note should be issued soon, as construction-financing will soon be completed. The summer concert series will be halted for the summer, as construction will be happening this summer.

The City Garage South site, now titled Richfield Flats, will be holding an open house on April 29th at their offices on 76th and Lyndale. Staff is working on a development agreement.

On Penn Avenue, staff applied for a grant from Hennepin County to study roadway alternatives, and have moved on to the next round in the grant process.

The Lunds housing proposal will hold an open house on April 23rd at WLNC.

The Bumper to Bumper property has now officially been purchased by the City. The city is working on abatement of the site, and will continue to work on the redevelopment of the parcel.

Staff is also in contact with the owners of the HUB, who are still trying to find a grocery-store anchor for the site and redevelopment. Executive Director Stark noted that it will be more of a long-term project, with a lot of interface with the city.

Commissioner Regan Gonzalez asked about the NOVO site on the west-side of Richfield. Executive Director Stark stated that he understands they'll be submitting for permits in the next few weeks.

<b>Item #8</b>	<b>CLAIMS AND PAYROLLS</b>
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M/Sandahl, S/Regan Gonzalez that the following claims and payroll be approved:

<b>U.S. BANK</b>	<b>03/18/19</b>
Section 8 Checks: 130537 - 130621	\$169,849.26
HRA Checks: 33607 - 33615	\$20,077.93
<b>TOTAL</b>	<b>\$189,927.19</b>

<b>U.S. BANK</b>	<b>04/15/19</b>
Section 8 Checks: 130622 - 130706	\$162,549.84
HRA Checks: 33616 - 33635	\$101,637.43
<b>TOTAL</b>	<b>\$264,187.27</b>

Motion carried 4-0.

<b>Item #9</b>	<b>ADJOURNMENT</b>
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The meeting was adjourned by unanimous consent at 7:35 p.m.

Date Approved: May 20, 2019

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 Mary B. Supple  
 HRA Chair

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 Kate Aitchison  
 Housing Specialist

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 John Stark  
 Executive Director



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Special Concurrent City Council, Housing and Redevelopment Authority and Planning Commission Work Session

May 7, 2019

**CALL TO ORDER**

The meeting was called to order by Chair Supple at 4:08 p.m. in the Bartholomew Room.

- HRA Members Present: Mary Supple, Chair; Maria Regan Gonzalez; Sue Sandahl; and Erin Vrieze Daniels.
- HRA Members Absent: Pat Elliott.
- Council Members Present: Maria Regan Gonzalez, Mayor; Edwina Garcia; Mary Supple; Simon Trautmann; and Ben Whalen.
- Planning Commission Members Present: Kathryn Quam; James Rudolph; Susan Rosenberg; Peter Lavin; and Sean Hayford Oleary.
- Planning Commission Members Absent: Allysen Hoberg, Chair; Bryan Pynn.
- Staff Present: Katie Rodriguez, City Manager; John Stark, Community Development Director; and Melissa Poehlman, Assistant Community Development Director.

<b>Item #1</b>	<b>CITIZEN PLANNER TRAINING</b>
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Community Development staff hosted a “Your Role as a Citizen Planner” workshop, facilitated by Erin Perdu of WSB & Associates. The workshop highlighted the ways in which the roles of elected/appointed officials vary in land use decisions based on the particular charge of the board or committee to which they are elected/appointed. The workshop provided an opportunity to discuss the areas in which policy makers have a significant amount of discretion and those in which they play a largely regulatory role of applying existing rules. Participants discussed hypothetical applications, the importance of waiting until all information has been provided before making a decision on a particular application, making sound legal findings, and communicating with constituents.

**ADJOURNMENT**

The work session was adjourned by unanimous consent at 7:41 p.m.

Date Approved: May 20, 2019

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Mary B. Supple  
HRA Chair

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Kate Aitchison  
Housing Specialist

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John Stark  
Executive Director



**STAFF REPORT NO. 18**  
**HOUSING AND REDEVELOPMENT AUTHORITY**  
**MEETING**  
**5/20/2019**

REPORT PREPARED BY: Jesse Swenson, Assistant HR Manager

OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director  
5/14/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider adoption of a resolution authorizing the Housing and Redevelopment Authority to affirm the monetary limits on statutory municipality tort liability.**

**EXECUTIVE SUMMARY:**

The Housing and Redevelopment Authority (HRA) purchases its insurance from the League of Minnesota Cities Insurance Trust (LMCIT). Each year, the HRA must either affirm or waive its statutory limits of liability by July 1. After reviewing cost considerations measured against potential risk, the HRA has, historically, affirmed the liability limits which are \$500,000 for an individual claimant and \$1,500,000 per occurrence. Staff is recommending the same course of action for the current period.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution authorizing the Housing and Redevelopment Authority to affirm the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- A requirement of insurance coverage through the LMCIT is an annual affirmation or waiver of statutory limits of liability.
- The current statutory limits of liability for Minnesota cities and political entities are \$500,000 for an individual claimant and \$1,500,000 per occurrence. Cities can waive these limits to allow an individual claimant to recover more than \$500,000, up to the \$1,500,000 per occurrence limit, if excess liability insurance is purchased. However, the cost of excess liability insurance continues to be very expensive. An additional \$1,000,000 of coverage would cost the HRA approximately \$6,000 annually.
- Slightly more than half of the cities in Minnesota do not waive its limits of liability.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The State Statute establishes liability limits for cities and the current level is \$1,500,000, which appears to be a reasonable limit.
- Historically, just over one-half of the municipalities in Minnesota have not waived the monetary limits on municipality tort liability as was established by Statutes 466.06.
- The HRA could waive its statutory limits in future years if the Commissioners should decide to do so.
- The City of Richfield has historically not waived its limits of liability.

**C. CRITICAL TIMING ISSUES:**

- The HRA's insurance policy with the League of Minnesota Cities Insurance Trust renews on July 1, 2018. This action must be completed before that time.
- The HRA does not have to make a decision on purchasing excess liability coverage at this time. Coverage such as excess liability may be added at any time.

**D. FINANCIAL IMPACT:**

- There is a slight premium savings for political entities that affirm the statutory monetary limits. For the Richfield HRA, the savings would be less than \$1,000 for the coverage year.
- The HRA has historically not purchased excess liability coverage because of the relatively high cost of such coverage. The cost for \$1,000,000 of excess coverage would likely be between \$6,000 and \$8,000 per year.

**E. LEGAL CONSIDERATION:**

- The tort liability limits established by Minnesota statutes have historically protected cities and no Minnesota court has ever established a monetary award in excess of the statutory limits against a municipality.
- Each municipal entity must annually decide whether the entity would voluntarily waive the statute for both the single claims and each occurrence limit.

**ALTERNATIVE RECOMMENDATION(S):**

- If the HRA feels that any single claimant should receive more than the \$500,000 limit, the HRA could elect to waive the statutory monetary limits.
- If the HRA feels that the \$1,500,000 per occurrence limit is not adequate, the HRA could purchase excess liability coverage.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

Description	Type
□ Resolution	Resolution Letter

**HRA RESOLUTION NO.**

**RESOLUTION AFFIRMING MUNICIPAL TORT LIABILITY LIMITS ESTABLISHED BY  
MINNESOTA STATUTES 466.04**

**WHEREAS**, Minnesota Statute 466.04 provides for Municipal tort liability limits for Minnesota cities and for other municipal entities like the Richfield Housing and Redevelopment Authority; and

**WHEREAS**, the League of Minnesota Cities Insurance Trust has asked that each participating entity review the tort liability limits and determine if the respective entity would choose to waive its limits; and

**WHEREAS**, such decision to affirm or waive the tort liability limits must be filed with the League of Minnesota Cities Insurance Trust at the insurance renewal date.

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Director is directed to report to the League of Minnesota Cities Insurance Trust that the Richfield HRA does not waive the monetary limits on the municipal tort liability established by Minnesota statutes 466.04.

Approved by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 20th day of May, 2019.

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Mary B. Supple, Chair

ATTEST:

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Erin Vrieze Daniels, Secretary



**STAFF REPORT NO. 19**  
**HOUSING AND REDEVELOPMENT AUTHORITY**  
**MEETING**  
**5/20/2019**

REPORT PREPARED BY: Kate Aitchison/Celeste McDermott, Housing Specialists

OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director  
5/14/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider adoption of a resolution authorizing execution of a Development Agreement with the West Hennepin Affordable Land Housing Trust, dba Homes Within Reach, for the acquisition, rehabilitation and sale of houses under the New Home Program utilizing Federal Fiscal Year 2018 Community Development Block Grant funds.**

**EXECUTIVE SUMMARY:**

In Federal Fiscal Year (FFY) 2018, the City Council budgeted Community Development Block Grant (CDBG) funds for the Housing and Redevelopment Authority (HRA) to purchase, rehabilitate, and sell houses to households earning no more than 80 percent of the area median income (AMI).

The HRA is currently working with the West Hennepin Affordable Land Housing Trust (WHAHLT), dba Homes Within Reach, to purchase and rehabilitate homes to be sold to qualifying households on behalf of the HRA, utilizing CDBG funds. WHAHLT is a Community Land Trust that allows homeowners to purchase the home itself while maintaining ownership of the land beneath it and leasing it for a nominal fee, which greatly reduces the burden of downpayment and mortgage payments. The ground leases are in place for 100 years, which ensures long term affordability of the home.

In order to ensure affordability, the CDBG funds help fill the development gap that exists between the cost to acquire and rehabilitate the home and the proceeds from the sale of the house. The proposed Development Agreement (Agreement) between the HRA and WHAHLT details the terms of this partnership. There is \$85,000 remaining in FFY 2018 CDBG funds that WHAHLT will use to purchase and rehabilitate a home in Richfield.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution authorizing execution of a Developer Agreement with the West Hennepin Affordable Land Housing Trust, dba Homes Within Reach, for the acquisition, rehabilitation and sale of houses utilizing Federal Fiscal Year 2018 Community Development Block Grant funds, subject to final approval by legal counsel.**

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- Under the New Home Program, the HRA has worked with several developers over the years to either build new homes or purchase and rehabilitate existing homes and make them available to

households earning no more than 80 percent of the AMI. WHAHLT has successfully purchased, rehabilitated and sold 12 homes in Richfield. Since 2002, WHAHLT has helped 172 families across the Hennepin County area.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Purchasing and rehabilitating homes with CDBG funds carries out the policies of the City's Comprehensive Plan, including:
  - Support the rehabilitation and upgrading of the existing housing stock.
  - Promote the development, management and maintenance of affordable housing in the City through assistance programs, alternative funding sources, and the creation of partnerships whose mission is to promote low to moderate income housing.

**C. CRITICAL TIMING ISSUES:**

- A property has been identified for purchase and rehabilitation. Approval of the Agreement would allow the HRA and WHAHLT to complete the purchase and rehabilitation of this home and spend FFY 2018 funds by the December 31, 2019 deadline.

**D. FINANCIAL IMPACT:**

- The City Council has budgeted \$100,000 in FFY 2018 CDBG funds for the HRA to acquire, rehabilitate and sell homes to homebuyers earning no more than 80 percent of the area median income. There is \$85,000 remaining to be spent.
- The HRA will provide development gap financing utilizing the CDBG funds to cover the difference between the cost to acquire and rehabilitate the property and the proceeds earned from the sale of the property.
- Maximum reimbursement under this Agreement is \$85,000.
- The Agreement provides for HRA staff to approve the acquisition purchase price and rehab costs prior to WHAHLT acquiring any property.

**E. LEGAL CONSIDERATION:**

- The Agreement was prepared by HRA legal counsel and reviewed by Hennepin County CDBG staff.

**ALTERNATIVE RECOMMENDATION(S):**

- Do not approve the Agreement.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

	Description	Type
□	Resolution	Resolution Letter
□	Developer Agreement	Contract/Agreement

**RESOLUTION NO. \_\_\_\_\_**

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD, MINNESOTA**

**RESOLUTION APPROVING DEVELOPMENT AGREEMENT WITH WEST HENNEPIN  
AFFORDABLE HOUSING LAND TRUST**

**WHEREAS**, the City of Richfield has entered into a Subrecipient Agreement with Hennepin County with respect to the use of CDBG funds from the Department of Housing and Urban Development (“HUD”) for federal fiscal year 2018; and

**WHEREAS**, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) executed a Third Party Agreement (Urban Hennepin County 2018 Community Development Block Grant Program) effective July 1, 2018 (the “Authority Third Party Agreement”) with the City which provides the Authority the ability to administer the use of the fiscal year 2018 CDBG funds; and

**WHEREAS**, the West Hennepin Affordable Housing Land Trust dba Homes Within Reach, a Minnesota nonprofit corporation (the “Developer”), has proposed to purchase, rehabilitate, and resell one or more properties located in the City of Richfield, Minnesota (the “City”) which are eligible to be purchased, rehabilitated, and resold with CDBG funds (the “Eligible Properties”); and

**WHEREAS**, there has been presented before this Board of Commissioners of the Authority a Developer Agreement – Urban Hennepin County – 2018 Community Development Block Grant Program (the “Developer Agreement”), proposed to be entered into between the Authority and the Developer, pursuant to which the Authority will direct the Developer to purchase, rehabilitate, and resell one or more Eligible Properties using the CDBG funds; and

**WHEREAS**, the Board has reviewed the Developer Agreement and finds that the execution thereof by the Authority and the performance of the Authority’s obligations thereunder are in the best interest of the City and its residents; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota as follows:

1. The Developer Agreement is hereby in all respects authorized, approved, and confirmed, and the Chairperson and the Executive Directed are hereby authorized and directed to execute the Developer Agreement for and on behalf of the Authority in substantially the form now on file with the Community Development Director but with such modifications as shall be deemed necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

2. The Chairperson and the Executive Director are hereby authorized to execute and deliver to the Developer any and all additional documents deemed necessary to carry out the intentions of this resolution and the Developer Agreement.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 20th day of May, 2019.

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Mary B. Supple, Chair

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Erin Vrieze Daniels, Secretary

**DEVELOPER AGREEMENT  
URBAN HENNEPIN COUNTY  
2018 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
(West Hennepin Affordable Housing Land Trust dba Homes Within Reach)**

**THIS DEVELOPER AGREEMENT** (the “Agreement”), made and entered into as of this 20th of May, 2019 (“Effective Date”), by and between the **Housing and Redevelopment Authority in and for the City of Richfield** (“Authority” or “HRA”), a body corporate and politic under the laws of the State of Minnesota, having its principal office at 6700 Portland Avenue, Richfield, Minnesota (“HRA”) and the **West Hennepin Affordable Housing Land Trust dba Homes Within Reach**, a nonprofit corporation under the laws of Minnesota, having its principal office at 5101 Thimsen Ave, Suite 202, Minnetonka, MN 55345. (“Developer” or “WHAHLT”).

**RECITALS**

- A. The City of Richfield (the “City”) is a cooperating unit in the Urban Hennepin County Community Development Block Grant (CDBG) Program by virtue of a Joint Cooperation Agreement dated October 1, 2017 and executed between the Authority and Hennepin County pursuant to Minn. Stat. Section 471.59.
- B. The City executed a Subrecipient Agreement with Hennepin County (Subrecipient Agreement No. PR00000287), effective July 1, 2018 (the “Subrecipient Agreement”), which approved the use of \$100,000 of Federal Fiscal Year 2018 CDBG funds from the Department of Housing and Urban Development for the Acquisition/Scattered Site Homeownership project(s). There is \$85,000 in funds remaining for the Acquisition/Scattered Site Homeownership project(s).
- C. The Authority executed a Third Party Agreement (Urban Hennepin County 2018 Community Development Block Grant Program) effective July 1, 2018 (the “Authority Third Party Agreement”) with the City which provides the Authority the ability to administer the use of the Fiscal Year 2018 CDBG funds.
- D. HRA desires WHAHLT to purchase, rehabilitate, and resell one or more properties eligible to be purchased, rehabilitated and resold with CDBG funds (the “Eligible Properties”) at the direction of HRA and WHAHLT has agreed to do so pursuant to the terms and conditions of this Agreement and 24 CFR 570 (the “CDBG Regulations”) and to use the CDBG funds available pursuant to the terms of the Subrecipient Agreement and Authority Third Party Agreement described above.
- E. This Agreement is intended to satisfy the requirements of 24 CFR 570.202 and the HUD Guidance so that Eligible Properties acquired by WHAHLT retain their eligibility for CDBG funds.

## AGREEMENT

### 1. Scope of Work.

A. Developer. HRA hereby designates WHAHLT as a Developer to purchase, rehabilitate, and resell Eligible Properties at the direction of HRA in accordance with the terms and conditions of this Agreement.

B. Memorandum of Understanding. WHAHLT shall purchase, rehabilitate and resell Eligible Properties based on the Memorandum of Understanding of the parties set forth in EXHIBIT A. The acquisition of one Eligible Property described in the Developer Pro Forms set forth in EXHIBIT B are preliminarily approved by the HRA and WHAHLT shall provide the documentation described in Section 8 to the HRA to obtain final approval for the acquisition of such property.

C. Criteria. The HRA and WHAHLT will work cooperatively to develop criteria for Eligible Properties that it would like to acquire under this Agreement. Such criteria shall include location, quality, price, and level of needed repairs.

D. Compliance with Required Programs. To the extent required by federal, state, and local law and regulation, WHAHLT agrees to comply with the program requirements of:

- 1) Hennepin County Affirmative Action Policy and Commissioners' Policies Against Discrimination;
- 2) Equal opportunity and discrimination provisions of 24 CFR Part 570 and all applicable State and Federal laws, rules, and regulations and as set forth in Section 3.02 of the Procedural Manual;
- 3) Section 504 of the Rehabilitation Act of 1973, as amended;
- 4) 24 CFR 570.200; and
- 5) Lead based paint notification, inspection, testing and abatement procedures established in 24 CFR Part 35 as referenced in 24 CFR 570.608, including but not limited to the Lead Disclosure Rule and HUD's Lead Safe Housing Rule as set forth in Section 3.06 of the Procedural Manual; and
- 6) Fair housing requirements of section 104(b) and section 109 of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable fair housing laws and as set forth in Section 3.02 of the Procedural Manual.

WHAHLT further agrees to provide HRA with a timely certification that the program requirements listed in this Section have been met as required by law and this Agreement.

E. Reports. WHAHLT shall provide HRA on a monthly basis with a report of its activities.

F. Subrecipient Agreements. The terms and provisions of the Subrecipient Agreements described in Recitals B and C above are incorporated herein by reference and WHAHLT agrees to comply with the terms and provisions of such agreements to the extent applicable to the purchase, rehabilitation and resale of Eligible Properties.

2. Term. This Agreement is effective as of the Effective Date and until December 31, 2019.

3. Acquisition, Relocation and Displacement. WHAHLT shall be responsible for carrying out all acquisitions of real property necessary for implementation of this Agreement. WHAHLT shall conduct all such acquisitions in its name and shall hold title to all real property purchased and shall be responsible for preparation of all notices, appraisals, and documentation required in conducting acquisition under the regulations of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as required under 49 CFR Part 24 and of the CDBG Program. WHAHLT shall also be responsible for providing all relocation notices, counseling, and services required by said regulations.

In addition, WHAHLT shall comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as required under 24 CFR 570.606(a) and HUD implementing regulations at 24 CFR Part 42; the requirements in 24 CFR 570.606(b) governing the residential anti-displacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (the Act); the relocation requirements of 24 CFR 570.606(c) governing displacement subject to Section 104(k) of the Act; and the requirements of 24 CFR 570.606(d) governing optional relocation assistance under Section 105(a)(11) of the Act.

4. Environmental Review. Prior to a commitment of CDBG funds to purchase, rehabilitate and resell Eligible Properties, WHAHLT and HRA will undertake the appropriate environmental review procedures and documentation as determined, requested, or required by the County.

6. Labor Standards, Employment and Contracting. WHAHLT shall notify the HRA prior to initiating any rehabilitation activities, including advertising for contractual services, which will include costs likely to be subject to the provisions of Federal Labor Standards and Equal Employment Opportunity and related implementing regulations.

No CDBG funds shall be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24. Hennepin County must be notified prior to awarding a contract. Hennepin County shall be responsible for determining the status of the contractor under this requirement, and shall notify the HRA if the contractor is or is not prohibited from doing business with the Federal government as a result of debarment or suspension proceedings.

7. Lobbying.

A. No federal appropriated funds have been paid or will be paid, by or on behalf of WHAHLT, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

B. If any funds, other than federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, WHAHLT will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

8. Documentation. WHAHLT must maintain the following records and reports relating to Eligible Properties acquired pursuant to this Agreement: appraisals, environmental reports, purchase agreements, settlement statements, and deed document number/filing information per property. WHAHLT shall submit copies of the foregoing documentation to HRA with respect to any Eligible Property acquired pursuant to this Agreement.

9. Other Program Requirements. WHAHLT shall carry out the acquisition activities under this Agreement in compliance with all federal laws and regulations described in 24 CFR Part 570, subpart K, except that (i) WHAHLT does not assume HRA's environmental responsibilities described at 24 CFR 570.604; and (ii) WHAHLT does not assume HRA's responsibility for initiating the review process under the provisions of 24 CFR Part 52 (Intergovernmental Review of HUD Development Programs and Activities).

10. Suspension and Termination. If WHAHLT materially fails to comply with any term of this Agreement after written notice and an opportunity to cure, this Agreement may be terminated. The time period for said opportunity to cure will be dependent upon the relevant time period requirements of the applicable law, regulation, program, or otherwise.

11. Notice. All communications, notices, and demands of any kind which either party may be required or may desire to give to or serve upon the other shall be made in writing, and such notice shall be deemed sufficiently given if and when it is addressed to then other party as provided below and either (a) delivered personally, (b) deposited in the United States mail, registered or certified, with postage prepaid, (c) deposited with an overnight delivery service for next day delivery, or (d) telecopied:

To HRA:           Richfield Housing and Redevelopment Authority  
                          Attention: John Stark, AICP, Director of Community Development

6700 Portland Avenue  
Richfield, Minnesota 55423-2599  
Fax: (612) 861-8974

To WHAHLT: West Hennepin Affordable Housing Land Trust  
Attention: Janet Lindbo, Executive Director  
5101 Thimsen Avenue  
Suite 202  
Minnetonka, MN 55345-4117

12. Data Practices. WHAHLT agrees to abide by the provisions of the Minnesota Government Data Practices Act and all other applicable State and Federal laws, rules, and regulations relating to data privacy and confidentiality, and as any of the same may be amended.

13. Access to Records. HRA shall have the authority to review any and all procedures and all materials, notices, and documents prepared by WHAHLT in implementation of this Agreement.

14. Indemnification. WHAHLT agrees to hold harmless, indemnify and defend HRA, its elected officials, officers, agents, and employees against any and all claims, losses, or damages, including attorneys' fees, arising from, allegedly arising from, or related to, the provision of services under this Agreement by WHAHLT, its employees, agents, officers, or volunteer workers.

15. Independent Contractor. Nothing in this Agreement is intended, nor may be construed, to create the relationship of partners or employer/employee between the parties. WHAHLT, its officers, agents, employees, and volunteers are, and will remain for all purposes and services under this Agreement, independent contractors.

16. Entire Agreement. The entire agreement of the parties is contained in this document. This Agreement supersedes all previous written and oral agreements and negotiations between the parties relating to the subject matter of this Agreement except as provided in paragraph 18 of this Agreement.

17. Severability. The invalidity, illegality or enforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

18. Assignment of Agreement. The parties shall not assign this Agreement without the express written consent of the other party.

19. Modification. No provision, term or clause of this Agreement shall be revised, modified, amended or waived except by an instrument in writing signed by both parties.

20. Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original, all of which, when taken together, shall constitute one agreement.

21. Headings. The titles to the sections and headings of various paragraphs of this Agreement are placed for convenience of reference only and in case of conflict, the text of this Agreement, rather than such titles or headings shall control.

22. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto.

23. Invalidity. If for any reason any portion or paragraph of this Agreement shall be declared void and unenforceable by any court of law or equity, it shall only affect such particular portion or paragraph of this Agreement, and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

24. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota.

25. Obligations Limited. HRA's obligation to make payments under this Agreement is limited entirely to CDBG funds being remitted to HRA in sufficient amounts and available for the purposes for which such payments are sought. HRA shall have no obligation to make payments under this Agreement from sources other than the CDBG funds described herein.

(Signature page follows)

IN WITNESS WHEREOF, the Authority has caused this Agreement to be duly executed in its name and behalf and WHAHLT has caused this Agreement to be duly executed in its name and behalf as of the date first above written.

HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD, MINNESOTA

By \_\_\_\_\_  
Its Chairperson

By \_\_\_\_\_  
Its Executive Director

WEST HENNEPIN AFFORDABLE HOUSING LAND  
TRUST

By \_\_\_\_\_  
Its Executive Director

**EXHIBIT A**  
**PROCEDURES**  
**Memorandum of Understanding**

Properties, In General:

- WHAHLT will identify, purchase, and rehabilitate one or more Eligible Properties on the HRA's behalf for subsequent resale to households earning at or below 80% of the Area Median Income.
- The HRA reserves the right to and WHAHLT agrees to identify, purchase, and rehabilitate more than two Eligible Properties in the event the HRA approves additional funds for this purpose.

Identification of Eligible Property:

- WHAHLT and the HRA will work cooperatively to identify Eligible Properties.
- If the HRA identifies Eligible Property, the HRA (in its sole discretion) may provide WHAHLT with the identity of the Eligible Property.
- If WHAHLT identifies Eligible Property, WHAHLT will provide the HRA with the identity of the Eligible Property so that the HRA may decide whether the HRA will use CDBG funds to acquire said Eligible Property.

Purchase of Eligible Property:

- WHAHLT will only purchase an Eligible Property after receipt of the HRA's express written consent.
- HRA may express its written consent via email to WHAHLT at [jlindbo@homeswithinreach.org](mailto:jlindbo@homeswithinreach.org)
- WHAHLT shall be responsible for the timely completion of all CDBG required documentation.
- WHAHLT agrees to purchase and hold the Eligible Properties in its name unless the HRA informs WHAHLT that the HRA desires (in the HRA's sole discretion) to hold an Eligible Property in the name of the HRA.

Rehabilitation of Eligible Property:

- After WHAHLT has purchased an Eligible Property, WHAHLT will work with the HRA to identify necessary improvements.
- WHAHLT and the HRA will agree in writing to a rehabilitation plan that describes, at a minimum, expenses, improvements, and deliverable dates, prior to WHAHLT beginning its rehabilitation efforts at that Eligible Property.
- Upon completion of the rehabilitation of each Eligible Property to the satisfaction of the HRA, WHAHLT will provide the HRA with all requested information, including but not limited to receipts.
- The rehabilitation plan may be amended from time to time as needed with the prior mutual consent of the HRA and WHAHLT.

Subsequent Resale of Certain Eligible Property to End Buyer:

- After WHAHLT completes the rehabilitation of an Eligible Property, WHAHLT will market said Eligible Property and execute a purchase agreement with an end buyer whose household income is at or below 80% of Area Median Income.
- WHAHLT will attempt to provide long-term affordability by working with the West Hennepin Affordable Housing Land Trust (WHAHLT) to secure a buyer.

Reimbursement of Acquisition/Rehabilitation Costs (or Payment of the Estimated Gap)

- WHAHLT will use its own funds to purchase an eligible property.
- The HRA will use HRA funds to reimburse WHAHLT for the “Development Gap.”  
Development Gap means the estimated total development costs less the sales price of the improved property up to a maximum gap amount as shown on “Exhibit C” or other developer pro forma approved by the HRA.
- Following the acquisition of the property, WHAHLT may request that the HRA provide payment in the amount of the estimated Development Gap.
- Upon final sale of the property, if the cost to acquire and rehabilitate the property exceeds the amount of sales proceeds by more than the Development Gap amount paid by the HRA, the HRA will reimburse WHAHLT for that amount.
- If the amount of sales proceeds and the Development Gap paid by the HRA exceeds the cost to acquire and rehabilitate the property, WHAHLT will reimburse the HRA for that amount.
- The maximum amount of reimbursement available under this Agreement is \$100,000.

**EXHIBIT B  
DEVELOPER PRO FORMA**

<b>Sources &amp; Uses - Preliminary</b>				
<b>Name of Property:</b>			<b>6232 Sheridan Ave., South, Richfield</b>	
<b>Date:</b>			<b>4/15/2019</b>	
<b>Sources:</b>				<b>Comments</b>
Homebuyer Mortgage			\$ 150,000	
2018 AHIF			\$ 20,000	Project Costs
2018 Richfield CDBG			\$ 85,000	Land & Project Costs
2018 HOME			\$ 49,236	Land
2017 MH Impact			\$ 25,000	Project Costs
2018 Bond Proceeds			\$ 27,500	Land
2018 Met Council			\$ 16,875	Rehab
		Total	\$ 373,611	
<b>Uses:</b>				
Acquisition Costs			\$ 290,000	
Closing Costs			\$ 1,800	
Inspection/other			\$ 1,200	
	Acquisition costs		\$ 293,000	
Adm Fee			\$ 13,885	Project Fee & HOME Fee
Holding/Closing Costs/ LC/ Taxes			\$ 20,226	Special Assessments of \$3895
Rehab Costs			\$ 46,500	
		Total	\$ 373,611	



**STAFF REPORT NO. 20**  
**HOUSING AND REDEVELOPMENT AUTHORITY**  
**MEETING**  
**5/20/2019**

REPORT PREPARED BY: Julie Urban, Housing Manager

OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director  
5/14/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider adoption of a resolution approving an Assumption Agreement between NHH Companies, LLC, Cedar Point Investments LLC, and the Housing and Redevelopment Authority.**

**EXECUTIVE SUMMARY:**

On August 1, 2018, the Housing and Redevelopment Authority (HRA) and NHH Companies (NHH) entered into a Loan Agreement whereby the Authority loaned NHH \$621,554.47 for the purposes of acquiring two single-family properties located within the Cedar Point II redevelopment project area. In exchange for the Loan, NHH executed a Promissory Note, and a Mortgage was recorded against the two properties.

Cedar Point Investments LLC is a subsidiary of NHH and is asking to assume all the obligations of NHH under the Loan Agreement, the Promissory Note, and the Mortgage. The proposed Assumption Agreement will transfer the obligations from NHH to Cedar Point Investments LLC.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution approving the Assumption Agreement between NHH Companies, LLC, Cedar Point Investments LLC, and the Housing and Redevelopment Authority.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- The Cedar Point II development area (16th Avenue to Richfield Parkway, 63rd Street to 65th Street) has been identified for redevelopment as multi-family housing in the Cedar Corridor Master Plan since 2004.
- The HRA adopted a revised Contract for Private Development with NHH Companies, LLC, on September 17, 2018, for the development of the western half of the Cedar Point II area with 72 affordable townhome units.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The Cedar Point II development area is guided for high-density residential development in the Comprehensive Plan.

**C. CRITICAL TIMING ISSUES:**

- When acquisitions were occurring, the formal partnership agreement between the three development partners had not been finalized, so the Loan Agreement was signed with NHH Companies, LLC. Since that time Cedar Point Investments LLC became the legal development entity for the townhome portion of the redevelopment project.

**D. FINANCIAL IMPACT:**

- The obligations of the Loan Agreement remain the same. The mortgages will be removed from the two properties once construction begins and the HRA's investment will be repaid through tax increment generated by the development.

**E. LEGAL CONSIDERATION:**

- The HRA Attorney drafted the Assumption Agreement.
- The terms of the Loan Agreement provides for its obligations to be assumed by another entity with HRA approval.

**ALTERNATIVE RECOMMENDATION(S):**

- Do not approve the Assumption Agreement.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

	Description	Type
□	Resolution	Resolution Letter
□	Assumption Agreement	Contract/Agreement

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD, MINNESOTA**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING ASSUMPTION AGREEMENT FOR LOAN AGREEMENT,  
PROMISSORY NOTE AND MORTGAGE**

WHEREAS, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the "Authority") has entered into a Loan Agreement, dated August 1, 2018 (the "Contract"), with NHH Companies, L.L.C., a Minnesota limited liability company (the "Original Developer"); and

WHEREAS, in exchange for the Loan, NHH Companies executed a Promissory Note, dated August 1, 2018; a Mortgage, dated August 1, 2018, and recorded on August 21, 2018 in the Office of the County Recorder of Hennepin County, as Document No. A10585180, to secure \$302,052.33 of the Loan; and a Mortgage, dated September 7, 2018, and recorded on October 8, 2018, in the Office of the County Recorder of Hennepin County, as Document No. A10599752, to secure \$319,502.14 of the Loan.

WHEREAS, the Original Developer has proposed that an affiliated entity, Cedar Point Investments LLC, a Minnesota limited liability company (the "Assignee"), assume all obligations of NHH Companies under the Loan Agreement, the Promissory Note, and the Mortgages, pursuant to an Assumption Agreement, between the Original Developer, the Assignee, and the Authority, and the Assignee has proposed to assume all of the Original Developer's rights and duties; and

WHEREAS, there has been presented to the Board of Commissioners of the Authority (the "Board") the Assumption Agreement; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota that:

1. The Assumption Agreement is hereby in all respects authorized, approved, and confirmed. The Chair of the Board and the Executive Director are hereby authorized and directed to execute the Assumption Agreement for and on behalf of the Authority in substantially the form now on file with the Community Development Director but with such modifications as shall be deemed necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

2. The Chair and the Executive Director are hereby authorized to execute and deliver any other documents or certificates deemed necessary to carry out the intentions of this resolution and the Assumption Agreement.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota  
this 20<sup>th</sup> day of May, 2019.

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Mary B. Supple, Chair

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Erin Vrieze Daniels, Secretary

## ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT, made as of \_\_\_\_\_, 2019 (the "Agreement"), is by and between NHH COMPANIES, L.L.C., a Minnesota limited liability company (the "NHH Companies"), CEDAR POINT INVESTMENTS LLC, a Minnesota limited liability company (the "Developer"), and the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic of the State of Minnesota (the "Authority").

### RECITALS

NHH Companies and the Authority are parties to that certain Loan Agreement, dated August 1, 2018 (the "Loan Agreement") whereby the Authority loaned NHH Companies \$621,554.47 (the "Loan") for the purposes of acquiring two parcels of property legally described in Exhibit A. In exchange for the Loan, NHH Companies executed a Promissory Note, dated August 1, 2018 ("Promissory Note"), a Mortgage, dated August 1, 2018 and recorded on August 21, 2018 in the Office of County Recorder of Hennepin County, as Document No. A10585180 to secure \$302,052.33 of the Loan; and a Mortgage, dated September 7, 2018 and recorded on October 8, 2018 in the Office of County Recorder of Hennepin County, as Document No. A10599752 to secure \$319,502.14 of the Loan (the two mortgages are collectively referred to herein as the "Mortgages").

The Developer has entered into a Contract for Private Development, dated September 17, 2018 (the "Contract"), pursuant to which the Developer has agreed to acquire certain property and construct approximately 80 affordable owner-occupied townhomes and public infrastructure. Two of the parcels that the Developer must purchase pursuant to the Contract are the two parcels subject to the Mortgages provided by NHH Companies described above.

The Developer hereby agrees to assume all obligations of NHH Companies under the Loan Agreement, the Promissory Note, and the Mortgages.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Covenants of Developer. The Developer expressly assumes all of the obligations of the "Borrower" under the Loan Agreement, the Promissory Note, and the Mortgages.

2. Release of NHH Companies. This Agreement shall be deemed to release and discharge NHH Companies from any obligations of the "Borrower" under the Loan Agreement, the Promissory Note, and the Mortgages.

3. Developer Address. For purposes of notice under the Contract, the Developer's address is:

Cedar Point Investments LLC  
7455 France Avenue South  
Suite 351  
Edina, Minnesota 55435  
Attn: Adam Seraphine

4. Governing Law. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota.

5. Entirety of Agreement. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

6. Modification. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

7. Execution in Counterparts. This Agreement may be executed, acknowledged and delivered in any number of counterparts and each of such counterparts shall constitute an original but all of which together shall constitute one agreement.

(The remainder of this page is intentionally left blank.)



Execution page of the Developer to the Assumption Agreement, dated as of the date and year first written above.

**CEDAR POINT INVESTMENTS LLC**

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2019, by \_\_\_\_\_, the \_\_\_\_\_ of Cedar Point Investments LLC, a Minnesota limited liability company, on behalf of the Developer.

\_\_\_\_\_  
Notary Public

Execution page of the Authority to the Assumption Agreement, dated as of the date and year first written above.

**AUTHORITY:**

**HOUSING AND REDEVELOPMENT  
AUTHORITY IN AND FOR THE CITY OF  
RICHFIELD, MINNESOTA**

\_\_\_\_\_  
By Mary B. Supple  
Its Chair

\_\_\_\_\_  
By John Stark  
Its Executive Director

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Mary B. Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**LEGAL DESCRIPTION**

Lot 5, Block 2, Iverson's Second Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

Lot 7, Block 1, Iverson's Second Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

RC125-366  
578655v.1 (JAE)



**STAFF REPORT NO. 21**  
**HOUSING AND REDEVELOPMENT AUTHORITY**  
**MEETING**  
**5/20/2019**

REPORT PREPARED BY: Melissa Poehlman, Assistant CD Director/Myrt Link, CD Accountant  
 OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director  
 5/14/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider adoption of a resolution adopting a modification to the Tax Increment Financing Plan for the Lyndale Gardens Tax Increment Financing District.**

**EXECUTIVE SUMMARY:**

The Lyndale Gardens Tax Increment Financing (TIF) District was established on August 9, 2011 to facilitate the construction of a mixed-use development consisting of retail, multi-family housing, and public/quasi-public space on the site of the former Lyndale Garden Center and surrounding parcels. As required, the approved TIF Plan included a budget that allocated the projected TIF funds into various TIF-eligible line items (e.g. land/building acquisition costs, site improvements, utilities, administrative fees). The original budget was modified on October 17, 2011.

On June 26, 2018 the City Council approved revised site/building plans for the northern half of the Lyndale Garden Center Development and an amended Contract for Private Development was approved by the Housing and Redevelopment Authority (HRA) on July 16, 2018. The proposed amendment to the TIF Plan revises individual line items to reflect costs based on the project as now approved. The modification does not change the overall amount of TIF funds that the developer could receive and the developer must provide proof of eligible expenditures prior to receiving any funds. The proposed modification is required in order to comply with the Office of the State Auditor.

<b>USES OF INCREMENT</b>	<b>AMENDED 10/17/11 PROPOSED</b>	
Land/Building Acquisition	\$ 3,200,000	\$ 3,466,559
Site Improvements/Prep.	\$ 2,416,000	\$ 2,159,441
Utilities	\$ 0	\$ 80,000
Other Qualifying Costs	\$ 15,000	\$ 0
Costs Outside of District	\$ 75,000	\$ 0
Administrative Costs (up to 10%)	<u>\$ 1,560,000</u>	<u>\$ 1,560,000</u>
<b>PROJECT TOTAL COST</b>	<b>\$ 7,266,000</b>	<b>\$ 7,266,000</b>
Interest	<u>\$ 8,334,000</u>	<u>\$ 8,334,000</u>
<b>PROJECT AND INTEREST TOTAL</b>	<b>\$15,600,000</b>	<b>\$15,600,000</b>

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution adopting a modification to the Tax Increment Financing Plan for the Lyndale Gardens Tax Increment Financing District within the Richfield Redevelopment Project Area.**

## **BASIS OF RECOMMENDATION:**

### **A. HISTORICAL CONTEXT**

- See Executive Summary

### **B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Pursuant to Section 469.175, Subd. 4(b) of the TIF Act, a tax increment financing plan may be modified without a public hearing or the findings required to be made for the original tax increment financing plan if the modification does not include (i) any reduction or enlargement of the geographic area of the project or tax increment financing district; (ii) an increase in the amount of bonded indebtedness; (iii) a determination to capitalize interest on debt if that determination was not a part of the original plan; (iv) an increase in the portion of the captured net tax capacity to be retained by the City; (v) an increase in the estimated cost of the project, including administrative expenses, to be paid or financed with tax increment from the district; or (vi) the designation of additional property to be acquired by the authority.

### **C. CRITICAL TIMING ISSUES:**

- The TIF Plan must be modified prior to the issuance of the Pay-As-You-Go-Note.

### **D. FINANCIAL IMPACT:**

- None; the total amount of Tax Increment Financing that could be provided to the developer is unchanged.
- The Pay-As-You-Go-Notes in the amount of \$4,233,477 were authorized by Resolution No. 1301 dated July 16, 2018.

### **E. LEGAL CONSIDERATION:**

- The resolution was drafted by the HRA's Financial Consultant and reviewed by the HRA Attorney.

## **ALTERNATIVE RECOMMENDATION(S):**

- None

## **PRINCIPAL PARTIES EXPECTED AT MEETING:**

Rebecca Kurtz, Ehlers

## **ATTACHMENTS:**

Description	Type
□ Resolution	Resolution Letter
□ Modified Tax Increment Financing Plan	Backup Material

RICHFIELD HOUSING AND REDEVELOPMENT AUTHORITY  
CITY OF RICHFIELD  
HENNEPIN COUNTY  
STATE OF MINNESOTA

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

**RESOLUTION ADOPTING A MODIFICATION TO THE TAX INCREMENT  
FINANCING PLAN FOR THE LYNDALE GARDENS TAX INCREMENT  
FINANCING DISTRICTS WITHIN THE RICHFIELD REDEVELOPMENT  
PROJECT AREA.**

WHEREAS, the City of Richfield (the "City") has established the Richfield Redevelopment Project Area and adopted the Redevelopment Plan therefor and established therein the Lyndale Gardens Tax Increment Financing District and adopted a Tax Increment Financing Plan (the Plan) therefor. It has been proposed that the Richfield Housing and Redevelopment Authority (the "HRA") adopt a Modification to the Tax Increment Financing Plan (the "Modification") for the Lyndale Gardens Tax Increment Financing District (the "District"), all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.001 to 469.047, and Sections 469.174 to 469.1799, inclusive, as amended (the "Act"), all as reflected in the Plans and presented for the Board's consideration; and

WHEREAS, the HRA has investigated the facts relating to the Modification and has caused the Modification to be prepared; and

WHEREAS, the HRA has performed all actions required by law to be performed prior to the adoption and approval of the proposed Modification. Because of the nature of this modification, and because this Modification does not entail an enlargement of geographic area, an increase in the amount of bonded indebtedness, an increase to the amount of interest on debt, an increase in the portion of the captured net tax capacity, or an increase in the total estimated tax increment expenditures, this modification is not subject to a public hearing requirement.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The HRA hereby reaffirms that the District as modified herein is in the public interest and is a "redevelopment district" under Minnesota Statutes, Section 469.174, subd. 10 (a)(2); that the proposed redevelopment would not occur solely through private investment within the reasonably foreseeable future, that the increased market value on the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the Lyndale Gardens TIF District permitted by the Tax Increment Financing Plan; that the Modified Plan conforms to the general plan for the development or redevelopment of the City as a whole; and that the Modified Plan will afford maximum opportunity consistent with the sound needs of the City as a whole, for the development of the Lyndale Gardens TIF District by private enterprise.

2. The HRA further finds that the Modifications will afford maximum opportunity, consistent with the sound needs for the City as a whole, for the development or redevelopment of the project area by private enterprise in that the intent is to provide only that public assistance necessary to make the private developments financially feasible.

3. Conditioned upon the approval thereof by the City Council, the Modification, as presented to the HRA on this date, is hereby approved and adopted and shall be placed on file in the office of the Community Development Director.

4. Upon approval of the Modifications by the City Council, the Community Development Director is authorized and directed to forward a copy of the Modification to the Minnesota Department of Revenue and Office of the State Auditor pursuant to *Minnesota Statutes 469.175, Subd. 4a*.

5. The Community Development Director is authorized and directed to forward a copy of the Modification to the Hennepin County Auditor and request that the Auditor certify the original tax capacity of the District as described in the Modifications, all in accordance with *Minnesota Statutes 469.177*.

Approved by the Board of Commissioners of the Richfield Housing and Redevelopment Authority this 20th day of May 2019.

---

Mary B. Supple, Chair

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Erin Vrieze Daniels, Secretary

Exhibit A

Budget

Use of Tax Increment Funds	Adopted August 9, 2011	Modified October 17, 2011	Modified March 19, 2019
Land / Building Acquisition	3,000,000	3,200,000	<b>3,466,559</b>
Site Improvements / Preparation	351,000	2,416,000	<b>2,159,441</b>
Utilities	0	0	<b>80,000</b>
Other Qualifying Improvements	15,000	15,000	<b>0</b>
Costs Outside District	2,340,000	75,000	<b>0</b>
Administrative Costs (up to 10%)	<u>1,560,000</u>	<u>1,560,000</u>	<b><u>1,560,000</u></b>
Project Cost Total	7,266,000	7,266,000	<b>7,266,000</b>
Interest	<u>8,334,000</u>	<u>8,334,000</u>	<b><u>8,334,000</u></b>
Project and Interest Costs Total	15,600,000	15,600,000	<b>15,600,000</b>



# MODIFICATION TO THE REDEVELOPMENT PLAN Richfield Redevelopment Project Area

- AND -

# TAX INCREMENT FINANCING PLAN Modification of the Lyndale Gardens Tax Increment Financing

Richfield Housing & Redevelopment Authority  
City of Richfield, Hennepin County, Minnesota



Public hearing: August 9, 2011  
Adopted: August 9, 2011  
Modification Adopted: October 17, 2011  
Modification Considered: May 20, 2019

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***Section 1 - Modification to the Redevelopment Plan  
for the Richfield Redevelopment Project Area***

**Foreword**

The following text represents a Modification to the Redevelopment Plan for the Richfield Redevelopment Project Area. This modification represents a continuation of the goals and objectives set forth in the Redevelopment Plan for the Richfield Redevelopment Project Area. Generally, the substantive changes include the establishment of the Lyndale Gardens Tax Increment Financing District.

For further information, a review of the Redevelopment Plan for the Richfield Redevelopment Project Area is recommended. It is available from the Community Development Director at the City of Richfield. Other relevant information is contained in the Tax Increment Financing Plans for the Tax Increment Financing Districts located within the Richfield Redevelopment Project Area.

## **Section 2 - Tax Increment Financing Plan for the Lyndale Gardens Tax Increment Financing District**

### **Subsection 2-1. Foreword**

The Richfield Housing and Redevelopment Authority (the "HRA"), the City of Richfield (the "City"), staff and consultants have prepared the following information to expedite the establishment of the Lyndale Gardens Tax Increment Financing District (the "District"), a redevelopment tax increment financing district, located in the Richfield Redevelopment Project Area.

### **Subsection 2-2. Statutory Authority**

Within the City, there exist areas where public involvement is necessary to cause development or redevelopment to occur. To this end, the HRA and City have certain statutory powers pursuant to *Minnesota Statutes ("M.S.")*, Sections 469.001 to 469.047, inclusive, as amended, and *M.S.*, Sections 469.174 to 469.1799, inclusive, as amended (the "Tax Increment Financing Act" or "TIF Act"), to assist in financing public costs related to this project.

This section contains the Tax Increment Financing Plan (the "TIF Plan") for the District. Other relevant information is contained in the Modification to the Redevelopment Plan for the Richfield Redevelopment Project Area.

### **Subsection 2-3. Statement of Objectives**

The District currently consists of four parcel(s) of land and adjacent and internal rights-of-way. The District is being created to facilitate the construction of a mixed-use commercial/retail, multi-family rental housing and public/community space in the City. Please see Appendix A for further District information. The HRA has not entered into an agreement or designated a developer at the time of preparation of this TIF Plan, however, it is anticipated that they will enter into an agreement with the Cornerstone Group. Development is likely to begin in summer 2011. This TIF Plan is expected to achieve many of the objectives outlined in the Redevelopment Plan for the Richfield Redevelopment Project Area.

The activities contemplated in the Modification to the Redevelopment Plan and the TIF Plan do not preclude the undertaking of other qualified development or redevelopment activities. These activities are anticipated to occur over the life of the Richfield Redevelopment Project Area and the District.

### **Subsection 2-4. Redevelopment Plan Overview**

1. Property to be Acquired - Selected property located within the District may be acquired by the HRA or City and is further described in this TIF Plan.
2. Relocation - Relocation services, to the extent required by law, are available pursuant to *M.S.*, Chapter 117 and other relevant state and federal laws.
3. Upon approval of a developer's plan relating to the project and completion of the necessary legal requirements, the HRA or City may sell to a developer selected properties that it may acquire within the District or may lease land or facilities to a developer.
4. The HRA or City may perform or provide for some or all necessary acquisition, construction, relocation, demolition, and required utilities and public street work within the District.

## **Subsection 2-5. Description of Property in the District and Property To Be Acquired**

The District encompasses all property and adjacent rights-of-way and abutting roadways identified by the parcels listed in Appendix C of this TIF Plan. Please also see the map in Appendix B for further information on the location of the District.

The HRA or City may acquire any parcel within the District including interior and adjacent street rights of way. Any properties identified for acquisition will be acquired by the HRA or City only in order to accomplish one or more of the following: storm sewer improvements; provide land for needed public streets, utilities and facilities; carry out land acquisition, site improvements, clearance and/or development to accomplish the uses and objectives set forth in this plan. The HRA or City may acquire property by gift, dedication, condemnation or direct purchase from willing sellers in order to achieve the objectives of this TIF Plan. Such acquisitions will be undertaken only when there is assurance of funding to finance the acquisition and related costs.

## **Subsection 2-6. Classification of the District**

The HRA and City, in determining the need to create a tax increment financing district in accordance with *M.S., Sections 469.174 to 469.1799*, as amended, inclusive, find that the District, to be established, is a redevelopment district pursuant to *M.S., Section 469.174, Subd. 10(a)(1)* as defined below:

- (a) *"Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one or more of the following conditions, reasonably distributed throughout the district, exists:*
- (1) *parcels consisting of 70 percent of the area in the district are occupied by buildings, streets, utilities, paved or gravel parking lots or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance;*
  - (2) *The property consists of vacant, unused, underused, inappropriately used, or infrequently used rail yards, rail storage facilities or excessive or vacated railroad rights-of-way;*
  - (3) *tank facilities, or property whose immediately previous use was for tank facilities, as defined in Section 115C, Subd. 15, if the tank facility:*
    - (i) *have or had a capacity of more than one million gallons;*
    - (ii) *are located adjacent to rail facilities; or*
    - (iii) *have been removed, or are unused, underused, inappropriately used or infrequently used; or*
  - (4) *a qualifying disaster area, as defined in Subd. 10b.*
- (b) *For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.*
- (c) *A building is not structurally substandard if it is in compliance with the building code applicable*

*to new buildings or could be modified to satisfy the building code at a cost of less than 15 percent of the cost of constructing a new structure of the same square footage and type on the site. The municipality may find that a building is not disqualified as structurally substandard under the preceding sentence on the basis of reasonably available evidence, such as the size, type, and age of the building, the average cost of plumbing, electrical, or structural repairs or other similar reliable evidence. The municipality may not make such a determination without an interior inspection of the property, but need not have an independent, expert appraisal prepared of the cost of repair and rehabilitation of the building. An interior inspection of the property is not required, if the municipality finds that (1) the municipality or authority is unable to gain access to the property after using its best efforts to obtain permission from the party that owns or controls the property; and (2) the evidence otherwise supports a reasonable conclusion that the building is structurally substandard.*

*(d) A parcel is deemed to be occupied by a structurally substandard building for purposes of the finding under paragraph (a) or by the improvement described in paragraph (e) if all of the following conditions are met:*

*(1) the parcel was occupied by a substandard building or met the requirements of paragraph (e), as the case may be, within three years of the filing of the request for certification of the parcel as part of the district with the county auditor;*

*(2) the substandard building or the improvements described in paragraph (e) were demolished or removed by the authority or the demolition or removal was financed by the authority or was done by a developer under a development agreement with the authority;*

*(3) the authority found by resolution before the demolition or removal that the parcel was occupied by a structurally substandard building or met the requirement of paragraph (e) and that after demolition and clearance the authority intended to include the parcel within a district; and*

*(4) upon filing the request for certification of the tax capacity of the parcel as part of a district, the authority notifies the county auditor that the original tax capacity of the parcel must be adjusted as provided by § 469.177, subdivision 1, paragraph (f).*

*(e) For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, paved or gravel parking lots or other similar structures unless 15 percent of the area of the parcel contains buildings, streets, utilities, paved or gravel parking lots or other similar structures.*

*(f) For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under paragraph (a) to be included in the district, and the entire area of the district must satisfy paragraph (a).*

In meeting the statutory criteria the HRA and City rely on the following facts and findings:

- The District is a redevelopment district consisting of four parcels.
- An inventory shows that parcels consisting of more than 70 percent of the area in the District are occupied by buildings, streets, utilities, paved or gravel parking lots or other similar structures.
- An inspection of the buildings located within the District finds that more than 50 percent of the buildings are structurally substandard as defined in the TIF Act. (See Appendix F).

Pursuant to *M.S., Section 469.176, Subd. 7*, the District does not contain any parcel or part of a parcel that qualified under the provisions of *M.S., Sections 273.111 or 273.112 or Chapter 473H* for taxes payable in any of the five calendar years before the filing of the request for certification of the District.

### **Subsection 2-7. Duration and First Year of Tax Increment of the District**

Pursuant to *M.S., Section 469.175, Subd. 1, and Section 469.176, Subd. 1*, the duration and first year of tax increment of the District must be indicated within the TIF Plan. Pursuant to *M.S., Section 469.176, Subd. 1b.*, the duration of the District will be 25 years after receipt of the first increment by the HRA or City (a total of 26 years of tax increment). The HRA or City elects to receive the first tax increment in 2014, which is no later than four years following the year of approval of the District. Thus, it is estimated that the District, including any modifications of the TIF Plan for subsequent phases or other changes, would terminate after 2039, or when the TIF Plan is satisfied. The HRA or City reserves the right to decertify the District prior to the legally required date.

### **Subsection 2-8. Original Tax Capacity, Tax Rate and Estimated Captured Net Tax Capacity Value/Increment and Notification of Prior Planned Improvements**

Pursuant to *M.S., Section 469.174, Subd. 7 and M.S., Section 469.177, Subd. 1*, the Original Net Tax Capacity (ONTC) as certified for the District will be based on the market values placed on the property by the assessor in 2011 for taxes payable 2012.

Pursuant to *M.S., Section 469.177, Subds. 1 and 2*, the County Auditor shall certify in each year (beginning in the payment year 2014) the amount by which the original value has increased or decreased as a result of:

1. Change in tax exempt status of property;
2. Reduction or enlargement of the geographic boundaries of the district;
3. Change due to adjustments, negotiated or court-ordered abatements;
4. Change in the use of the property and classification;
5. Change in state law governing class rates; or
6. Change in previously issued building permits.

In any year in which the current Net Tax Capacity (NTC) value of the District declines below the ONTC, no value will be captured and no tax increment will be payable to the HRA or City.

The original local tax rate for the District will be the local tax rate for taxes payable 2012, assuming the request for certification is made before June 30, 2012. The ONTC and the Original Local Tax Rate for the District appear in the table below.

Pursuant to *M.S., Section 469.174 Subd. 4 and M.S., Section 469.177, Subd. 1, 2, and 4*, the estimated Captured Net Tax Capacity (CTC) of the District, within the Richfield Redevelopment Project Area, upon completion of the projects within the District, will annually approximate tax increment revenues as shown in the table below. The HRA and City request 100 percent of the available increase in tax capacity for repayment of its obligations and current expenditures, beginning in the tax year payable 2014. The Project Tax Capacity (PTC) listed is an estimate of values when the projects within the District are completed.

<b>Project Estimated Tax Capacity upon Completion (PTC)</b>	<b>\$908,678</b>	
<b>Original Estimated Net Tax Capacity (ONTC)</b>	<b>\$62,977</b>	
<b>Fiscal Disparities Reduction</b>	<b>\$110,967</b>	
<b>Estimated Captured Tax Capacity (CTC)</b>	<b>\$734,734</b>	
<b>Original Local Tax Rate</b>	<b>1.38568</b>	Pay 2011
<b>Estimated Annual Tax Increment (CTC x Local Tax Rate)</b>	<b>\$1,018,106</b>	
<b>Percent Retained by the HRA</b>	<b>100%</b>	

Tax capacity includes a 4% inflation factor for the duration of the District. The tax capacity included in this chart is the estimated tax capacity of the District in year 25. The tax capacity of the District in year one is estimated to be \$142,942.

Pursuant to *M.S., Section 469.177, Subd. 4*, the HRA shall, after a due and diligent search, accompany its request for certification to the County Auditor or its notice of the District enlargement pursuant to *M.S., Section 469.175, Subd. 4*, with a listing of all properties within the District or area of enlargement for which building permits have been issued during the eighteen (18) months immediately preceding approval of the TIF Plan by the municipality pursuant to *M.S., Section 469.175, Subd. 3*. The County Auditor shall increase the original net tax capacity of the District by the net tax capacity of improvements for which a building permit was issued.

**The City has reviewed the area to be included in the District and found that some building permits have been issued in the past 18 months, but none that should increase the original tax capacity. Please see Appendix H for the building permits that were issued.**

### **Subsection 2-9. Sources of Revenue/Bonds to be Issued**

The costs outlined in the Uses of Funds will be financed primarily through the annual collection of tax increments. The HRA or City reserves the right to incur bonds or other indebtedness as a result of the TIF Plan. As presently proposed, the projects within the District will be financed by on or more pay-as-you-go notes. Any refunding amounts will be deemed a budgeted cost without a formal TIF Plan Modification. This provision does not obligate the HRA or City to incur debt. The HRA or City will issue bonds or incur other debt only upon the determination that such action is in the best interest of the City.

The total estimated tax increment revenues for the District are shown in the table below:

<u>SOURCES OF FUNDS</u>	<u>TOTAL</u>
Tax Increment	\$15,600,000
<u>Interest</u>	<u>\$0</u>
<b>TOTAL</b>	<b>\$15,600,000</b>

The HRA or City may issue bonds (as defined in the TIF Act) secured in whole or in part with tax increments from the District in a maximum principal amount of \$7,266,000. Such bonds may be in the form of pay-as-you-go notes, revenue bonds or notes, general obligation bonds, or interfund loans. This estimate of total bonded indebtedness is a cumulative statement of authority under this TIF Plan as of the date of approval.

**Subsection 2-10. Uses of Funds**

Currently under consideration for the District is a proposal to facilitate the construction of a mixed-use commercial/retail, multi-family rental housing and public/community space. The HRA and City have determined that it will be necessary to provide assistance to the project(s) for certain District costs, as described below. The HRA has studied the feasibility of the development or redevelopment of property in and around the District. To facilitate the establishment and development or redevelopment of the District, this TIF Plan authorizes the use of tax increment financing to pay for the cost of certain eligible expenses. The estimate of public costs and uses of funds associated with the District is outlined in the following table.

<u>USES OF TAX INCREMENT FUNDS</u>	<u>AS ADOPTED ON AUGUST 9, 2011</u>	<u>AS AMENDED ON OCTOBER 17, 2011</u>
Land/Building Acquisition	\$3,000,000	\$3,200,000
Site Improvements/Preparation	\$351,000	\$2,416,000
Utilities	\$0	\$0
Other Qualifying Improvements	\$15,000	\$15,000
Costs Outside of District	\$2,340,000	\$75,000
<u>Administrative Costs (up to 10%)</u>	<u>\$1,560,000</u>	<u>\$1,560,000</u>
PROJECT COST TOTAL	\$7,266,000	\$7,266,000
<u>Interest</u>	<u>\$8,334,000</u>	<u>\$8,334,000</u>
<b>PROJECT AND INTEREST COSTS TOTAL</b>	<b>\$15,600,000</b>	<b>\$15,600,000</b>

*(As Modified March 19, 2019)*

<u>USES OF TAX INCREMENT FUNDS</u>	<u>AS MODIFIED ON MARCH 19, 2019</u>
Land/Building Acquisition	\$3,466,559
Site Improvements/Preparation	\$2,159,441
Utilities	\$80,000
<u>Administrative Costs (up to 10%)</u>	<u>\$1,560,000</u>
PROJECT COST TOTAL	\$7,266,000
<u>Interest</u>	<u>\$8,334,000</u>
<b>PROJECT AND INTEREST COSTS TOTAL</b>	<b>\$15,600,000</b>

The total project cost, including financing costs (interest) listed in the table above does not exceed the total projected tax increments for the District as shown in Appendix D.

Estimated costs associated with the District are subject to change among categories without a modification to this TIF Plan. The cost of all activities to be considered for tax increment financing will not exceed, without formal modification, the budget above pursuant to the applicable statutory requirements. Pursuant to *M.S., Section 469.1763, Subd. 2*, no more than 25 percent of the tax increment paid by property within the District will be spent on activities related to development or redevelopment outside of the District but within the boundaries of the Richfield Redevelopment Project Area, (including administrative costs, which are considered to be spent outside of the District) subject to the limitations as described in this TIF Plan. The HRA and the City reserve the right to expend tax increment for activities outside the District within the limitations of *M.S., Section 469.1763, Subd. 2*.

### **Subsection 2-11. Fiscal Disparities Election**

Pursuant to *M.S., Section 469.177, Subd. 3*, the HRA or City may elect one of two methods to calculate fiscal disparities. If the calculations pursuant to *M.S., Section 469.177, Subd. 3, clause b* (within the District) are followed, the following method of computation shall apply:

- (1) The original net tax capacity shall be determined before the application of the fiscal disparity provisions of Chapter 276A or 473F. The current net tax capacity shall exclude any fiscal disparity commercial-industrial net tax capacity increase between the original year and the current year multiplied by the fiscal disparity ratio determined pursuant to M.S., Section 276A.06, subdivision 7 or M.S., Section 473F.08, subdivision 6. Where the original net tax capacity is equal to or greater than the current net tax capacity, there is no captured tax capacity and no tax increment determination. Where the original tax capacity is less than the current tax capacity, the difference between the original net tax capacity and the current net tax capacity is the captured net tax capacity. This amount less any portion thereof which the authority has designated, in its tax increment financing plan, to share with the local taxing districts is the retained captured net tax capacity of the authority.*
- (2) The county auditor shall exclude the retained captured net tax capacity of the authority from the net tax capacity of the local taxing districts in determining local taxing district tax rates. The local tax rates so determined are to be extended against the retained captured net tax capacity of the authority as well as the net tax capacity of the local taxing districts. The tax generated by the extension of the less of (A) the local taxing district tax rates or (B) the original local tax rate to the retained captured net tax capacity of the authority is the tax increment of the authority.*

**The HRA will choose to calculate fiscal disparities by clause b.**

According to *M.S., Section 469.177, Subd. 3*:

- (c) The method of computation of tax increment applied to a district pursuant to paragraph (a) or (b) shall remain the same for the duration of the district, except that the governing body may elect to change its election from the method of computation in paragraph (a) to the method in paragraph (b).*

### **Subsection 2-12. Business Subsidies**

Pursuant to *M.S., Section 116J.993, Subd. 3*, the following forms of financial assistance are not considered a business subsidy:

- (1) A business subsidy of less than \$150,000;

- (2) Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;
- (3) Public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
- (4) Redevelopment property polluted by contaminants as defined in *M.S., Section 116J.552, Subd. 3*;
- (5) Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50% of the total cost;
- (6) Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
- (7) Assistance for housing;
- (8) Assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined under *M.S., Section 469.174, Subd. 23*;
- (9) Assistance for energy conservation;
- (10) Tax reductions resulting from conformity with federal tax law;
- (11) Workers' compensation and unemployment compensation;
- (12) Benefits derived from regulation;
- (13) Indirect benefits derived from assistance to educational institutions;
- (14) Funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501 (c) (3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;
- (15) Assistance for a collaboration between a Minnesota higher education institution and a business;
- (16) Assistance for a tax increment financing soils condition district as defined under *M.S., Section 469.174, Subd. 19*;
- (17) Redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
- (18) General changes in tax increment financing law and other general tax law changes of a principally technical nature;
- (19) Federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;
- (20) Funds from dock and wharf bonds issued by a seaway port authority;
- (21) Business loans and loan guarantees of \$150,000 or less;
- (22) Federal loan funds provided through the United States Department of Commerce, Economic Development Administration; and
- (23) Property tax abatements granted under *M.S., Section 469.1813* to property that is subject to valuation under Minnesota Rules, chapter 8100.

The HRA will comply with *M.S., Sections 116J.993 to 116J.995* to the extent the tax increment assistance under this TIF Plan does not fall under any of the above exemptions.

### **Subsection 2-13. County Road Costs**

Pursuant to *M.S., Section 469.175, Subd. 1a*, the county board may require the HRA or City to pay for all or part of the cost of county road improvements if the proposed development to be assisted by tax increment will, in the judgment of the county, substantially increase the use of county roads requiring construction of road improvements or other road costs and if the road improvements are not scheduled within the next five years under a capital improvement plan or within five years under another county plan.

If the county elects to use increments to improve county roads, it must notify the HRA or City within forty-

five days of receipt of this TIF Plan. In the opinion of the HRA and City and consultants, the proposed development outlined in this TIF Plan will have little or no impact upon county roads, therefore the TIF Plan was not forwarded to the county 45 days prior to the public hearing. The HRA and City are aware that the county could claim that tax increment should be used for county roads, even after the public hearing.

**Subsection 2-14. Estimated Impact on Other Taxing Jurisdictions**

The estimated impact on other taxing jurisdictions assumes that the redevelopment contemplated by the TIF Plan would occur without the creation of the District. However, the HRA or City has determined that such development or redevelopment would not occur "but for" tax increment financing and that, therefore, the fiscal impact on other taxing jurisdictions is \$0. The estimated fiscal impact of the District would be as follows if the "but for" test was not met:

<b>IMPACT ON TAX BASE</b>			
	<b>2010/Pay 2011 Total Net Tax Capacity</b>	<b>Estimated Captured Tax Capacity (CTC) Upon Completion</b>	<b>Percent of CTC to Entity Total</b>
Hennepin County	1,320,682,751	734,734	<b>0.0556%</b>
City of Richfield	24,776,100	734,734	<b>2.9655%</b>
Richfield ISD No. 280	32,204,673	734,734	<b>2.2815%</b>

<b>IMPACT ON TAX RATES</b>				
	<b>Pay 2011 Extension Rates</b>	<b>Percent of Total</b>	<b>CTC</b>	<b>Potential Taxes</b>
Hennepin County	0.458400	33.08%	734,734	<b>336,802</b>
City of Richfield	0.567970	40.99%	734,734	<b>417,307</b>
Richfield ISD No. 280	0.267590	19.31%	110,967	<b>29,694</b>
Other	<u>0.091720</u>	<u>6.62%</u>	<u>110,967</u>	<u>10,178</u>
<b>Total</b>	1.385680	100.00%		<b>793,980</b>

The estimates listed above display the captured tax capacity when all construction is completed. The tax rate used for calculations is the actual Pay 2011 rate. The total net capacity for the entities listed above are based on actual Pay 2011 figures. The District will be certified under the actual Pay 2012 rates, which were unavailable at the time this TIF Plan was prepared.

Pursuant to *M.S. Section 469.175 Subd. 2(b)*:

- (1) Estimate of total tax increment. It is estimated that the total amount of tax increment that will be generated over the life of the District is \$15,600,000;
- (2) Probable impact of the District on city provided services and ability to issue debt. A minimal impact of the District on police protection is expected. The Police Department does track all calls for service including property-type calls and crimes. With any addition of new residents or businesses, police calls for service will be increased. New developments add an increase in traffic, and additional overall demands to the call load. The City does not expect that the proposed development, in and

of itself, will necessitate new capital investment in vehicles or require that the City hire additional officers.

The probable impact of the District on fire protection is not expected to be significant. Typically new buildings generate few calls, if any, and are of superior construction. The existing buildings, which will be eliminated by the new development, have public safety concerns that includes a vacant, blighted building with issues such as vandalism. The building will also go from a non-sprinklered building, to a fully-sprinklered building.

The impact of the District on public infrastructure is expected to be minimal. The development is not expected to significantly impact any traffic movements in the area. The current infrastructure for sanitary sewer, storm sewer and water will be able to handle the additional volume generated from the proposed development. Based on the development plans, there are no additional costs associated with street maintenance, sweeping, plowing, lighting and sidewalks. The development in the District is not expected to contribute to water (WAC) connection fees.

The probable impact of any District general obligation tax increment bonds on the ability to issue debt for general fund purposes is expected to be minimal. It is not anticipated that there will be any general obligation debt issued in relation to this project, therefore there will be no impact on the City's ability to issue future debt or on the City's debt limit.

- (3) Estimated amount of tax increment attributable to school district levies. It is estimated that the amount of tax increments over the life of the District that would be attributable to school district levies, assuming the school district's share of the total local tax rate for all taxing jurisdictions remained the same, is \$3,012,360;
- (4) Estimated amount of tax increment attributable to county levies. It is estimated that the amount of tax increments over the life of the District that would be attributable to county levies, assuming the county's share of the total local tax rate for all taxing jurisdictions remained the same, is \$5,160,480;
- (5) Additional information requested by the county or school district. The City is not aware of any standard questions in a county or school district written policy regarding tax increment districts and impact on county or school district services. The county or school district must request additional information pursuant to *M.S. Section 469.175 Subd. 2(b)* within 15 days after receipt of the tax increment financing plan.

No requests for additional information from the county or school district regarding the proposed development for the District have been received.

## **Subsection 2-15. Supporting Documentation**

Pursuant to *M.S. Section 469.175, Subd. 1 (a), clause 7* the TIF Plan must contain identification and description of studies and analyses used to make the determination set forth in *M.S. Section 469.175, Subd. 3, clause (b)(2)* and the findings are required in the resolution approving the District. Following is a list of reports and studies on file at the City that support the HRA and City's findings:

- TIF Application, The Cornerstone Group;
- Project Proformas, The Cornerstone Group;
- Report of Inspection Procedures and Results for Determining Qualifications of a Tax Increment Financing District, LHB Inc., 2011.

## **Subsection 2-16. Definition of Tax Increment Revenues**

Pursuant to *M.S., Section 469.174, Subd. 25*, tax increment revenues derived from a tax increment financing district include all of the following potential revenue sources:

1. Taxes paid by the captured net tax capacity, but excluding any excess taxes, as computed under *M.S., Section 469.177*;
2. The proceeds from the sale or lease of property, tangible or intangible, to the extent the property was purchased by the Authority with tax increments;
3. Principal and interest received on loans or other advances made by the Authority with tax increments;
4. Interest or other investment earnings on or from tax increments;
5. Repayments or return of tax increments made to the Authority under agreements for districts for which the request for certification was made after August 1, 1993; and
6. The market value homestead credit paid to the Authority under *M.S., Section 273.1384*.

## **Subsection 2-17. Modifications to the District**

In accordance with *M.S., Section 469.175, Subd. 4*, any:

1. Reduction or enlargement of the geographic area of the District, if the reduction does not meet the requirements of *M.S., Section 469.175, Subd. 4(e)*;
2. Increase in amount of bonded indebtedness to be incurred;
3. A determination to capitalize interest on debt if that determination was not a part of the original TIF Plan;
4. Increase in the portion of the captured net tax capacity to be retained by the HRA or City;
5. Increase in the estimate of the cost of the District, including administrative expenses, that will be paid or financed with tax increment from the District; or
6. Designation of additional property to be acquired by the HRA or City,

shall be approved upon the notice and after the discussion, public hearing and findings required for approval of the original TIF Plan.

Pursuant to *M.S. Section 469.175 Subd. 4(f)*, the geographic area of the District may be reduced, but shall not be enlarged after five years following the date of certification of the original net tax capacity by the county auditor. If a redevelopment district is enlarged, the reasons and supporting facts for the determination that the addition to the district meets the criteria of *M.S., Section 469.174, Subd. 10*, must be documented in writing and retained. The requirements of this paragraph do not apply if (1) the only modification is elimination of parcel(s) from the District and (2)(A) the current net tax capacity of the parcel(s) eliminated from the District equals or exceeds the net tax capacity of those parcel(s) in the District's original net tax capacity or (B) the HRA agrees that, notwithstanding *M.S., Section 469.177, Subd. 1*, the original net tax capacity will be reduced by no more than the current net tax capacity of the parcel(s) eliminated from the District.

The HRA or City must notify the County Auditor of any modification to the District. Modifications to the District in the form of a budget modification or an expansion of the boundaries will be recorded in the TIF Plan.

## **Subsection 2-18. Administrative Expenses**

In accordance with *M.S., Section 469.174, Subd. 14*, administrative expenses means all expenditures of the

HRA or City, *other than*:

1. Amounts paid for the purchase of land;
2. Amounts paid to contractors or others providing materials and services, including architectural and engineering services, directly connected with the physical development of the real property in the District;
3. Relocation benefits paid to or services provided for persons residing or businesses located in the District; or
4. Amounts used to pay principal or interest on, fund a reserve for, or sell at a discount bonds issued pursuant to *M.S., Section 469.178*; or
5. Amounts used to pay other financial obligations to the extent those obligations were used to finance costs described in clauses (1) to (3).

For districts for which the request for certification were made before August 1, 1979, or after June 30, 1982, and before August 1, 2001, administrative expenses also include amounts paid for services provided by bond counsel, fiscal consultants, and planning or economic development consultants. Pursuant to *M.S., Section 469.176, Subd. 3*, tax increment may be used to pay any **authorized and documented** administrative expenses for the District up to but not to exceed 10 percent of the total estimated tax increment expenditures authorized by the TIF Plan or the total tax increments, as defined by *M.S., Section 469.174, Subd. 25, clause (1)*, from the District, whichever is less.

For districts for which certification was requested after July 31, 2001, no tax increment may be used to pay any administrative expenses for District costs which exceed ten percent of total estimated tax increment expenditures authorized by the TIF Plan or the total tax increments, as defined in *M.S., Section 469.174, Subd. 25, clause (1)*, from the District, whichever is less.

Pursuant to *M.S., Section 469.176, Subd. 4h*, tax increments may be used to pay for the County's actual administrative expenses incurred in connection with the District and are not subject to the percentage limits of *M.S., Section 469.176, Subd. 3*. The county may require payment of those expenses by February 15 of the year following the year the expenses were incurred.

Pursuant to *M.S., Section 469.177, Subd. 11*, the County Treasurer shall deduct an amount (currently .36 percent) of any increment distributed to the HRA or City and the County Treasurer shall pay the amount deducted to the State Commissioner of Management and Budget for deposit in the state general fund to be appropriated to the State Auditor for the cost of financial reporting of tax increment financing information and the cost of examining and auditing authorities' use of tax increment financing. This amount may be adjusted annually by the Commissioner of Revenue.

### **Subsection 2-19.     Limitation of Increment**

The tax increment pledged to the payment of bonds and interest thereon may be discharged and the District may be terminated if sufficient funds have been irrevocably deposited in the debt service fund or other escrow account held in trust for all outstanding bonds to provide for the payment of the bonds at maturity or redemption date.

Pursuant to *M.S., Section 469.176, Subd. 6*:

*if, after four years from the date of certification of the original net tax capacity of the tax increment financing district pursuant to M.S., Section 469.177, no demolition, rehabilitation or renovation of property or other site preparation, including qualified improvement of a*

*street adjacent to a parcel but not installation of utility service including sewer or water systems, has been commenced on a parcel located within a tax increment financing district by the authority or by the owner of the parcel in accordance with the tax increment financing plan, no additional tax increment may be taken from that parcel and the original net tax capacity of that parcel shall be excluded from the original net tax capacity of the tax increment financing district. If the authority or the owner of the parcel subsequently commences demolition, rehabilitation or renovation or other site preparation on that parcel including qualified improvement of a street adjacent to that parcel, in accordance with the tax increment financing plan, the authority shall certify to the county auditor that the activity has commenced and the county auditor shall certify the net tax capacity thereof as most recently certified by the commissioner of revenue and add it to the original net tax capacity of the tax increment financing district. The county auditor must enforce the provisions of this subdivision. The authority must submit to the county auditor evidence that the required activity has taken place for each parcel in the district. The evidence for a parcel must be submitted by February 1 of the fifth year following the year in which the parcel was certified as included in the district. For purposes of this subdivision, qualified improvements of a street are limited to (1) construction or opening of a new street, (2) relocation of a street, and (3) substantial reconstruction or rebuilding of an existing street.*

The HRA or City or a property owner must improve parcels within the District by approximately July 2015 and report such actions to the County Auditor.

#### **Subsection 2-20. Use of Tax Increment**

The HRA or City hereby determines that it will use 100 percent of the captured net tax capacity of taxable property located in the District for the following purposes:

1. To pay the principal of and interest on bonds issued to finance a project;
2. To finance, or otherwise pay public redevelopment costs of the Richfield Redevelopment Project Area pursuant to *M.S., Sections 469.001 to 469.047*;
3. To pay for project costs as identified in the budget set forth in the TIF Plan;
4. To finance, or otherwise pay for other purposes as provided in *M.S., Section 469.176, Subd. 4*;
5. To pay principal and interest on any loans, advances or other payments made to or on behalf of the HRA or City or for the benefit of the Richfield Redevelopment Project Area by a developer;
6. To finance or otherwise pay premiums and other costs for insurance or other security guaranteeing the payment when due of principal of and interest on bonds pursuant to the TIF Plan or pursuant to *M.S., Chapter 462C, M.S., Sections 469.152 through 469.165*, and/or *M.S., Sections 469.178*; and
7. To accumulate or maintain a reserve securing the payment when due of the principal and interest on the tax increment bonds or bonds issued pursuant to *M.S., Chapter 462C, M.S., Sections 469.152 through 469.165*, and/or *M.S., Sections 469.178*.

These revenues shall not be used to circumvent any levy limitations applicable to the City nor for other purposes prohibited by *M.S., Section 469.176, Subd. 4*.

Tax increments generated in the District will be paid by Hennepin County to the HRA for the Tax Increment Fund of said District. The HRA or City will pay to the developer(s) annually an amount not to exceed an amount as specified in a developer's agreement to reimburse the costs of land acquisition, public improvements, demolition and relocation, site preparation, and administration. Remaining increment funds will be used for HRA or City administration (up to 10 percent) and for the costs of public improvement activities outside the District.

### **Subsection 2-21. Excess Increments**

Excess increments, as defined in *M.S., Section 469.176, Subd. 2*, shall be used only to do one or more of the following:

1. Prepay any outstanding bonds;
2. Discharge the pledge of tax increment for any outstanding bonds;
3. Pay into an escrow account dedicated to the payment of any outstanding bonds; or
4. Return the excess to the County Auditor for redistribution to the respective taxing jurisdictions in proportion to their local tax rates.

The HRA or City must spend or return the excess increments under paragraph (c) within nine months after the end of the year. In addition, the HRA or City may, subject to the limitations set forth herein, choose to modify the TIF Plan in order to finance additional public costs in the Richfield Redevelopment Project Area or the District.

### **Subsection 2-22. Requirements for Agreements with the Developer**

The HRA or City will review any proposal for private development to determine its conformance with the Redevelopment Plan and with applicable municipal ordinances and codes. To facilitate this effort, the following documents may be requested for review and approval: site plan, construction, mechanical, and electrical system drawings, landscaping plan, grading and storm drainage plan, signage system plan, and any other drawings or narrative deemed necessary by the HRA or City to demonstrate the conformance of the development with City plans and ordinances. The HRA or City may also use the Agreements to address other issues related to the development.

Pursuant to *M.S., Section 469.176, Subd. 5*, no more than 25 percent, by acreage, of the property to be acquired in the District as set forth in the TIF Plan shall at any time be owned by the HRA or City as a result of acquisition with the proceeds of bonds issued pursuant to *M.S., Section 469.178* to which tax increments from property acquired is pledged, unless prior to acquisition in excess of 25 percent of the acreage, the HRA or City concluded an agreement for the development or redevelopment of the property acquired and which provides recourse for the HRA or City should the development or redevelopment not be completed.

### **Subsection 2-23. Assessment Agreements**

Pursuant to *M.S., Section 469.177, Subd. 8*, the HRA or City may enter into a written assessment agreement in recordable form with the developer of property within the District which establishes a minimum market value of the land and completed improvements for the duration of the District. The assessment agreement shall be presented to the County Assessor who shall review the plans and specifications for the improvements to be constructed, review the market value previously assigned to the land upon which the improvements are to be constructed and, so long as the minimum market value contained in the assessment agreement appears, in the judgment of the assessor, to be a reasonable estimate, the County Assessor shall also certify the minimum market value agreement.

### **Subsection 2-24. Administration of the District**

Administration of the District will be handled by the Community Development Director.

## **Subsection 2-25. Annual Disclosure Requirements**

Pursuant to *M.S., Section 469.175, Subds. 5, 6, and 6b* the HRA or City must undertake financial reporting for all tax increment financing districts to the Office of the State Auditor, County Board and County Auditor on or before August 1 of each year. *M.S., Section 469.175, Subd. 5* also provides that an annual statement shall be published in a newspaper of general circulation in the City on or before August 15.

If the City fails to make a disclosure or submit a report containing the information required by *M.S., Section 469.175 Subd. 5 and Subd. 6*, the OSA will direct the County Auditor to withhold the distribution of tax increment from the District.

## **Subsection 2-26. Reasonable Expectations**

As required by the TIF Act, in establishing the District, the determination has been made that the anticipated development would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF Plan. In making said determination, reliance has been placed upon written representation made by the developer to such effects and upon HRA and City staff awareness of the feasibility of developing the project site(s) within the District. A comparative analysis of estimated market values both with and without establishment of the District and the use of tax increments has been performed as described above. Such analysis is included with the cashflow in Appendix D, and indicates that the increase in estimated market value of the proposed development (less the indicated subtractions) exceeds the estimated market value of the site absent the establishment of the District and the use of tax increments.

## **Subsection 2-27. Other Limitations on the Use of Tax Increment**

1. General Limitations. All revenue derived from tax increment shall be used in accordance with the TIF Plan. The revenues shall be used to finance, or otherwise pay public redevelopment costs of the the Richfield Redevelopment Project Area pursuant to *M.S., Sections 469.001 to 469.047*. Tax increments may not be used to circumvent existing levy limit law. No tax increment may be used for the acquisition, construction, renovation, operation, or maintenance of a building to be used primarily and regularly for conducting the business of a municipality, county, school district, or any other local unit of government or the state or federal government. This provision does not prohibit the use of revenues derived from tax increments for the construction or renovation of a parking structure.
2. Pooling Limitations. At least 75 percent of tax increments from the District must be expended on activities in the District or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities within said district or to pay, or secure payment of, debt service on credit enhanced bonds. Not more than 25 percent of said tax increments may be expended, through a development fund or otherwise, on activities outside of the District except to pay, or secure payment of, debt service on credit enhanced bonds. For purposes of applying this restriction, all administrative expenses must be treated as if they were solely for activities outside of the District.
3. Five Year Limitation on Commitment of Tax Increments. Tax increments derived from the District shall be deemed to have satisfied the 75 percent test set forth in paragraph (2) above only if the five year rule set forth in *M.S., Section 469.1763, Subd. 3*, has been satisfied; and beginning with the sixth year following certification of the District, 75 percent of said tax increments that remain after expenditures

permitted under said five year rule must be used only to pay previously committed expenditures or credit enhanced bonds as more fully set forth in *M.S., Section 469.1763, Subd. 5.*

4. Redevelopment District. At least 90 percent of the revenues derived from tax increment from a redevelopment district must be used to finance the cost of correcting conditions that allow designation of redevelopment and renewal and renovation districts under *M.S., Section 469.176 Subd. 4j.* These costs include, but are not limited to, acquiring properties containing structurally substandard buildings or improvements or hazardous substances, pollution, or contaminants, acquiring adjacent parcels necessary to provide a site of sufficient size to permit development, demolition and rehabilitation of structures, clearing of the land, the removal of hazardous substances or remediation necessary for development of the land, and installation of utilities, roads, sidewalks, and parking facilities for the site. The allocated administrative expenses of the HRA or City, including the cost of preparation of the development action response plan, may be included in the qualifying costs.

### **Subsection 2-28. Summary**

The Richfield Housing and Redevelopment Authority is establishing the District to preserve and enhance the tax base, redevelop substandard areas, and provide employment opportunities in the City. The TIF Plan for the District was prepared by Ehlers & Associates, Inc., 3060 Centre Pointe Drive, Roseville, Minnesota 55113, telephone (651) 697-8500.

## Appendix A

### Project Description

The Lyndale Gardens Tax Increment Financing District is being established to facilitate a multi-phase, mixed use redevelopment on the former Lyndale Garden Center Site. Phase I will include rehabilitation of the garden center building. It is anticipated that the commercial space will contain several uses, including an anchor tenant, office space, retail and a community space. Phase II will include construction of approximately 100 units of rental housing with a mixture of market rate and affordable units. The final phase is anticipated to include the substantial rehabilitation of additional market rate and affordable housing units.

It is anticipated that financing for the redevelopment project will be provided through a pay-as-you-go note and an interfund loan from the HRA.

*(As Modified March 19, 2019)*

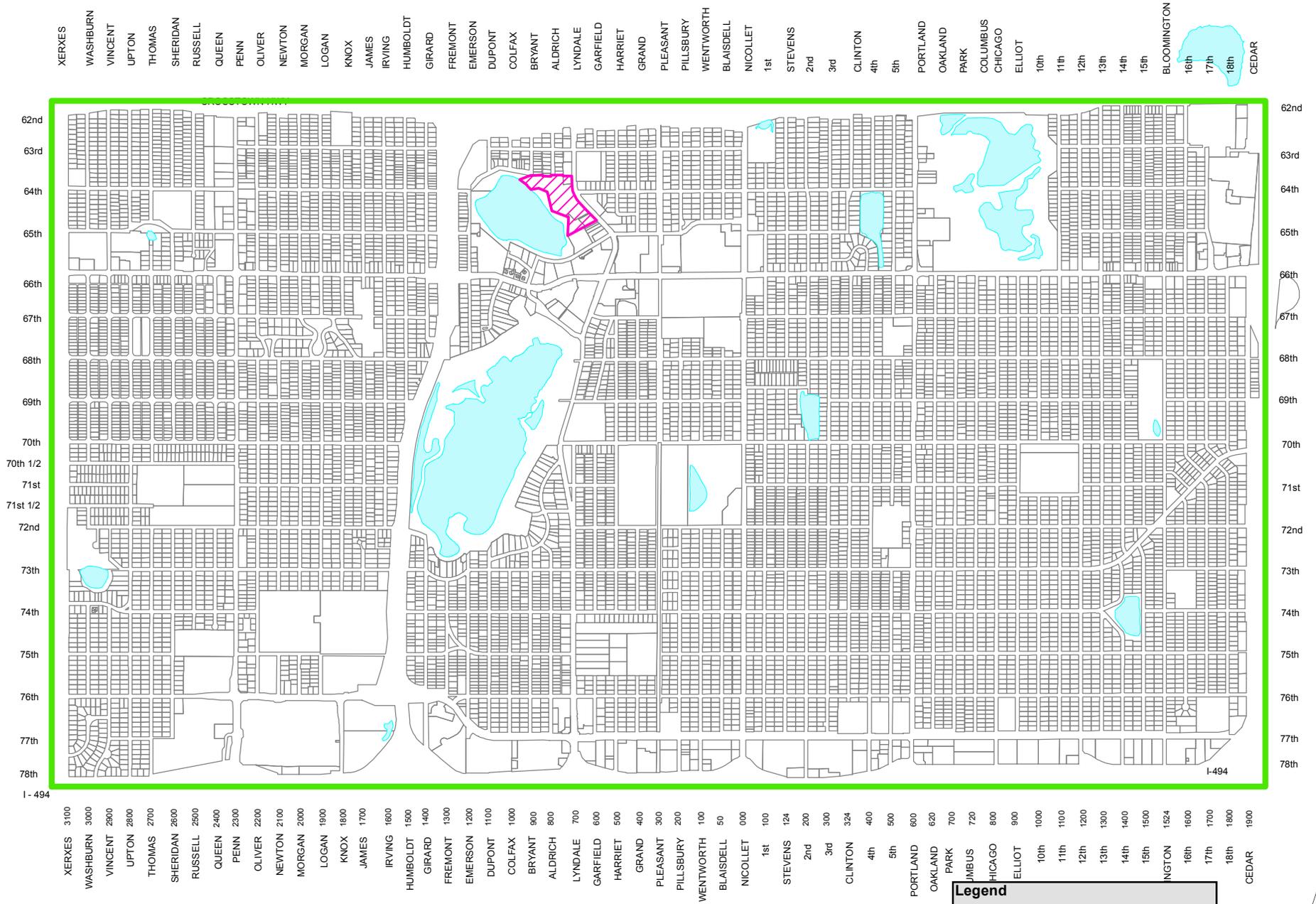
The proposed development in the Lyndale Gardens Tax Increment Financing District is being modified to include the Lakewinds Co-op, approximately 8 units of rental townhomes, approximately 66 units of rental apartment units, approximately 6,000 square feet of commercial / retail space and approximately 30 units of owner occupied townhomes.

It is anticipated that two pay-as-you-go notes will be issued to the Master Developer and Secondary Developer.

## Appendix B

### Map of the Richfield Redevelopment Project Area and the District

# PROPOSED LYNDALE GARDENS TIF DISTRICT



May 2011

## Appendix C

### Description of Property to be Included in the District

At the time of approval, the District encompassed all property and adjacent rights-of-way and abutting roadways identified by the parcels listed below.

<u>Parcel Numbers</u>	<u>Address</u>	<u>Owner</u>
28-028-24-11-0080	6400 Lyndale Ave. S.	Rancho Richfield, LLC
28-028-24-11-0002	6330 Lyndale Ave. S.	Roy E. Peterson
27-028-24-23-0064	6430 Lyndale Ave. S.	Rancho Richfield, LLC
27-028-24-23-0065	840 65th St. W.	800 Company, LLP

After adoption of the TIF Plan, the area was replatted. Parcel 27-028-24-23-0065 was combined with adjacent parcels resulting in parcel 27-028-24-23-0110.

The following is a list of the parcels after replatting and as certified for the District.

<u>Parcel Numbers</u>	<u>Address</u>
28-028-24-11-0088	6400 Lyndale Ave. S.
28-028-24-11-0002	6330 Lyndale Ave. S.
27-028-24-23-0064	6430 Lyndale Ave. S.

*(As Modified March 19, 2019)*

The following is a list of the parcels after replatting:

Secondary Developer Property:	PID : 28-028-24-11-0090 (portion for Apartments) PID : 28-028-24-11-0089 (portion for Apartments)
Master Developer Property:	PID : 27-028-24-23-0114 (Lakewinds) PID : 27-028-24-23-0115 (Lakewinds Parking) PID : 28-028-24-11-0090 (portion for Retail) PID : 28-028-24-11-0089 (portion for Condominiums)

Appendix D

Estimated Cash Flow for the District



**EHLERS**  
& ASSOCIATES INC

**Lyndale Garden Center - 4.0% Inflation**

City of Richfield

95 Units of Rental Housing with Commercial and Public Space in Phase I and Phase II  
(Information based on project information received 5/24/2011 plus estimates for housing in Phase III)

**ASSUMPTIONS AND RATES**

<b>DistrictType:</b>	Redevelopment	Maximum/Frozen Local Tax Rate:	138.568%	Pay 2011
<b>District Name/Number:</b>	TDB	Current Local Tax Rate: (Use lesser of Current or Max.)	138.568%	Pay 2011
<b>County District #:</b>	TBD	State-wide Tax Rate (Comm./Ind. only used for total taxes)	49.0430%	Pay 2011
<b>First Year Construction or Inflation on Value</b>	2012	Market Value Tax Rate (Used for total taxes)	0.14886%	Pay 2011
<b>Existing District - Specify No. Years Remaining</b>		<b>PROPERTY TAX CLASSES AND CLASS RATES:</b>		
Inflation Rate - Every Year:	4.00%	Exempt Class Rate (Exempt)	0.00%	
Developer's Interest Rate:	5.50%	Commercial Industrial Preferred Class Rate (C/I Pref.)		
Present Value Date:	1-Feb-12	First \$150,000	1.50%	
First Period Ending	1-Aug-12	Over \$150,000	2.00%	
Tax Year District was Certified:	Pay 2012	Commercial Industrial Class Rate (C/I)	2.00%	
Cashflow Assumes First Tax Increment For District:	2014	Rental Housing Class Rate (Rental)	1.25%	
Years of Tax Increment	26	Affordable Rental Housing Class Rate (Aff. Rental)	0.75%	
Assumes Last Year of Tax Increment	2039	Non-Homestead Residential (Non-H Res.)	1.25%	
Fiscal Disparities Election [Outside (A), Inside (B), or NA]	Inside(B)	Homestead Residential Class Rate (Hmstd. Res.)		
Incremental or Total Fiscal Disparities	Incremental	First \$500,000	1.00%	
Fiscal Disparities Contribution Ratio	41.5461%	Over \$500,000	1.25%	
Fiscal Disparities Metro-Wide Tax Rate	129.3270%	Agricultural Non-Homestead	1.00%	

**BASE VALUE INFORMATION (Original Tax Capacity)**

Map #	PID	Owner	Address	Land Market Value	Building Market Value	Total Market Value	Percentage Of Value Used for District	Original Market Value	Tax Year Original Market Value	Property Tax Class	Current Original Tax Capacity	Class After Conversion	After Conversion Orig. Tax Cap.	Area/Phase
28-028-24-11-0080		Rancho Richfield	6400 Lyndale Ave. S.	2,675,000	1,000	2,676,000	50%	1,338,000	Pay 2012	C/I Pref.	26,010	C/I Pref.	26,010	1
28-028-24-11-0080		Rancho Richfield	6400 Lyndale Ave. S.	2,675,000	1,000	2,676,000	30%	802,800	Pay 2012	C/I	16,056	Rental	10,035	2
28-028-24-11-0080		Rancho Richfield	6400 Lyndale Ave. S.	2,675,000	1,000	2,676,000	20%	535,200	Pay 2012	C/I	10,704	Aff. Rental	4,014	2
28-028-24-11-0002		Roy Peterson	6330 Lyndale Ave. S.	216,000	128,000	344,000	100%	344,000	Pay 2012	C/I Pref.	6,130	Rental	4,300	2
27-028-24-23-0064		Rancho Richfield	6430 Lyndale Ave. S.	249,000	0	249,000	100%	249,000	Pay 2012	C/I Pref.	4,230	C/I Pref.	4,230	2
27-028-24-23-0065		800 Company LLP	840 65th St.	264,000	887,000	1,151,000	100%	1,151,000	Pay 2012	Non-H Res.	14,388	Rental	14,388	3
				<b>8,754,000</b>	<b>1,018,000</b>	<b>9,772,000</b>		<b>4,420,000</b>			<b>77,518</b>		<b>62,977</b>	

**Note:**

1. Base values are based upon Hennepin County website for Pay 2012. Percent for development is based on estimates.


**EHLERS**  
 & ASSOCIATES INC

**Lyndale Garden Center - 4.0% Inflation**

City of Richfield

95 Units of Rental Housing with Commercial and Public Space in Phase I and Phase II

PROJECT INFORMATION (Project Tax Capacity)											
Area/Phase	New Use	Total Sq. Ft./Units	Market Value Sq. Ft./Units	Market Value	Property Tax Class	Project Tax Capacity	Percentage Completed 2012	Percentage Completed 2013	Percentage Completed 2014	Percentage Completed 2015	First Year Full Taxes Payable
2	Market Rent	69	169,724	11,710,956	Rental	146,387	0%	75%	100%	100%	2016
2	Affordable Rent	26	169,724	4,412,824	Aff. Rental	33,096	0%	75%	100%	100%	2016
1	Anchor	28,000	125	3,500,000	C/I Pref.	69,250	100%	100%	100%	100%	2014
1	Flex space	15,000	125	1,875,000	C/I	37,500	100%	100%	100%	100%	2014
1	Common	5,968	110	656,480	C/I	13,130	100%	100%	100%	100%	2014
1	Office/Edu	9,225	125	1,153,125	C/I	23,063	100%	100%	100%	100%	2014
3	Housing	80		2,877,500	Rental	35,969	0%	0%	0%	100%	2017
<b>TOTAL</b>				<b>26,185,885</b>		<b>358,394</b>					
<b>Subtotal Residential</b>		<b>175</b>		<b>19,001,280</b>		<b>215,452</b>					
<b>Subtotal Commercial/Ind.</b>		<b>58,193</b>		<b>7,184,605</b>		<b>142,942</b>					

**Note:**

1. Market values are based upon estimates from the developer. Phase 3 values are estimates for rehabilitation of existing units.
2. Assumes 20% affordable housing, per Cornerstone.
3. Developer has requested first increment in 2014. District is anticipated to be certified with Pay 2012 values.

TAX CALCULATIONS									
New Use	Total Tax Capacity	Fiscal Disparities Tax Capacity	Local Tax Capacity	Local Property Taxes	Fiscal Disparities Taxes	State-wide Property Taxes	Market Value Taxes	Total Taxes	Taxes Per Sq. Ft./Unit
Market Rent	146,387	0	146,387	202,845	0	0	17,433	220,278	3,192.44
Affordable Rent	33,096	0	33,096	45,861	0	0	6,569	52,430	2,016.52
Anchor	69,250	28,771	40,479	56,091	37,208	33,962	5,210	132,472	4.73
Flex space	37,500	15,580	21,920	30,374	20,149	18,391	2,791	71,706	4.78
Common	13,130	5,455	7,675	10,635	7,055	6,439	977	25,106	4.21
Office/Edu	23,063	9,582	13,481	18,680	12,392	11,311	1,717	44,099	4.78
Housing	35,969	0	35,969	49,841	0	0	4,283	54,125	676.56
<b>TOTAL</b>	<b>358,394</b>	<b>59,387</b>	<b>299,007</b>	<b>414,328</b>	<b>76,803</b>	<b>70,103</b>	<b>38,980</b>	<b>600,215</b>	

**Note:**

1. Taxes and tax increment will vary significantly from year to year depending upon values, rates, state law, fiscal disparities and other factors which cannot be predicted.

**WHAT IS EXCLUDED FROM TIF?**

Total Property Taxes	600,215
less State-wide Taxes	(70,103)
less Fiscal Disp. Adj.	(76,803)
less Market Value Taxes	(38,980)
less Base Value Taxes	(69,856)
<b>Annual Gross TIF</b>	<b>344,472</b>

**MARKET VALUE BUT / FOR ANALYSIS**

Current Market Value - Est.	4,420,000
New Market Value - Est.	26,185,885
Difference	21,765,885
Present Value of Tax Increment	6,302,782
Difference	15,463,103
Value likely to occur without Tax Increment is less than:	15,463,103



**Lyndale Garden Center - 4.0% Inflation  
City of Richfield**

**95 Units of Rental Housing with Commercial and Public Space in Phase I and Phase II**

TAX INCREMENT CASH FLOW														
% of OTC	Project Tax Capacity	Original Tax Capacity	Fiscal Disparities Incremental	Captured Tax Capacity	Local Tax Rate	Annual Gross Tax Increment	Semi-Annual Gross Tax Increment	State Auditor 0.36%	Admin. at 10%	Semi-Annual Net Tax Increment	Semi-Annual Present Value	PERIOD ENDING Yrs.	Tax Year	Payment Date
														08/01/12
														02/01/13
														08/01/13
														02/01/14
100%	142,942	(62,977)	(46,823)	33,142	139%	45,925	22,962	(83)	(2,288)	20,592	17,980	0.5	2014	08/01/14
							22,962	(83)	(2,288)	20,592	35,478	1	2014	02/01/15
100%	283,272	(62,977)	(46,823)	173,472	139%	240,377	120,189	(433)	(11,976)	107,780	124,617	1.5	2015	08/01/15
							120,189	(433)	(11,976)	107,780	211,370	2	2015	02/01/16
100%	334,089	(62,977)	(46,823)	224,289	139%	310,793	155,397	(559)	(15,484)	139,354	320,535	2.5	2016	08/01/16
							155,397	(559)	(15,484)	139,354	426,777	3	2016	02/01/17
100%	383,422	(62,977)	(46,823)	273,622	139%	379,152	189,576	(682)	(18,889)	170,004	552,919	3.5	2017	08/01/17
							189,576	(682)	(18,889)	170,004	675,685	4	2017	02/01/18
100%	398,758	(62,977)	(48,696)	287,086	139%	397,809	198,904	(716)	(19,819)	178,370	801,045	4.5	2018	08/01/18
							198,904	(716)	(19,819)	178,370	923,049	5	2018	02/01/19
100%	414,709	(62,977)	(50,644)	301,088	139%	417,212	208,606	(751)	(20,785)	187,069	1,047,579	5.5	2019	08/01/19
							208,606	(751)	(20,785)	187,069	1,168,777	6	2019	02/01/20
100%	431,297	(62,977)	(52,670)	315,651	139%	437,391	218,696	(787)	(21,791)	196,117	1,292,436	6.5	2020	08/01/20
							218,696	(787)	(21,791)	196,117	1,412,785	7	2020	02/01/21
100%	448,549	(62,977)	(54,777)	330,796	139%	458,377	229,189	(825)	(22,836)	205,527	1,535,533	7.5	2021	08/01/21
							229,189	(825)	(22,836)	205,527	1,654,996	8	2021	02/01/22
100%	466,491	(62,977)	(56,968)	346,547	139%	480,203	240,101	(864)	(23,924)	215,313	1,776,797	8.5	2022	08/01/22
							240,101	(864)	(23,924)	215,313	1,895,339	9	2022	02/01/23
100%	485,151	(62,977)	(59,246)	362,928	139%	502,902	251,451	(905)	(25,055)	225,491	2,016,161	9.5	2023	08/01/23
							251,451	(905)	(25,055)	225,491	2,133,750	10	2023	02/01/24
100%	504,557	(62,977)	(61,616)	379,964	139%	526,508	263,254	(948)	(26,231)	236,076	2,253,563	10.5	2024	08/01/24
							263,254	(948)	(26,231)	236,076	2,370,170	11	2024	02/01/25
100%	524,739	(62,977)	(64,081)	397,682	139%	551,059	275,530	(992)	(27,454)	247,084	2,488,948	11.5	2025	08/01/25
							275,530	(992)	(27,454)	247,084	2,604,547	12	2025	02/01/26
100%	545,729	(62,977)	(66,644)	416,108	139%	576,592	288,296	(1,038)	(28,726)	258,532	2,722,265	12.5	2026	08/01/26
							288,296	(1,038)	(28,726)	258,532	2,836,832	13	2026	02/01/27
100%	567,558	(62,977)	(69,310)	435,271	139%	603,147	301,573	(1,086)	(30,049)	270,439	2,953,468	13.5	2027	08/01/27
							301,573	(1,086)	(30,049)	270,439	3,066,982	14	2027	02/01/28
100%	590,260	(62,977)	(72,082)	455,201	139%	630,763	315,382	(1,135)	(31,425)	282,822	3,182,517	14.5	2028	08/01/28
							315,382	(1,135)	(31,425)	282,822	3,294,959	15	2028	02/01/29
100%	613,870	(62,977)	(74,966)	475,928	139%	659,484	329,742	(1,187)	(32,856)	295,700	3,409,375	15.5	2029	08/01/29
							329,742	(1,187)	(32,856)	295,700	3,520,729	16	2029	02/01/30
100%	638,425	(62,977)	(77,964)	497,484	139%	689,354	344,677	(1,241)	(34,344)	309,093	3,634,011	16.5	2030	08/01/30
							344,677	(1,241)	(34,344)	309,093	3,744,261	17	2030	02/01/31
100%	663,962	(62,977)	(81,083)	519,903	139%	720,419	360,209	(1,297)	(35,891)	323,021	3,856,395	17.5	2031	08/01/31
							360,209	(1,297)	(35,891)	323,021	3,965,529	18	2031	02/01/32
100%	690,521	(62,977)	(84,326)	543,218	139%	752,726	376,363	(1,355)	(37,501)	337,507	4,076,505	18.5	2032	08/01/32
							376,363	(1,355)	(37,501)	337,507	4,184,510	19	2032	02/01/33
100%	718,142	(62,977)	(87,699)	567,466	139%	786,326	393,163	(1,415)	(39,175)	352,573	4,294,317	19.5	2033	08/01/33
							393,163	(1,415)	(39,175)	352,573	4,401,186	20	2033	02/01/34
100%	746,867	(62,977)	(91,207)	592,683	139%	821,270	410,635	(1,478)	(40,916)	368,241	4,509,816	20.5	2034	08/01/34
							410,635	(1,478)	(40,916)	368,241	4,615,538	21	2034	02/01/35
100%	776,742	(62,977)	(94,855)	618,910	139%	857,611	428,806	(1,544)	(42,726)	384,536	4,722,984	21.5	2035	08/01/35
							428,806	(1,544)	(42,726)	384,536	4,827,555	22	2035	02/01/36
100%	807,812	(62,977)	(98,650)	646,185	139%	895,406	447,703	(1,612)	(44,609)	401,482	4,933,811	22.5	2036	08/01/36
							447,703	(1,612)	(44,609)	401,482	5,037,224	23	2036	02/01/37
100%	840,124	(62,977)	(102,596)	674,552	139%	934,713	467,356	(1,682)	(46,567)	419,107	5,142,288	23.5	2037	08/01/37
							467,356	(1,682)	(46,567)	419,107	5,244,539	24	2037	02/01/38
100%	873,729	(62,977)	(106,700)	704,053	139%	975,592	487,796	(1,756)	(48,604)	437,436	5,348,406	24.5	2038	08/01/38
							487,796	(1,756)	(48,604)	437,436	5,449,493	25	2038	02/01/39
100%	908,678	(62,977)	(110,967)	734,734	139%	1,018,106	509,053	(1,833)	(50,722)	456,499	5,552,162	25.5	2039	08/01/39
							509,053	(1,833)	(50,722)	456,499	5,652,083	26	2039	02/01/40
<b>Total</b>							<b>15,669,219</b>	<b>(56,409)</b>	<b>(1,561,281)</b>	<b>14,051,529</b>				
	<b>Present Value From 02/01/2012</b>		<b>Present Value Rate</b>		<b>5.50%</b>		<b>6,302,782</b>	<b>(22,690)</b>	<b>(628,009)</b>	<b>5,652,083</b>				

## Appendix E

### Minnesota Business Assistance Form (Minnesota Department of Employment and Economic Development)

A Minnesota Business Assistance Form (MBAF) should be used to report and/or update each calendar year's activity by April 1 of the following year.

Please see the Minnesota Department of Employment and Economic Development (DEED) website at <http://www.deed.state.mn.us/Community/subsidies/MBAFForm.htm> for information and forms.

## Appendix F

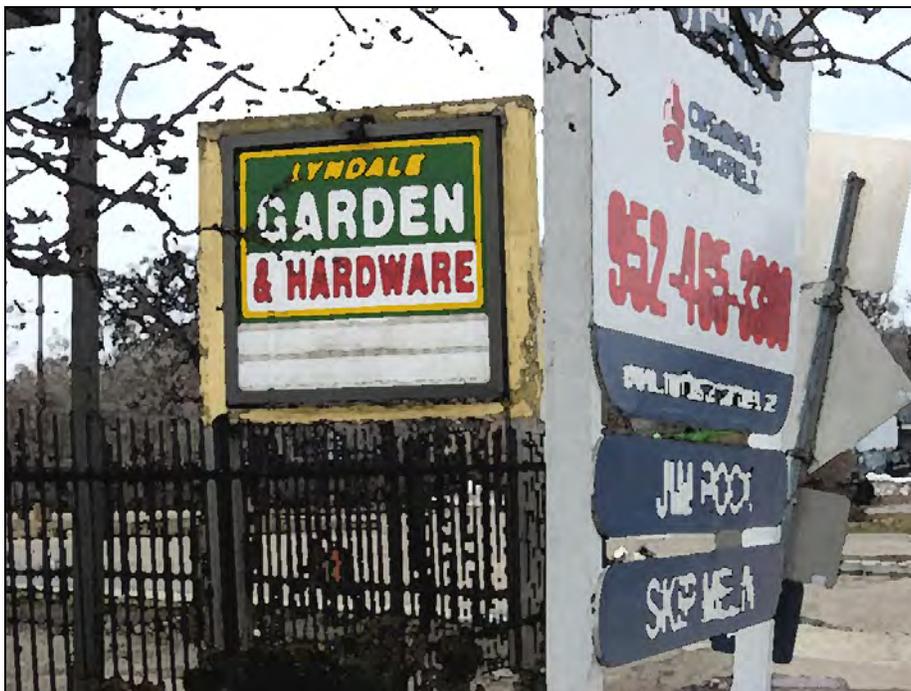
### Redevelopment Qualifications for the District

**REPORT OF  
INSPECTION PROCEDURES AND RESULTS  
FOR  
DETERMINING QUALIFICATIONS OF A  
TAX INCREMENT FINANCING DISTRICT  
AS A REDEVELOPMENT DISTRICT**

**Lyndale Garden TIF District  
Richfield, Minnesota**

LHB Project No. 110189

July 22, 2011



Prepared For The

**City of Richfield HRA**

Prepared by



LHB, Inc.

250 Third Avenue North, Suite 450  
Minneapolis, Minnesota 55401

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## **PART 1 – EXECUTIVE SUMMARY**

### **PURPOSE OF EVALUATION**

LHB was hired by the City of Richfield HRA to inspect and evaluate the properties within a Tax Increment Financing Redevelopment District (“TIF District”) proposed to be established by the HRA. The proposed TIF District is located on and immediately adjacent to the Lyndale Garden Center property, between Richfield Lake and Lyndale Avenue (Diagram 1). The purpose of LHB’s work was to determine whether the proposed TIF District meets the statutory requirements for coverage, and whether three buildings on four parcels, located within the proposed TIF District, meet the qualifications required for a Redevelopment District.



Diagram 1 – Proposed TIF District

## **SCOPE OF WORK**

The proposed TIF District consists of four (4) parcels with three (3) structures.

The buildings received an on-site interior and exterior inspection on March 31, 2011. The building on map parcel no. 3 was not inspected as it did not appear likely to be found substandard. Building code and Condition Deficiency reports are located in Appendix B.

## **CONCLUSION**

After inspecting and evaluating the properties within the proposed TIF District and applying current statutory criteria for a Redevelopment District under *Minnesota Statutes, Section 469.174, Subdivision 10*, it is our professional opinion that the proposed TIF District qualifies as a Redevelopment District because:

- The proposed TIF District has a coverage calculation of 100 percent which is above the 70 percent requirement.
- 66.7 percent of the buildings are structurally substandard which is above the 50 percent requirement.
- The substandard buildings are reasonably distributed throughout the geographic area of the proposed TIF District.

The remainder of this report describes our process and findings in detail.

## **PART 2 – MINNESOTA STATUTE 469.174, SUBDIVISION 10 REQUIREMENTS**

The properties were inspected in accordance with the following requirements under *Minnesota Statutes, Section 469.174, Subdivision 10(c)*, which states:

### **Interior Inspection**

“The municipality may not make such determination [that the building is structurally substandard] without an interior inspection of the property...”

### **Exterior Inspection and Other Means**

“An interior inspection of the property is not required, if the municipality finds that  
(1) the municipality or authority is unable to gain access to the property after using its best efforts to obtain permission from the party that owns or controls the property; and  
(2) the evidence otherwise supports a reasonable conclusion that the building is structurally substandard.”

### **Documentation**

“Written documentation of the findings and reasons why an interior inspection was not conducted must be made and retained under section 469.175, subdivision 3(1).”

## **Qualification Requirements**

*Minnesota Statutes, Section 469.174, Subdivision 10 (a) (1)* requires two tests for occupied parcels:

### **A. Coverage Test**

...“parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, or paved or gravel parking lots”

The coverage required by the parcel to be considered occupied is defined under *Minnesota Statutes, Section 469.174, Subdivision 10(e)*, which states: “For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, or paved or gravel parking lots unless 15 percent of the area of the parcel contains building, streets, utilities, or paved or gravel parking lots.”

### **B. Condition of Buildings Test**

...“and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance;”

1. Structurally substandard is defined under *Minnesota Statutes, Section 469.174, Subdivision 10(b)*, which states: “For purposes of this subdivision, ‘structurally substandard’ shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.”

a. We do not count energy code deficiencies toward the thresholds required by *Minnesota Statutes, Section 469.174, Subdivision 10(b)*) defined as “structurally substandard”, due to concerns expressed by the State of Minnesota Court of Appeals in the *Walser Auto Sales, Inc. vs. City of Richfield* case filed November 13, 2001.

2. Buildings are not eligible to be considered structurally substandard unless they meet certain additional criteria, as set forth in Subdivision 10(c) which states:

“A building is not structurally substandard if it is in compliance with the building code applicable to new buildings or could be modified to satisfy the building code at a cost of less than 15 percent of the cost of constructing a new structure of the same square footage and type on the site. The municipality may find that a building is not disqualified as structurally substandard under the preceding sentence on the basis of reasonably available evidence, such as the size, type, and age of the building, the average cost of plumbing, electrical, or structural repairs, or other similar reliable evidence.”

“Items of evidence that support such a conclusion [that the building is not disqualified] include recent fire or police inspections, on-site property appraisals or housing inspections, exterior evidence of deterioration, or other similar reliable evidence.”

LHB counts energy code deficiencies toward the 15 percent code threshold required by *Minnesota Statutes, Section 469.174, Subdivision 10(c)* for the following reasons:

- The Minnesota energy code is one of ten building code areas highlighted by the Minnesota Department of Labor and Industry website where minimum construction standards are required by law.
- The index page of the 2007 Minnesota Building Code lists the Minnesota Energy Code as a “Required Enforcement” area compared to an additional list of “Optional Enforcement” chapters.
- The Senior Building Code Representative for the Construction Codes and Licensing Division of the Minnesota Department of Labor and Industry confirmed that the Minnesota Energy Code is being enforced throughout the State of Minnesota.
- In a January 2002 report to the Minnesota Legislature, the Management Analysis Division of the Minnesota Department of Administration confirmed that the construction cost of new buildings complying with the Minnesota Energy Code is higher than buildings built prior to the enactment of the code.
- Proper TIF analysis requires a comparison between the replacement value of a new building built under current code standards with the repairs that would be necessary to bring the existing building up to current code standards. In order for an equal comparison to be made, all applicable code chapters should be applied to both scenarios. Since current construction estimating software automatically applies the construction cost of complying with the Minnesota Energy Code, energy code deficiencies should also be identified in the existing structures.

### **PART 3 – PROCEDURES FOLLOWED**

LHB was able to schedule interior and exterior inspections for two buildings on March 31, 2011, and made the following findings:

### **PART 4 – FINDINGS**

#### **A. Coverage Test**

1. The total square foot area of each parcel in the proposed TIF District was obtained from City records, GIS mapping and site verification.

2. The total square foot area of buildings and site improvements on the parcels in the proposed TIF District was obtained from City records, GIS mapping and site verification.
3. The percentage of coverage for each parcel in the proposed TIF District was computed to determine if the 15 percent minimum requirement was met. The total square footage of parcels meeting the 15 percent requirement was divided into the total square footage of the entire district to determine if the 70 percent requirement was met.

**Finding:**

The proposed TIF District met the coverage test under *Minnesota Statutes, Section 469.174, Subdivision 10(e)*, which resulted in parcels consisting of 100 percent of the area of the proposed TIF District being occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures (Diagram 2). This exceeds the 70 percent area coverage requirement for the proposed TIF District under *Minnesota Statutes, Section 469.174, Subdivision (a) (1)*.



Diagram 2 – Coverage Diagram

Shaded area depicts a parcel more than 15 percent occupied by buildings, streets, utilities, Paved or gravel parking lots or other similar structures

## **B. Condition of Building Test**

### **1. Building Inspection**

The first step in the evaluation process is the building inspection. After an initial walk-thru, the inspector makes a judgment whether or not a building “appears” to have enough defects or deficiencies of sufficient total significance to justify substantial renovation or clearance. If it does, the inspector documents with notes and photographs code and non-code deficiencies in the building.

### **2. Replacement Cost**

The second step in evaluating a building to determine if it is substandard to a degree requiring substantial renovation or clearance is to determine its replacement cost. This is the cost of constructing a new structure of the same square footage and type on site. Replacement costs were researched using R.S. Means Cost Works square foot models for 2011.

A replacement cost was calculated by first establishing building use (office, retail, residential, etc.), building construction type (wood, concrete, masonry, etc.), and building size to obtain the appropriate median replacement cost, which factors in the costs of construction in Richfield, Minnesota.

Replacement cost includes labor, materials, and the contractor’s overhead and profit. Replacement costs do not include architectural fees, legal fees or other “soft” costs not directly related to construction activities. Replacement cost for each building is tabulated in Appendix A.

### **3. Code Deficiencies**

The next step in evaluating a building is to determine what code deficiencies exist with respect to such building. Code deficiencies are those conditions for a building which are not in compliance with current building codes applicable to new buildings in the State of Minnesota.

*Minnesota Statutes, Section 469.174, Subdivision 10(c)*, specifically provides that a building cannot be considered structurally substandard if its code deficiencies are not at least 15 percent of the replacement cost of the building. As a result, it was necessary to determine the extent of code deficiencies for each building in the proposed TIF District.

The evaluation was made by reviewing all available information with respect to such buildings contained in City Building Inspection records and making interior and exterior inspections of the buildings. LHB utilizes the current Minnesota State Building Code as the official code for our evaluations. The Minnesota State Building Code is actually a series of provisional codes written specifically for Minnesota only requirements, adoption of several international codes, and amendments to the adopted international codes.

After identifying the code deficiencies in each building, we used R.S. Means Cost Works 2011; Unit and Assembly Costs to determine the cost of correcting the identified deficiencies. We were then able to compare the correction costs with the replacement cost of each building to determine if the costs for correcting code deficiencies meet the required 15 percent threshold.

**Finding:**

Two (2) out of three (3) buildings (66.7 percent) in the proposed TIF District contained code deficiencies exceeding the 15 percent threshold required by *Minnesota Statutes, Section 469.174, Subdivision 10(c)*. A complete Building Code and Condition Deficiency report for each building in the proposed TIF District can be found in Appendix B of this report.

**4. System Condition Deficiencies**

If a building meets the minimum code deficiency threshold under *Minnesota Statutes, Section 469.174, Subdivision 10(c)*, then in order for such building to be “structurally substandard” under *Minnesota Statutes, Section 469.174, Subdivision 10(b)*, the building’s defects or deficiencies should be of sufficient total significance to justify “substantial renovation or clearance.” Based on this definition, LHB re-evaluated each of the buildings that met the code deficiency threshold under *Minnesota Statutes, Section 469.174, Subdivision 10(c)*, to determine if the total deficiencies warranted “substantial renovation or clearance” based on the criteria we outlined above.

System condition deficiencies are a measurement of defects or substantial deterioration in site elements, structure, exterior envelope, mechanical and electrical components, fire protection and emergency systems, interior partitions, ceilings, floors and doors.

The evaluation of system condition deficiencies was made by reviewing all available information contained in City records, and making interior and exterior inspections of the buildings. LHB only identified system condition deficiencies that were visible upon our inspection of the building or contained in City records. We did not consider the amount of “service life” used up for a particular component unless it was an obvious part of that component’s deficiencies.

After identifying the system condition deficiencies in each building, we used our professional judgment to determine if the list of defects or deficiencies are of sufficient total significance to justify “substantial renovation or clearance.”

**Finding:**

In our professional opinion, two (2) out of three (3) buildings (66.7 percent) in the proposed TIF District are structurally substandard to a degree requiring substantial renovation or clearance, because of defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection

including adequate egress, layout and condition of interior partitions, or similar factors which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance. This exceeds the 50 percent requirement of Subdivision 10a(1).

**C. Distribution of substandard structures**

Much of this report has focused on the condition of individual buildings as they relate to requirements identified by *Minnesota Statutes, Section 469.174, Subdivision 10*. It is also important to look at the distribution of substandard buildings throughout the geographic area of the proposed TIF District (Diagram 3).

**Finding:**

The substandard buildings are reasonably distributed throughout the geographic area of the proposed TIF District.



**Diagram 3 – Substandard Buildings**  
Shaded area depicts parcels with substandard buildings

## **PART 5 - TEAM CREDENTIALS**

### ***Michael A. Fischer, AIA LEED AP - Project Principal/TIF Analyst***

Michael has twenty-four years of architectural experience as project principal, project manager, project designer and project architect on municipal planning, educational, commercial and governmental projects. He is a Senior Vice President at LHB and currently leads the Minneapolis office. Michael completed a two-year Bush Fellowship at the Massachusetts Institute of Technology in 1999, earning Masters Degrees in City Planning and Real Estate Development. Michael has served on over 35 committees, boards and community task forces, including a term as City Council President and Chair of the Duluth/Superior Metropolitan Planning organization. He is currently Chair of the Planning Commission in Edina, Minnesota. He was one of four architects in the country to receive the National "Young Architects Citation" from the American Institute of Architects in 1997.

### ***Ben Trousdale, AIA - Project Manager/Inspector***

Ben is a project architect in LHB's Minneapolis office with 20 years of experience working on a variety of multi-family housing and commercial projects. He has extensive skills in creating quality construction documents that convey a building's fundamentals and unique design details. His responsibilities include project management, code analysis, and overseeing document production. Ben is a licensed architect in Minnesota and is involved with AIA activities including Search for Shelter charrettes.

### ***Lydia Major, MLA, ASLA - GIS/Mapping***

Lydia brings a passion for design that benefits the client, the community, and the environment. Her experience includes designing and drafting commercial and residential properties at a variety of scales. Lydia integrates her skills with AutoCAD, ArcGIS, and the Adobe Creative Suite to produce plans, color renderings, booklets, and other presentation materials. Communication is a critical component in all projects, and Lydia's uses her education as a writer to create compelling project documents, including proposals, requests for variance, and other public-relations materials.

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## **APPENDICES**

APPENDIX A	Property Condition Assessment Summary Sheet
APPENDIX B	Building Code and Condition Deficiencies Reports
APPENDIX C	Building Replacement Cost Reports
	Code Deficiency Cost Reports
	Photographs

**APPENDIX A**

**Property Condition Assessment Summary Sheet**



7/22/11

# Lyndale Garden Redevelopment TIF Analysis

## SUMMARY SPREADSHEET

TIF Map No.	PID #	Owner/Business	Property Address	Improved or Vacant	Survey Method Used	Site Area (S.F.)	Coverage Area of Improvements (S.F.)	Coverage Percent of Improvements	Coverage Quantity (S.F.)	No. of Buildings	Building Replacement Cost	15% of Replacement Cost	Building Code Deficiencies	No. of Buildings Exceeding 15% Criteria	No. of buildings determined substandard
1	28-028-24-11-0002	Roy E. Peterson	6330 Lyndale Avenue South	Improved	Interior/Exterior	17,708	16,892	95.4%	17,708	1	\$889,000	\$133,350	\$316,700	1	1
2	28-028-24-11-0080	Rancho Richfield LLC	6400 Lyndale Avenue South	Improved	Interior/Exterior	401,494	149,932	37.3%	401,494	1	\$4,687,000	\$703,050	\$2,023,826	1	1
3	27-028-24-23-0065	800 Company LLC	840 65th Street West	Improved	Exterior	48,955	30,270	61.8%	48,955	1	Note 1	Note 1	Note 1	0	0
4	27-028-24-23-0064	Rancho Richfield LLC	6430 Lyndale Avenue South	Vacant	Exterior	27,963	27,963	100.0%	27,963	0					
<b>TOTALS</b>						496,120			496,120	3				2	2
									<b>Total Coverage Percent:</b>		<b>100.0%</b>				
													<b>Percent of buildings exceeding 15 percent code deficiency threshold:</b>	<b>66.7%</b>	
													<b>Percent of buildings determined substandard:</b>	<b>66.7%</b>	

Note 1: This building was not inspected because it did not appear substandard from the exterior.

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## **APPENDIX B**

### **Building Code and Condition Deficiencies Reports**

**LYNDALE GARDEN REDEVELOPMENT TIF DISTRICT  
CODE/CONDITION DEFICIENCY REPORT**

July 18, 2011

**Map No. & Building Name:** Map No. 1 – Multi-Tenant Office Building

**Inspection Date(s) & Time(s):** March 31, 2011, 1:30pm

**Inspection Type:** Interior/Exterior

**Summary of Deficiencies:** It is our professional opinion that this building is **Substandard** because:

- Building Code deficiencies total more than 15% of replacement cost.
- Substantial renovation is required to correct Conditions found.

<b>Estimated Replacement Cost:</b>	<b>\$ 889,000</b>
<b>Estimated Cost to Correct Building Code Deficiencies:</b>	<b>\$ 316,700</b>
<b>Percentage of Replacement Cost:</b>	<b>36%</b>

**Description of Condition Deficiencies**

Minnesota Statutes, Section 469.174, Subdivision 10, states that a building is Structurally Substandard if it contains “defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.”

**A. Defects in Structural Elements**

1. Major visible cracking in structural walls and columns.
2. Visible cracks in concrete floor structure (visible from below).

**B. Combination of Deficiencies**

1. Essential Utilities and Facilities
  - a. Upgraded mechanical system required in basement offices.
  - b. Bathrooms not adequate.
  - c. New GFI outlets required in wet spaces.
2. Light and Ventilation
  - a. Basement offices require improved ventilation.
  - b. Basement offices require windows and/or egress windows.
  - c. Lighting should be improved in corridors and stairs.
3. Fire Protection/Adequate Egress
  - a. Stairs from basement are not code compliant.
  - b. One stairway has mechanical equipment intruding into walking space.
  - c. Doors and door hardware are not code compliant.
4. Layout and Condition of Interior Partitions/Materials
  - a. Mildew present in basement spaces.
  - b. All interior finishes (wall, ceiling, floor) require updating.
  - c. Visible cracking on underside of floor (basement ceiling).
5. Exterior Construction
  - a. Fascia, soffit and siding requires sanding and painting.
  - b. Concrete stoops and stairs and sidewalk requires replacement.
  - c. Exterior concrete walls require significant patching and waterproofing.

- d. Major visible cracking on exterior walls.
- e. Parking lot surface should be repaired, sloping away from building.

### **Overview of Condition Deficiencies**

Most of the interior and exterior finishes are in need of upgrading and repair. The site and all entrances require improvements to prevent further water damage. This building definitely requires substantial renovation to correct the existing condition deficiencies.

### **Description of Code Deficiencies**

This multi-tenant office building was converted from an animal kennel building and has never met ADA requirements, or many other basic code requirements for a multi-tenant office building.

1. Tenant spaces are not accessible. Four in basement, four on upper floor.
2. Three sets of stairs do not meet current codes.
3. 66' Dead-end corridor in basement.
4. No windows or means of egress from basement office spaces.
5. Ventilation not adequate in basement spaces.
6. Roof leaks on north wing allowing water intrusion into building.
7. Doors and hardware are not ADA compliant.
8. Water is penetrating building at base at rear perimeter.
9. Four bathrooms are not accessible or code compliant.

**LYNDALE GARDEN REDEVELOPMENT TIF DISTRICT  
CODE/CONDITION DEFICIENCY REPORT**

July 18, 2011

**Map No. & Building Name:** Map No. 2 – Lyndale Garden Center and Hardware Store  
**Inspection Date(s) & Time(s):** March 31, 2011, 3:00pm  
**Inspection Type:** Interior/Exterior

**Summary of Deficiencies:** It is our professional opinion that this building is **Substandard** because:

- Building Code deficiencies total more than 15% of replacement cost.
- Substantial renovation is required to correct Conditions found.

<b>Estimated Replacement Cost:</b>	<b>\$ 4,687,000</b>
<b>Estimated Cost to Correct Building Code Deficiencies:</b>	<b>\$ 2,023,826</b>
<b>Percentage of Replacement Cost:</b>	<b>43%</b>

**Description of Condition Deficiencies**

Minnesota Statutes, Section 469.174, Subdivision 10, states that a building is Structurally Substandard if it contains “defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.”

**A. Defects in Structural Elements**

1. Exterior Walls and Roof are damaged.

**B. Combination of Deficiencies**

1. Essential Utilities and Facilities
  - a. New plumbing fixtures and domestic water distribution required.
  - b. New electrical system required.
  - c. New GFI outlets required in wet spaces.
2. Light and Ventilation
  - a. Several windows and storefront glass are broken.
  - b. New ventilation/furnace system required.
3. Fire Protection/Adequate Egress
  - a. Debris in building would make egress difficult.
  - b. Doors are non-functional.
4. Layout and Condition of Interior Partitions/Materials
  - a. Remove all interior surface materials in order to eliminate mold and mildew.
  - b. Replace all interior surfaces.
  - c. Graffiti painted throughout building.
5. Exterior Construction
  - a. Exterior wood siding severely damaged, needs replacement.
  - b. Replace storefront system and all windows.
  - c. Concrete block walls retaining moisture, require tuck pointing.
  - d. Site requires general cleanup to prevent damage to Richfield Lake.
  - e. Damage at rear loading dock, overhead door and man door.
  - f. Retaining walls near loading dock are damaged and should be replaced.

- g. Exterior building signage is damaged and should be replaced.
- h. Building is not accessible from parking lots.

### **Overview of Condition Deficiencies**

This building has been closed for a long period of time and has been vandalized to the point where it is not safe for occupancy. Almost every system in this building will require complete replacement, making it easy to determine that substantial renovation would be required to correct the condition deficiencies.

### **Description of Code Deficiencies**

1. The roof is allowing water intrusion and should be repaired with proper slope.
2. The domestic water system has been damaged due to freezing temperatures in the building.
3. New plumbing fixtures and domestic water distribution required.
4. Replace existing furnace and ventilation distribution system.
5. Mold development has made the building unsafe for occupancy.
6. Remove all interior surfaces in the building to eliminate the mold and mildew.
7. All glass storefronts, windows and doors require replacement to prevent water intrusion and rodents.
8. Electrical distribution system is non-functional and does not meet current code.
9. Building is not accessible from parking.
10. Building lighting is non-functional.
11. Sprinkler system is non-functional.

**APPENDIX C**

**Building Replacement Cost Reports  
Code Deficiency Cost Reports  
Photographs**

# Square Foot Cost Estimate Report

Estimate Name: **Untitled**

Building Type: **Office 1 Story with Tiltup Concrete Panel / Steel Roof Deck**  
 Location: **MINNEAPOLIS, MN**  
 Stories Count (L.F.): **1.00**  
 Stories Height: **12.00**  
 Floor Area (S.F.): **4,000.00**  
 LaborType: **Open Shop**  
 Basement Included: **Yes**  
 Data Release: **Year 2011 Quarter 2**  
 Cost Per Square Foot: **\$222.25**  
 Total Building Cost: **\$889,000**



Costs are derived from a building model with basic components. Scope differences and market conditions can cause costs to vary significantly.

		<b>% of Total</b>	<b>Cost Per SF</b>	<b>Cost</b>
<b>A Substructure</b>		<b>18.4%</b>	<b>35.50</b>	<b>\$142,000</b>
<b>A1010</b>	<b>Standard Foundations</b> Strip footing, concrete, reinforced, load 11.1 KLF, soil bearing capacity 6 KSF, 12" deep x 24" wide Spread footings, 3000 PSI concrete, load 100K, soil bearing capacity 6 KSF, 4' - 6" square x 15" deep		<b>7.00</b>	<b>\$28,000</b>
<b>A1030</b>	<b>Slab on Grade</b> Slab on grade, 4" thick, non industrial, reinforced		<b>5.38</b>	<b>\$21,500</b>
<b>A2010</b>	<b>Basement Excavation</b> Excavate and fill, 10,000 SF, 8' deep, sand, gravel, or common earth, on site storage		<b>3.62</b>	<b>\$14,500</b>
<b>A2020</b>	<b>Basement Walls</b> Foundation wall, CIP, 12' wall height, pumped, .444 CY/LF, 21.59 PLF, 12" thick		<b>19.50</b>	<b>\$78,000</b>
<b>B Shell</b>		<b>33.7%</b>	<b>65.12</b>	<b>\$260,500</b>
<b>B1010</b>	<b>Floor Construction</b> Cast-in-place concrete column, 12" square, tied, 200K load, 12' story height, 142 lbs/LF, 4000PSI Flat slab, concrete, with drop panels, 6" slab/2.5" panel, 12" column, 15'x15' bay, 75 PSF superimposed load, 153 P'		<b>22.50</b>	<b>\$90,000</b>
<b>B1020</b>	<b>Roof Construction</b> Floor, steel joists, beams, 1.5" 22 ga metal deck, on columns, 25'x30' bay, 25" deep, 40 PSF superimposed load, 60 Floor, steel joists, beams, 1.5" 22 ga metal deck, on columns, 25'x30' bay, 25" deep, 40 PSF superimposed load, 60		<b>9.38</b>	<b>\$37,500</b>
<b>B2010</b>	<b>Exterior Walls</b> Tilt-up concrete panels, vertical rib and light sandblast, 6" thick, 3000 PSI		<b>13.38</b>	<b>\$53,500</b>
<b>B2020</b>	<b>Exterior Windows</b> Windows, aluminum, awning, insulated glass, 4'-5" x 5'-3"		<b>6.12</b>	<b>\$24,500</b>
<b>B2030</b>	<b>Exterior Doors</b> Door, aluminum & glass, with transom, narrow stile, double door, hardware, 6'-0" x 10'-0" opening Door, aluminum & glass, with transom, bronze finish, hardware, 3'-0" x 10'-0" opening Door, steel 18 gauge, hollow metal, 1 door with frame, no label, 3'-0" x 7'-0" opening		<b>3.00</b>	<b>\$12,000</b>
<b>B3010</b>	<b>Roof Coverings</b> Roofing, single ply membrane, EPDM, 45 mils, loosely laid, stone ballast Insulation, rigid, roof deck, extruded polystyrene, 25 PSI compressive strength, 3" thick, R15		<b>10.38</b>	<b>\$41,500</b>

		% of Total	Cost Per SF	Cost
	Roof edges, aluminum, duranodic, .050" thick, 6" face			
	Flashing, aluminum, no backing sides, .019"			
	Gravel stop, aluminum, extruded, 8", duranodic, .050" thick			
<b>B3020</b>	<b>Roof Openings</b>		<b>0.38</b>	<b>\$1,500</b>
	Roof hatch, with curb, 1" fiberglass insulation, 2'-6" x 4'-6", aluminum curb and cover, 150lbs			
<b>C Interiors</b>		<b>14.7%</b>	<b>28.38</b>	<b>\$113,500</b>
<b>C1010</b>	<b>Partitions</b>		<b>5.75</b>	<b>\$23,000</b>
	Metal partition, 5/8" water resistant gypsum board face, no base layer, 3-5/8" @ 24" OC framing ,same opposite face			
	1/2" fire ratedgypsum board, taped & finished, painted on metal furring			
<b>C1020</b>	<b>Interior Doors</b>		<b>5.38</b>	<b>\$21,500</b>
	Door, single leaf, kd steel frame, hollow metal, commercial quality, flush, 3'-0" x 7'-0" x 1-3/8"			
<b>C1030</b>	<b>Fittings</b>		<b>0.50</b>	<b>\$2,000</b>
	Toilet partitions, cubicles, ceiling hung, plastic laminate			
<b>C3010</b>	<b>Wall Finishes</b>		<b>1.50</b>	<b>\$6,000</b>
	Painting, interior on plaster and drywall, walls & ceilings, roller work, primer & 2 coats			
	Vinyl wall covering, fabric back, medium weight			
<b>C3020</b>	<b>Floor Finishes</b>		<b>8.12</b>	<b>\$32,500</b>
	Carpet, tufted, nylon, roll goods, 12' wide, 36 oz			
	Carpet, padding, add to above, minimum			
	Vinyl, composition tile, maximum			
	Tile, ceramic natural clay			
<b>C3030</b>	<b>Ceiling Finishes</b>		<b>7.12</b>	<b>\$28,500</b>
	Acoustic ceilings, 3/4"mineral fiber, 12" x 12" tile, concealed 2" bar & channel grid, suspended support			
<b>D Services</b>		<b>33.3%</b>	<b>64.25</b>	<b>\$257,000</b>
<b>D2010</b>	<b>Plumbing Fixtures</b>		<b>6.00</b>	<b>\$24,000</b>
	Water closet, vitreous china, bowl only with flush valve, wall hung			
	Urinal, vitreous china, wall hung			
	Lavatory w/trim, vanity top, PE on CI, 20" x 18"			
	Service sink w/trim, PE on CI,wall hung w/rim guard, 24" x 20"			
	Water cooler, electric, floor mounted, dual height, 14.3 GPH			
<b>D2020</b>	<b>Domestic Water Distribution</b>		<b>1.88</b>	<b>\$7,500</b>
	Gas fired water heater, commercial, 100< F rise, 75.5 MBH input, 63 GPH			
	Gas fired water heater, commercial, 100< F rise, 100 MBH input, 91 GPH			
<b>D3050</b>	<b>Terminal &amp; Package Units</b>		<b>20.62</b>	<b>\$82,500</b>
	Rooftop, multizone, air conditioner, offices, 10,000 SF, 31.66 ton			
<b>D4010</b>	<b>Sprinklers</b>		<b>3.38</b>	<b>\$13,500</b>
	Wet pipe sprinkler systems, steel, light hazard, 1 floor, 10,000 SF			
<b>D4020</b>	<b>Standpipes</b>		<b>1.25</b>	<b>\$5,000</b>
	Wet standpipe risers, class III, steel, black, sch 40, 4" diam pipe, 1 floor			
<b>D5010</b>	<b>Electrical Service/Distribution</b>		<b>10.75</b>	<b>\$43,000</b>
	Service installation, includes breakers, metering, 20' conduit & wire, 3 phase, 4 wire, 120/208 V, 400 A			
	Feeder installation 600 V, including RGS conduit and XHHW wire, 400 A			
	Switchgear installation, incl switchboard, panels & circuit breaker, 600 A			
<b>D5020</b>	<b>Lighting and Branch Wiring</b>		<b>13.00</b>	<b>\$52,000</b>
	Receptacles incl plate, box, conduit, wire, 16.5 per 1000 SF, 2.0 W per SF, with transformer			
	Miscellaneous power, 1.2 watts			
	Central air conditioning power, 4 watts			
	Motor installation, three phase, 460 V, 15 HP motor size			
	Fluorescent fixtures recess mounted in ceiling, 1.6 watt per SF, 40 FC, 10 fixtures @32watt per 1000 SF			
<b>D5030</b>	<b>Communications and Security</b>		<b>7.12</b>	<b>\$28,500</b>

% of Total	Cost Per SF	Cost
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Telephone wiring for offices & laboratories, 8 jacks/MSF

Communication and alarm systems, fire detection, addressable, 25 detectors, includes outlets, boxes, conduit and w

Fire alarm command center, addressable without voice, excl. wire & conduit

Internet wiring, 8 data/voice outlets per 1000 S.F.

<b>D5090</b>	<b>Other Electrical Systems</b>	<b>0.25</b>	<b>\$1,000</b>
	Generator sets, w/battery, charger, muffler and transfer switch, gas/gasoline operated, 3 phase, 4 wire, 277/480 V, 7		
<b>E</b>	<b>Equipment &amp; Furnishings</b>	<b>0.0%</b>	<b>\$0</b>
<b>E1090</b>	<b>Other Equipment</b>	<b>0.00</b>	<b>\$0</b>
<b>F</b>	<b>Special Construction</b>	<b>0.0%</b>	<b>\$0</b>
<b>G</b>	<b>Building Sitework</b>	<b>0.0%</b>	<b>\$0</b>
	<b>Sub Total</b>	<b>100%</b>	<b>\$773,000</b>
	<b>Contractor's Overhead &amp; Profit</b>	<b>15.0%</b>	<b>\$116,000</b>
	<b>Architectural Fees</b>	<b>0.0%</b>	<b>\$0</b>
	<b>User Fees</b>	<b>0.0%</b>	<b>\$0</b>
	<b>Total Building Cost</b>	<b>\$222.25</b>	<b>\$889,000</b>

Lyndale Garden Redevelopment TIF District  
 Cost Worksheet

**Multi-Tenant Office Building**

<b>Item</b>	<b>Description</b>	<b>Cost</b>	<b>Unit</b>	<b>Quantity</b>	<b>Total</b>
Replace Roof Membrane	Removal of existing membrane	\$ 2.00	SF	4,000	\$ 8,000
	Insulation and new membrane	\$ 8.00	SF	4,000	\$ 32,000
Elevator required for basement tenants	Demolition	\$ 7,000.00	Ea	1	\$ 7,000
	Elevator Installation	\$ 35,000.00	Ea	1	\$ 35,000
Accessible Entrances at upper offices	Demolition	\$ 1,500.00	Ea	4	\$ 6,000
	New Ramps	\$ 7,500.00	Ea	4	\$ 30,000
New Doors and hardware	Demolition	\$ 100.00	Ea	12	\$ 1,200
	New Door and Hardware	\$ 1,500.00	Ea	12	\$ 18,000
Reconstruct Basement Stairs	Demolition	\$ 5,000.00	Ea	4	\$ 20,000
	New Construction	\$ 20,000.00	Ea	4	\$ 80,000
Reconstruct Bathrooms for ADA	Demolition	\$ 3,000.00	Ea	4	\$ 12,000
	New Construction	\$ 7,000.00	Ea	4	\$ 28,000
Install Egress Windows in Basement	Demolition	\$ 500.00	Ea	4	\$ 2,000
	Installation of Egress Windows	\$ 2,500.00	Ea	4	\$ 10,000
Remove Dead end Corridor in basement	Demolition	\$ 500.00	Ea	1	\$ 500
	New Construction	\$ 5,000.00	Ea	1	\$ 5,000
Improve ventilation in office spaces	Demolition	\$ 250.00	Ea	8	\$ 2,000
	New Construction	\$ 2,500.00	Ea	8	\$ 20,000
				<b>Total Costs</b>	<b>\$ 316,700</b>

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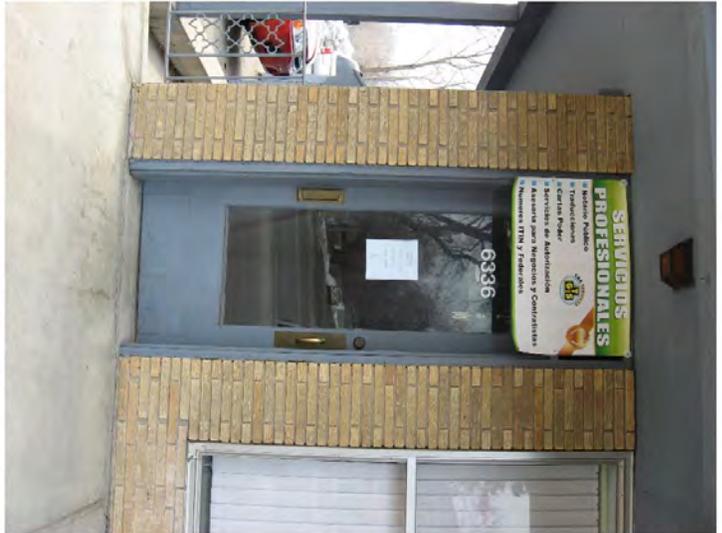
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# Square Foot Cost Estimate Report

Estimate Name: **Untitled**

Building Type: **Store, Department, 1 Story with Face Brick with Concrete Block Back-up / Steel Frame**  
 Location: **MINNEAPOLIS, MN**  
 Stories Count (L.F.): **1.00**  
 Stories Height: **15.00**  
 Floor Area (S.F.): **48,968.00**  
 LaborType: **Open Shop**  
 Basement Included: **No**  
 Data Release: **Year 2011 Quarter 2**  
 Cost Per Square Foot: **\$95.72**  
 Total Building Cost: **\$4,687,000**



Costs are derived from a building model with basic components. Scope differences and market conditions can cause costs to vary significantly.

		<b>% of Total</b>	<b>Cost Per SF</b>	<b>Cost</b>
<b>A Substructure</b>		<b>10.1%</b>	<b>8.36</b>	<b>\$409,500</b>
<b>A1010</b>	<b>Standard Foundations</b> Strip footing, concrete, reinforced, load 5.1 KLF, soil bearing capacity 3 KSF, 12" deep x 24" wide spread footings, 3000 PSI concrete, load 75K, soil bearing capacity 3 KSF, 5' - 6" square x 13" deep		<b>1.18</b>	<b>\$58,000</b>
<b>A1030</b>	<b>Slab on Grade</b> Slab on grade, 4" thick, non industrial, reinforced		<b>5.40</b>	<b>\$264,500</b>
<b>A2010</b>	<b>Basement Excavation</b> Excavate and fill, 100,000 SF, 4' deep, sand, gravel, or common earth, on site storage		<b>0.30</b>	<b>\$14,500</b>
<b>A2020</b>	<b>Basement Walls</b> Foundation wall, CIP, 4' wall height, direct chute, .148 CY/LF, 7.2 PLF, 12" thick		<b>1.48</b>	<b>\$72,500</b>
<b>B Shell</b>		<b>32.7%</b>	<b>27.17</b>	<b>\$1,330,500</b>
<b>B1010</b>	<b>Floor Construction</b> Fireproofing, gypsum board, fire rated, 1 layer, 1/2" thick, 14" steel column, 2 hour rating, 18 PLF		<b>0.45</b>	<b>\$22,000</b>
<b>B1020</b>	<b>Roof Construction</b> Floor, steel joists, beams, 1.5" 22 ga metal deck, on columns, 30'x30' bay, 28" deep, 40 PSF superimposed load, 62 Floor, steel joists, beams, 1.5" 22 ga metal deck, on columns, 30'x30' bay, 28" deep, 40 PSF superimposed load, 62		<b>9.82</b>	<b>\$481,000</b>
<b>B2010</b>	<b>Exterior Walls</b> Brick wall, composite double wythe, standard face/CMU back-up, 8" thick, perlite core fill		<b>8.72</b>	<b>\$427,000</b>
<b>B2020</b>	<b>Exterior Windows</b> Aluminum flush tube frame, for 1/4" glass, 1-3/4" x 4-1/2", 5'x6' opening, 1 intermediate horizontal Glazing panel, plate glass, 3/8" thick, tinted		<b>1.90</b>	<b>\$93,000</b>
<b>B2030</b>	<b>Exterior Doors</b> Doors, stainless steel & glass, balanced, standard, premium, 3'-0" x 7'-0" opening Door, steel 18 gauge, hollow metal, 1 door with frame, no label, 3'-0" x 7'-0" opening		<b>0.42</b>	<b>\$20,500</b>
<b>B3010</b>	<b>Roof Coverings</b> Roofing, asphalt flood coat, gravel, base sheet, 3 plies 15# asphalt felt, mopped Insulation, rigid, roof deck, composite with 2" EPS, 1" perlite Roof edges, aluminum, duranodic, .050" thick, 6" face		<b>5.73</b>	<b>\$280,500</b>

		<b>% of Total</b>	<b>Cost Per SF</b>	<b>Cost</b>
	Gravel stop, aluminum, extruded, 4", mill finish, .050" thick			
<b>B3020</b>	<b>Roof Openings</b>		<b>0.13</b>	<b>\$6,500</b>
	Roof hatch, with curb, 1" fiberglass insulation, 2'-6" x 3'-0", galvanized steel, 165 lbs			
	Smoke hatch, unlabeled, galvanized, 2'-6" x 3', not incl hand winch operator			
<b>C Interiors</b>		<b>26.8%</b>	<b>22.30</b>	<b>\$1,092,000</b>
<b>C1010</b>	<b>Partitions</b>		<b>2.21</b>	<b>\$108,000</b>
	Metal partition, 5/8" fire rated gypsum board face, 1/4" sound deadening gypsum board, 2-1/2" @ 24", same opposite			
	1/2" fire rated gypsum board, taped & finished, painted on metal furring			
<b>C1020</b>	<b>Interior Doors</b>		<b>1.78</b>	<b>\$87,000</b>
	Door, single leaf, kd steel frame, hollow metal, commercial quality, flush, 3'-0" x 7'-0" x 1-3/8"			
<b>C3010</b>	<b>Wall Finishes</b>		<b>0.29</b>	<b>\$14,000</b>
	Painting, interior on plaster and drywall, walls & ceilings, roller work, primer & 2 coats			
<b>C3020</b>	<b>Floor Finishes</b>		<b>13.69</b>	<b>\$670,500</b>
	Carpet tile, nylon, fusion bonded, 18" x 18" or 24" x 24", 35 oz			
	Tile, ceramic natural clay, marble, synthetic 12" x 12" x 5/8"			
<b>C3030</b>	<b>Ceiling Finishes</b>		<b>4.34</b>	<b>\$212,500</b>
	Acoustic ceilings, 5/8" plastic coated mineral fiber, 12" x 12" tile, 25 ga channel grid, adhesive back support			
<b>D Services</b>		<b>30.5%</b>	<b>25.39</b>	<b>\$1,243,500</b>
<b>D2010</b>	<b>Plumbing Fixtures</b>		<b>1.51</b>	<b>\$74,000</b>
	Water closet, vitreous china, bowl only with flush valve, wall hung			
	Urinal, vitreous china, wall hung			
	Lavatory w/trim, vanity top, PE on CI, 20" x 18"			
	Service sink w/trim, PE on CI, wall hung w/rim guard, 24" x 20"			
	Water cooler, electric, wall hung, dual height, 14.3 GPH			
<b>D2020</b>	<b>Domestic Water Distribution</b>		<b>0.35</b>	<b>\$17,000</b>
	Gas fired water heater, commercial, 100< F rise, 500 MBH input, 480 GPH			
<b>D2040</b>	<b>Rain Water Drainage</b>		<b>0.72</b>	<b>\$35,500</b>
	Roof drain, CI, soil, single hub, 6" diam, 10' high			
	Roof drain, CI, soil, single hub, 6" diam, for each additional foot add			
<b>D3050</b>	<b>Terminal &amp; Package Units</b>		<b>7.66</b>	<b>\$375,000</b>
	Rooftop, single zone, air conditioner, department stores, 10,000 SF, 29.17 ton			
<b>D4010</b>	<b>Sprinklers</b>		<b>2.91</b>	<b>\$142,500</b>
	Wet pipe sprinkler systems, steel, light hazard, 1 floor, 50,000 SF			
<b>D4020</b>	<b>Standpipes</b>		<b>0.23</b>	<b>\$11,500</b>
	Wet standpipe risers, class III, steel, black, sch 40, 6" diam pipe, 1 floor			
	Wet standpipe risers, class III, steel, black, sch 40, 6" diam pipe, additional floors			
<b>D5010</b>	<b>Electrical Service/Distribution</b>		<b>2.14</b>	<b>\$105,000</b>
	Service installation, includes breakers, metering, 20' conduit & wire, 3 phase, 4 wire, 120/208 V, 1200 A			
	Feeder installation 600 V, including RGS conduit and XHHW wire, 1200 A			
	Switchgear installation, incl switchboard, panels & circuit breaker, 1200 A			
<b>D5020</b>	<b>Lighting and Branch Wiring</b>		<b>8.59</b>	<b>\$420,500</b>
	Receptacles incl plate, box, conduit, wire, 2.5 per 1000 SF, .3 W per SF, with transformer			
	Miscellaneous power, to .5 watts			
	Central air conditioning power, 3 watts			
	Fluorescent fixtures recess mounted in ceiling, 1.6 watt per SF, 40 FC, 10 fixtures @ 32 watt per 1000 SF			
<b>D5030</b>	<b>Communications and Security</b>		<b>1.24</b>	<b>\$60,500</b>
	Communication and alarm systems, fire detection, addressable, 100 detectors, includes outlets, boxes, conduit and			
	Fire alarm command center, addressable with voice, excl. wire & conduit			
	Internet wiring, 2 data/voice outlets per 1000 S.F.			
<b>D5090</b>	<b>Other Electrical Systems</b>		<b>0.04</b>	<b>\$2,000</b>

	<b>% of Total</b>	<b>Cost Per SF</b>	<b>Cost</b>
Generator sets, w/battery, charger, muffler and transfer switch, gas/gasoline operated, 3 phase, 4 wire, 277/480 V, 7			
<b>E Equipment &amp; Furnishings</b>	<b>0.0%</b>	<b>0.00</b>	<b>\$0</b>
E1090 <b>Other Equipment</b>		<b>0.00</b>	<b>\$0</b>
<b>F Special Construction</b>	<b>0.0%</b>	<b>0.00</b>	<b>\$0</b>
<b>G Building Sitework</b>	<b>0.0%</b>	<b>0.00</b>	<b>\$0</b>
<b>Sub Total</b>	<b>100%</b>	<b>\$83.23</b>	<b>\$4,075,500</b>
<b>Contractor's Overhead &amp; Profit</b>	<b>15.0%</b>	<b>\$12.49</b>	<b>\$611,500</b>
<b>Architectural Fees</b>	<b>0.0%</b>	<b>\$0.00</b>	<b>\$0</b>
<b>User Fees</b>	<b>0.0%</b>	<b>\$0.00</b>	<b>\$0</b>
<b>Total Building Cost</b>		<b>\$95.72</b>	<b>\$4,687,000</b>

Lyndale Garden Redevelopment TIF District  
 Cost Worksheet

**Lyndale Garden Center and Hardware Store**

<b>Item</b>	<b>Description</b>	<b>Cost</b>	<b>Unit</b>	<b>Quantity</b>	<b>Total</b>
Roof and Skylight repairs	Demolition	\$ 3.00	SF	48,968	\$ 146,904
	New insulation for roof slope	\$ 2.00	SF	48,968	\$ 97,936
	Membrane Adhered w/ Flashings	\$ 3.75	SF	48,968	\$ 183,630
Replace all storefront, windows and doors	Demolition	\$ 30,000.00	Ea	1	\$ 30,000
	New Construction	\$ 140,000.00	Ea	1	\$ 140,000
Remove and replace elect. System	Demolition	\$ 1.00	SF	48,968	\$ 48,968
	Electrical Service/Distribution	\$ 2.00	SF	48,968	\$ 97,936
Domestic Water Supply and plumbing	Demolition	\$ 1.00	SF	48,968	\$ 48,968
	New Domestic Water distribution	\$ 0.50	SF	48,968	\$ 24,484
	plumbing fixtures	\$ 74,000.00	Ea	1	\$ 74,000
Rain water drainage	Demolition	\$ 5,000.00	Ea	1	\$ 5,000
	New Construction	\$ 35,500.00	Ea	1	\$ 35,500
Mechanical System code compliance	Demolition	\$ 15,000.00	Ea	1	\$ 15,000
	New Construction	\$ 375,000.00	Ea	1	\$ 375,000
Sprinkler System and Standpipes	Demolition	\$ 5,000.00	Ea	1	\$ 5,000
	New Construction	\$ 150,000.00	Ea	1	\$ 150,000
Electrical Service/Distribution	Demolition	\$ 5,000.00	Ea	1	\$ 5,000
	New Construction	\$ 105,000.00	Ea	1	\$ 105,000
Lighting and Branch wiring	Demolition	\$ 15,000.00	Ea	1	\$ 15,000
	New Construction	\$ 420,500.00	Ea	1	\$ 420,500
				<b>Total Costs</b>	<b>\$ 2,023,826</b>

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## Appendix G

### Findings Including But/For Qualifications

The reasons and facts supporting the findings for the adoption of the Tax Increment Financing Plan (TIF Plan) for the Lyndale Gardens Tax Increment Financing District (District) as required pursuant to M.S., Section 469.175, Subd. 3 are as follows:

1. *Finding that the District is a redevelopment district as defined in M.S., Section 469.174, Subd. 10(a)(1).*

The District consists of 4 parcels and it is proposed that these parcels be redeveloped for housing and commercial purposes. All parcels within the District are occupied by buildings, streets, utilities, paved or gravel parking lots or other similar structures, and the occupied parcels make up more than 70% of the area of the District. More than 50% of the buildings within the District (2 of 3 buildings), not including outbuildings, are structurally substandard to a degree of requiring substantial renovation or clearance. The substandard buildings are reasonably distributed throughout the District. The Council has specifically relied on a study conducted by LHB, Inc., dated July 22, 2011, and entitled "Report of Inspections and Results for Determining Qualifications of a Tax Increment Financing District as a Redevelopment District (Lyndale Gardens TIF District, Richfield, Minnesota)," which is included in the TIF Plan at Appendix F, to make these determinations.

2. *The proposed development, in the opinion of the City, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future.*

The anticipated development consists of three phases. The first phase will include the acquisition of property and the substantial rehabilitation of the Lyndale Garden Center in order to make it suitable for commercial use, including possible restaurant, retail, office, and community space. The second and third phases will include construction of approximately 100 units of rental housing, some of which will be affordable housing. The redevelopment project requires acquisition of several parcels of property, demolition of one building, environmental remediation, site improvements, and substantial rehabilitation of the Lyndale Garden Center building. Current estimates of redevelopment costs are more than \$30,000,000. The cost and scope of the proposed redevelopment make it unlikely to occur solely through private investment.

The developer has submitted a pro forma to the City demonstrating that the costs of acquiring the land for all phases of the redevelopment project, demolition costs, environmental remediation costs, site improvements, and construction of certain public improvements are economically infeasible without the assistance provided in the TIF Plan. The developer has certified to the City that it would not acquire the property and construct the housing and commercial development without the requested assistance. In order to make the redevelopment of this blighted area feasible, and provide affordable housing to persons of moderate income within the City, TIF assistance is required to reduce the price of redevelopment costs.

*The increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF Plan.*

The City believes that the comprehensive nature of the proposed commercial and housing development, which requires significant time and expense to acquire parcels necessary for the

development and the substantial renovation of a structurally substandard building, would not occur without the requested TIF assistance. Specifically, the proposed combination of housing and commercial development in the District is necessary in order to make the redevelopment of the Lyndale Garden Center economically feasible for the developer. The Lyndale Garden Center is currently vacant and in very poor condition, has been cited for numerous code violations, and has attracted trespassers. The property has remained vacant for many years without any successful proposals to redevelop the site. Providing assistance to the developer for all three phases of the proposed development will ensure that the Lyndale Garden Center is rehabilitated and the site is incorporated into the surrounding development.

Therefore, the City reasonably determines that no other development of similar scope is anticipated on this site without substantially similar assistance being provided for the development. To summarize the basis for the City's findings, the City makes the following determinations:

- a. The City's estimate of the amount by which the market value of the site will increase without the use of tax increment financing is \$0 (for the reasons described above), except some unknown amount of appreciation.
- b. If the proposed development to be assisted with tax increment occurs in the District, the total increase in market value would be approximately \$21,765,885. The increase in market value would be due primarily to substantial building rehabilitation and new construction within the District. (See Appendix D of TIF Plan and the table below.)
- c. The present value of tax increments from the District for the maximum duration of the district permitted by the TIF Plan is estimated to be no more than \$6,302,782. (See Appendix D of TIF Plan and the table below.)
- d. Even if some development other than the proposed development were to occur, the Council finds that no alternative would occur that would produce a market value increase greater than \$15,463,103 (the amount in clause b less the amount in clause c) without tax increment assistance.

<b>But-For Analysis</b>	
Current Market Value	4,420,000
New Market Value - Estimate	26,185,885
Difference	21,765,885
Present Value of Tax Increment	6,302,782
Difference	15,463,103
<b>Value Likely to Occur Without TIF is Less Than:</b>	<b>15,463,103</b>

- 3. *Finding that the TIF Plan for the District conforms to the general plan for the development or redevelopment of the municipality as a whole.*

The Planning Commission reviewed the TIF Plan and found that the TIF Plan conforms to the general development plan of the City.

4. *Finding that the TIF Plan for the District will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the development of the Lyndale Garden Center project by private enterprise.*

The commercial and housing projects to be developed within the District and assisted with tax increment financing from the District will result in the redevelopment of blighted and underutilized land which currently has obsolete land use and substandard buildings, promotion of the development of affordable housing, promotion of commercial development, and preservation and enhancement of the tax base of the City.

Appendix H  
Prior Planned Improvements

# PERMIT



## City of Richfield

6700 Portland Avenue South  
Richfield, MN 55423  
612-861-9860  
www.cityofrichfield.org

Permit Type: Building  
Permit Number: RI089244  
Date Issued: 05/26/2011

### Site Address: 6400 Lyndale Ave S

Lot:                      Block:              Addition:  
PID: 28-028-24-11-0080  
Use: LYNDALE GARDEN CENTER

### Description:

Sub Type: Commercial                      Construction Type:  
Work Type: Demo Building  
Description: REMOVE SIGN STRUCTURES, FENCE,  
DEBRIS FROM SITE                      Occupancy:  
Census Code: -  
Zoning:  
Square Feet: 0

### Comments:

### Fee Summary:

	<u>Description</u>	<u>Amount</u>	<u>Revenue Code</u>
Valuation: 7,000	Demo Commercial	\$147.25	10505-4152
	Surcharge - Based on Valuation	\$3.50	70020-2081
	<b>Total:</b>	<b>\$150.75</b>	

### Contractor:

RJ MARCO CONSTRUCTION  
75 W VIKING DRIVE  
LITTLE CANADA MN 55117  
(651) 484-5635

- Applicant -

### Owner:

RANCHO RICHFIELD LLC  
4518 NORTH LANE  
DEL MAR CA 92014  
(858) 794-2735

This permit is issued on the express condition that all work shall be done in accordance with ordinances and building codes of the City of Richfield and the State of Minnesota.

Applicant/Permitee: Signature

Issued By: Signature

## Appendix I

### 2017 Special Legislation

Laws of Minnesota 2017, 1<sup>st</sup> Special Session, Chapter 1, Article 6, Section 19

#### CITY OF RICHFIELD; LYNDALE GARDENS TIF DISTRICT; FIVE-YEAR RULE EXTENSION.

The requirements of Minnesota Statutes, section 469.1763, subdivision 3, that activities must be undertaken within a five-year period from the date of certification of a tax increment financing district, are considered to be met for the Lyndale Gardens Tax Increment Financing District established by the city of Richfield and the housing and redevelopment authority in and for the city of Richfield if the activities are undertaken within seven years from the date of certification.

**EFFECTIVE DATE.** This section is effective the day after the city of Richfield and its chief clerical officer comply with Minnesota Statutes, sections 469.1782, subdivision 2, and 645.021, subdivisions 2 and 3.



**STAFF REPORT NO. 22**  
**HOUSING AND REDEVELOPMENT AUTHORITY**  
**MEETING**  
**5/20/2019**

REPORT PREPARED BY: Kate Aitchison/Celeste McDermott, Housing Specialists  
OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director  
5/14/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Continuation of a public hearing from April 15, 2019 and consider adoption of a resolution authorizing the sale of 6310 Irving Avenue South to Twin Cities Habitat for Humanity and the approval of a Contract for Private Development for the construction of a single family home.**

**EXECUTIVE SUMMARY:**

Twin Cities Habitat for Humanity (TCHFH) is proposing to purchase 6310 Irving Avenue South from the Housing and Redevelopment Authority (HRA) for the development of a single family home that will be sold to an income-qualified buyer.

The single story home will offer 1,300 square feet of finished living space and include three bedrooms, two bathrooms and a two-car detached garage, with an estimated end value of \$275,000. The full basement will include some unfinished space to allow for future expansion, and the main level will include some accessibility features. The proposed home has a traditional design and height that will complement the existing homes in the area. The home will be sold through TCHFH's land trust where they will sell the structures but retain ownership of the land and provide a 100-year ground lease.

The existing unpaved alley does not meet current city construction standards. In order to provide the access necessary to develop the lot, TCHFH will construct a new public alley. This alley will meet current city standards and will also serve two adjacent homes. The City and TCHFH explored constructing a front loading driveway as an alternative to improving the alley, but the narrow width of the lot made it challenging to design well.

Federal Community Development Block Grant (CDBG) funds were used to purchase the property, which requires that it be developed as housing affordable to a household with an income no greater than 80 percent of the Twin Cities Area Median Income (AMI); however, TCHFH's policy and funding sources target households whose income does not exceed 60 percent of the AMI.

TCHFH and the HRA will enter into a Contract for Private Development (Contract) for the sale of the property and subsequent construction of the home. The Contract provides for sale of the property to TCHFH for one dollar to account for the extraordinary costs to construct the alley and provide accessibility features in the home.

**RECOMMENDED ACTION:**

**Conduct and close the public hearing and by motion: Adopt a resolution authorizing the sale of 6310 Irving Avenue South to Twin Cities Habitat for Humanity, and approve a Contract for Private Development with Twin Cities Habitat for Humanity for the construction of a single family home,**

contingent upon final Housing and Redevelopment Authority's Attorney review.

## **BASIS OF RECOMMENDATION:**

### **A. HISTORICAL CONTEXT**

- In 2012, the HRA purchased the substandard property at 6310 Irving Avenue South using CDBG funds.
- In 2015, the HRA approved a Contract for Private Development with the Greater Metropolitan Housing Corporation for the construction of a new home. Due to a number of factors, the project was never begun, and the Contract for Private Development expired. The lot has remained vacant and undeveloped.
- In 2017, staff worked with NeighborWorks to develop a proposal for the site; however, the significant value and affordability gap made the project infeasible.
- TCHFH is proposing to construct a single-level home of 1,300 finished square feet, three bedrooms, two bathrooms, and a two-car detached garage. The home will incorporate some universal design features to allow for greater accessibility, such as wider doorways.
- TCHFH will construct a public alley to replace the current substandard gravel alley that serves the new home and two adjacent homes.
- TCHFH has the experience, capability, and financial security to develop the property and has previously constructed and renovated many homes in Richfield under various federal and local programs.
- The New Home Program allows homes to be sold to households earning up to 80 percent of AMI (\$80,000 for a family of four).
- In the past ten years, eleven new homes were constructed under the New Home program for affordable purchase.
- Under the New Home Program, the HRA has partnered with nonprofit developers to construct over 50 affordable homes since 1981.
- On May 7, 2019, a letter was sent to neighbors detailing the new home plans.

### **B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The New Home Program implements the goal of the Comprehensive Plan to ensure sufficient diversity in the housing stock to provide for a range of household sizes, income levels and needs. The Program carries out the policies that support this goal including:
  - Promote the development of a balanced housing stock that is available to a range of income levels.
  - Promote the development, management and maintenance of affordable housing in the City through assistance programs, alternative funding sources, and the creation of partnerships whose mission is to promote low to moderate income housing.
- In April 2019, the HRA adopted the revised Inclusionary Housing Policy, which states: "With regards to scattered-site single family housing development, at least 20% of the units newly constructed or rehabilitated and converted to long-term affordability in any three-year period must meet the proscribed affordability requirements."
  - Given formal approval of this project, the ratio of affordable scattered-site single family housing development will be 43% for the 2017-2019 time period.
    - In that time period, 12 market-rate new homes have been built, while 9 affordable new construction/rehabilitated homes have been facilitated through the HRA.
- The proposed housing is consistent with the Housing Vision Statement that was accepted by the City Council and HRA in June 2013. The Statement calls for a full range and balance of housing types in the community that match the choices of residents at every stage of their lives.

### **C. CRITICAL TIMING ISSUES:**

- The Contract requires closing on the property to occur by August 31, 2019, and construction to be completed by April 30, 2020.
- If the property cannot be developed meeting the CDBG requirements, the lot must be appraised, and the amount of the appraised value returned to Hennepin County.

### **D. FINANCIAL IMPACT:**

- In 2012, the property was purchased for \$52,000 using Federal CDBG funds. An additional

\$8,600 was spent on abatement and demolition costs.

- CDBG guidelines require that the new home be sold to households earning less than 80 percent of the AMI; however, TCHFH's policy and funding sources target households whose income does not exceed 60 percent of the AMI.
- CDBG guidelines do not require repayment of acquisition costs if the property is developed affordably.
- The property would be sold to TCHFH for one dollar. In turn, TCHFH would use other funds to pay the cost of improving the alley and adding accessibility features.
- TCHFH will retain long-term affordability of this home by keeping it in a land trust that ensures that future buyers will not have incomes higher than 60% AMI.

**E. LEGAL CONSIDERATION:**

- Notice of the public hearing was published in the Sun Current on April 4, 2019.
- Mailed notice was sent as a courtesy to homeowners and occupants living nearby.
- The HRA Attorney prepared the Contract for Private Development.

**ALTERNATIVE RECOMMENDATION(S):**

- Do not approve the resolution authorizing sale of the property to Twin Cities Habitat for Humanity.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

A representative from Twin Cities Habitat for Humanity.

**ATTACHMENTS:**

Description	Type
☐ Resolution	Resolution Letter
☐ Contract for Development	Contract/Agreement
☐ Floor plan and Rendering	Backup Material
☐ Proposed Site Plan	Backup Material

**HRA RESOLUTION NO.**

**RESOLUTION AUTHORIZING SALE OF REAL PROPERTY LOCATED AT  
6310 IRVING AVENUE TO TWIN CITIES HABITAT FOR HUMANITY, INC. IN  
ACCORDANCE WITH A CONTRACT FOR DEVELOPMENT**

**WHEREAS**, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (HRA) desires to develop certain real property pursuant to and in furtherance of the New Home Program adopted by the HRA, said real property being described as follows:

Address: 6310 Irving Avenue South

Legal: Lot 4, Block 6, "Ray's Lynnhurst," Hennepin County Minnesota.

**WHEREAS**, the HRA is authorized to sell real property within its area of operation after public hearing; and

**WHEREAS**, a developer, Twin Cities Habitat for Humanity, Inc., has been identified as the purchaser of the described property and in accordance with a Development Agreement; and

**WHEREAS**, a public hearing has been held after proper public notice.

**NOW, THEREFORE, BE IT RESOLVED**, by the Housing and Redevelopment Authority in and for the City of Richfield:

1. A public hearing has been held 6310 Irving Avenue is authorized to be sold for \$1 to the Twin Cities Habitat for Humanity, Inc. in accordance with a Development Agreement with the HRA.
2. The Chairperson and Executive Director are authorized to execute a Contract for Private Development and other agreements as required to effectuate the sale to Twin Cities Habitat for Humanity, Inc.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 20th day of May, 2019.

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Mary B. Supple, Chair

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Erin Vrieze Daniels, Secretary

**CONTRACT FOR DEVELOPMENT**

**Between**

**THE HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD, MINNESOTA**

**and**

**TWIN CITIES HABITAT FOR HUMANITY**

**at**

**6310 IRVING AVENUE SOUTH, RICHFIELD MN 55423**

**This Instrument Drafted by:**

**The Housing and Redevelopment Authority  
in and for the City of Richfield  
6700 Portland Avenue South  
Richfield, Minnesota 55423  
Telephone: (612) 861-9760**

## CONTRACT FOR DEVELOPMENT

**THIS CONTRACT FOR DEVELOPMENT** (the “Agreement”) is made and entered into as of this 20<sup>th</sup> of May, 2019, by and between the Housing and Redevelopment Authority in and for the City of Richfield, a body corporate and politic under the laws of the State of Minnesota, having its principal office at 6700 Portland Avenue, Richfield, Minnesota (the “HRA”), and Twin Cities Habitat For Humanity, Inc. (the “Developer” ), a non-profit corporation under the laws of Minnesota, having its principal office at 1954 University Ave W, St Paul, MN 55104 (Developer).

### WITNESSETH:

**WHEREAS**, the HRA has purchased the property at 6310 Irving Ave South, Richfield, legally described as Lot 4, Block 6, “Ray’s Lynnhurst,” Hennepin County (the “Property”), for the purpose of providing affordable housing in the City; and

**WHEREAS**, the City of Richfield (the “City”) and the HRA have previously created and established a New Home Program, pursuant to the authority granted in Minnesota Statutes, Sections 469.001 through 469.047; and

**WHEREAS**, the Developer has proposed the Improvements, as hereinafter defined, for the Property which the HRA has determined will promote and carry out the objectives for which the Property was purchased; will assist in carrying out the objectives of the New Home Program; and will be in the vital best interests of the City, and the health, safety and welfare of its residents and in accord with the public purposes and provisions of the applicable state and local laws and requirements.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations of the HRA and the Developer, each party does hereby represent, covenant and agree with the other as follows:

### ARTICLE I.

#### **DEFINITIONS, EXHIBITS, RULES OF INTERPRETATION**

**Section 1.1. Definitions.** In this Agreement, the following terms have the meaning given below unless the context clearly requires otherwise:

(a) **Accessibility Design Requirements.** The accessibility design requirements for the Improvements set forth in Exhibit D.

(b) **City.** The City of Richfield, Minnesota.

(c) **Construction Plans.** Collectively, the plans, drawings and related documents related to the Improvements, which are listed on Exhibit A.

(d) **Developer.** Twin Cities Habitat For Humanity (TCHFH).

(e) **Development**. The Property and the Improvements to be constructed thereon according to the Construction Plans approved by the HRA.

(f) **Event of Default**. Event of Default has the meaning given such term in Section 8.1.

(g) **Holder**. The term “holder” in reference to a Mortgage includes a lender, any insurer or guarantor (other than the Developer) of any obligation or condition secured by such mortgage or deed of trust.

(h) **Housing and Redevelopment Authorities Act (HRA Act)**. Minnesota Statutes, Sections 469.001 through 469.047.

(i) **HRA**. The Housing and Redevelopment Authority in and for the City of Richfield, Minnesota.

(j) **Improvements**. Each and all of the structures and site improvements constructed or renovated on the Property by the Developer, as specified in the Construction Plans approved by the HRA.

(k) **Mortgage**. The term “mortgage” shall include the mortgages referenced in Article VI of this Agreement and any deed of trust or other instrument creating an encumbrance or lien upon the Property of any part thereof, as security for a loan.

(l) **New Home Program**. HRA program to encourage development of new housing opportunities for low to moderate income buyers.

(m) **Property**. The real property legal described as:

Lot 4, Block 6, “Ray's Lynnhurst,” according to the plat thereof on file or of record in the office of the Register of Deeds in and for Hennepin County, Minnesota

having a street address of:

6310 Irving Avenue South, Richfield

(n) **Qualified Buyer**. A purchasing family (2 or more person household) whose income does not exceed 80 percent of the metropolitan area median income.

(o) **Unavoidable Delays**. Delays which are the direct result of strikes, labor troubles, fire or other casualty to the Improvements, natural disasters, litigation commenced by third parties which results in delays or acts of any federal, state or local government, except those contemplated by this Agreement, which are beyond the control of the Developer.

**Section 1.2 Exhibits**. The following Exhibits are attached to and by reference made a part of this Agreement:

- A. List of Construction Plan Documents
- B. Form of Quit Claim Deed
- C. Form of Certificate of Completion
- D. Accessibility Design Requirements

**Section 1.3 Rules of Interpretation.**

(a) This Agreement shall be interpreted in accordance with and governed by the laws of the State of Minnesota.

(b) The words “herein” and “hereof” and words of similar import, without reference to any particular section or subdivision refer to this Agreement as a whole rather than any particular section or subdivision hereof.

(c) References herein to any particular section or subdivision hereof are to the section or subdivision of this Agreement as originally executed.

(d) Any titles of the several parts, articles and sections of this Agreement are inserted for convenience and reference only and shall be disregarded in construing or interpreting any of its provisions.

**ARTICLE II.**

**REPRESENTATIONS AND UNDERTAKINGS**

**Section 2.1 By the Developer.** The Developer makes the following representations and warranties as the basis for undertakings on its part herein contained:

(a) The Developer has the legal authority and power to enter into this Agreement, and has duly authorized the execution, delivery and performance of this Agreement; and the individual(s) who execute this Agreement on behalf of the Developer have the power and authority to bind the Developer;

(b) The Developer has the necessary equity capital or will obtain commitments for financing necessary for construction of the Improvements;

(c) The Developer will construct the Improvements in accordance with the terms of this Agreement, the Construction Plans, and all local, state and federal laws and regulations;

(d) The Developer will obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, the requirements of all local, state and federal laws and regulations which must be obtained or met before the Improvements may be constructed; and

(e) The plans for the Improvements have been prepared by a qualified draftsman or architect.

**Section 2.2 By the HRA.** The HRA makes the following representations as the basis for the undertaking on its part herein contained:

(a) The HRA is authorized by law to enter into this Agreement, to carry out its obligations hereunder, and the individuals who execute this Agreement on behalf of the HRA have the power and authority to bind the HRA; and

(b) The HRA will, in a timely manner, subject to all notification requirements, review and act upon all submittals and applications of the Developer and will cooperate with the efforts of Developer to secure the granting of any permit, license, or other approval required to allow the construction of the Improvements; provided, however, that nothing contained in this subparagraph 2.2(b) shall be construed to limit in any way the reasonable and legitimate exercise of the HRA's discretion considering any submittal or application.

### **ARTICLE III.**

#### **ACQUISITION OF PROPERTY; CONVEYANCE TO DEVELOPER**

**Section 3.1 Sale of Property to Developer.** The HRA is the fee owner of the Property. The HRA agrees to sell the Property to the Developer and the Developer agrees to purchase the Property from the HRA in an "as is" condition. The HRA agrees to convey the Property to the Developer by Quit Claim Deed in the general form of Exhibit B. The purchase price for the Property will be \$1.00. In exchange for the reduced purchase price for the Property, the Developer agrees to (i) sell the Property to a Qualified Buyer as more fully described in Section 3.12; (ii) ensure that the Accessibility Design Requirements set forth in Exhibit D are incorporated into the Improvements; and (iii) construct the public alley described more fully in Section 3.13.

**Section 3.2 Title and Examination.** As soon as reasonably possible after execution of this Agreement by both parties,

(a) HRA shall surrender any abstract of title and a copy of any owner's title insurance policy for the property, if in HRA's possession or control, to Developer or to Developer's designated title service provider; and

(b) Developer shall obtain the title evidence determined necessary or desirable by Developer or Developer's lender, including but not limited to title searches, title examinations, abstracting, a title insurance commitment or an attorney's title opinion, at Developer's selection and cost, and provide a copy to the HRA.

The Developer shall have 20 days from the date it receives such title evidence to raise any objections to title it may have. Objections not made within such time will be deemed waived. The HRA shall have 90 days from the date of such objection to affect a cure; provided, however, that the HRA shall have no obligation to cure any objections, and may inform Buyer of such. The Buyer

may then elect to close notwithstanding the uncured objections or declare this Agreement null and void, and the parties will thereby be released from any further obligation hereunder.

**Section 3.3 Well Disclosure.** Seller does not know of any wells on the property.

**Section 3.4 Closing.** Closing on the Property will take place on or before August 31, 2019, or such other date as may be agreed to by the parties in writing. At closing, the Developer will provide the HRA with the purchase price of the property. If closing has not occurred by August 31, 2019, either party may terminate this Agreement.

**Section 3.5. Closing Costs.** The Developer will pay: (a) the closing fees charged by its title insurance company or other closing agent, if any, utilized to close the transaction for Developer; and (b) the recording fees for the Contract for Private Development and the deed transferring title to the Developer. The HRA will pay all other fees normally paid by sellers, including: any transfer taxes, and any fees and charges related to the filing of any instrument required to make title marketable. Each party shall pay its own attorney fees.

**Section 3.6. Sewer and Water.** HRA warrants that city water is available at the lot line and city sewer is available at the curb.

**Section 3.7. ISTS Disclosure.** HRA is not aware of any individual sewage treatment system on the property. Developer is responsible for all costs of removing any individual sewage treatment system that may be discovered on the Property.

**Section 3.8. Taxes and Special Assessment.** Real estate taxes and installments of special assessments will be prorated between the HRA and Developer as of the date of closing.

**Section 3.9 Soil Conditions and Hazardous Wastes.** The Developer acknowledges that the HRA makes no representations or warranties as to the conditions of the soils on the Property, its fitness for construction of the Improvements or any other purpose for which the Developer may make use of the Property, or regarding the presence of hazardous wastes, pollution or contamination on the Property. The HRA will allow reasonable access to the Property for the Developer to conduct such tests regarding soil conditions and hazardous wastes as the Developer may desire. Permission to enter the Property to conduct such tests must be given in writing under the terms and conditions established by the HRA.

**Section 3.10 Survey.** The HRA will allow reasonable access to the Property for the Developer to conduct a survey. Permission to enter the Property to conduct such tests must be given in writing under the terms and conditions established by the HRA.

**Section 3.11 Trees.** All healthy trees will be saved and protected by the Developer during construction, to the extent possible, except those that specifically interfere with the construction of the Improvements. Trees requested to be removed must be identified by type on the site plan provided by the Developer.

**Section 3.12 Sale to Qualified Buyer; Covenant on Use.** The Developer agrees to convey the Property and Improvements to a Qualified Buyer within 180 days of issuance of a Certificate of Occupancy or after that time as agreed upon by the parties. Prior to agreeing to sell the Property and Improvements to a prospective buyer, the Developer shall provide the HRA with sufficient evidence that the potential buyer is a Qualified Buyer. In addition, the Developer must obtain the HRA's prior approval of the terms and conditions of the purchase agreement with the Qualified Buyer, and the agreement terms and conditions must be consistent with this Agreement. This Agreement constitutes a covenant on the part of the Developer, its successors and assigns, to develop the Property and Improvements for owner-occupied, single-family residential purposes as permitted by the City.

**Section 3.13 Construction of Public Alley.** The developer agrees to construct a public alley behind the Improvements and on the Property that meets the construction standards set by the City.

## ARTICLE IV.

### CONSTRUCTION OF IMPROVEMENTS

**Section 4.1. Construction of Improvements.** The Developer shall construct the Improvements on the Property at the Developer's cost in accordance with the Construction Plans, and shall maintain, preserve and keep the Improvements in good repair and condition until sale of the Property to a Qualified Buyer.

**Section 4.2. Building Plans.** The Developer agrees that the City of Richfield building official may withhold issuance of a building permit for the Improvements unless the Construction Plans are in conformity with this Agreement, and all local, state and federal regulations. The HRA shall, within 25 days of receipt of Construction Plans submitted in application for a building permit, review such Construction Plans to determine whether the foregoing requirements have been met. If the HRA determines such Construction Plans to be deficient, it shall notify the Developer in writing stating the deficiencies and the steps necessary for correction. Issuance of the building permit by the City with the approval of the HRA shall be a conclusive determination that the Construction Plans have been approved and shall satisfy the provisions of this Section 4.2.

**Section 4.3 Schedule of Construction.** Subject to Unavoidable Delays, construction of the Improvements shall be completed prior to April 30, 2020. All construction shall be in conformity with the approved Construction Plans. Periodically during construction the Developer shall make reports in such detail as may reasonably be requested by the HRA concerning the actual progress of construction. If at any time prior to completion of construction the HRA has cause to believe that the Developer will be unable to complete construction of the Improvements in the time permitted by this Section 4.3, it may notify the Developer and demand assurances from the Developer regarding the Developer's construction schedule. If such assurances are not forthcoming or are deemed by the HRA at its sole discretion to be inadequate, the HRA may declare an Event of Default and may avail itself of any of the remedies specified in Section 8.2 of this Agreement.

**Section 4.4 Certificate of Completion.** After notification by the Developer of completion of construction of the Improvements, the HRA shall inspect the construction to determine whether the Improvements have been completed in accordance with the Construction Plans and the terms of this Agreement, including the date of the completion thereof. In the event that the HRA is satisfied with the construction, the HRA shall furnish the Developer with a Certificate of Completion in the form attached hereto as Exhibit C. Such certification by the HRA shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligation of the Developer to construct the Improvements.

The certification provided for in this Section 4.4 shall be in recordable form. If the HRA shall refuse or fail to provide certification in accordance with the provisions of this Section 4.4, the HRA shall within 15 days of such notification provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Improvements in accordance with the provisions of this Agreement necessary, in the opinion of the HRA, for the Developer to take or perform in order to obtain such certification.

**Section 4.5 Failure to Construct.** In the event that construction of the Improvements is not completed as provided in Section 4.3 of this Agreement, an Event of Default shall be deemed to have occurred and the HRA may proceed with its remedies under Section 8.2.

## ARTICLE V.

### INSURANCE

**Section 5.1 Insurance.** The Developer will provide and maintain or cause to be provided and maintained at all times during the process of constructing the Improvements and, from time to time at the request of the HRA, furnish the HRA with proof of payment of premiums on:

(a) Builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis," in an amount equal to 100% of the insurable value of the Improvements at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy;

(b) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(c) Workers' compensation insurance, with statutory coverage.

The policies of insurance required pursuant to clauses (a) and (b) above shall be in form and content satisfactory to the HRA and shall be placed with financially sound and reputable insurers licensed to transact business in Minnesota. The policy of insurance delivered pursuant to clause (a) above shall contain an agreement of the insurer to give not less than thirty (30) days advance notice to the HRA in the event of cancellation of such policy or change affecting the coverage thereunder.

## ARTICLE VI.

### FINANCING

**Section 6.1 Financing.** Within 20 days of the date of execution of this Agreement, the Developer shall submit to the HRA evidence of financing for the Improvements in compliance with the provisions of Section 2.1(b) of this Agreement. If the HRA finds that the financing is adequate in amount to provide for the construction of the Improvements, the HRA shall notify the Developer of its approval.

If the HRA rejects the evidence of financing as inadequate, the Developer shall have 30 days or such additional period of time as the Developer may reasonably require from the date of such notification to submit evidence of financing satisfactory to the HRA. If the Developer fails to submit such evidence or fails to use due diligence in pursuing financing, the HRA may terminate this Agreement and both parties shall be released from any further obligation or liability hereunder, except for the HRA's remedies pursuant to Section 4.5 of this Agreement. Closing shall not take place until the Developer has provided the HRA with acceptable evidence of financing for construction of the Improvements.

**Section 6.2 Limitation Upon Encumbrance of Property.** Prior to the issuance of the Certificate of Completion, neither the Developer nor any successor in interest to the Property or any part thereof shall engage in any financing or any other transaction creating any Mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance of lien to be made on or attached to the Property other than the liens or encumbrances attached for the purposes of obtaining funds to the extent necessary for making the Improvements without the prior written approval of the HRA. The HRA shall not approve any Mortgage which does not contain terms which conform to the terms of this Article VI and Section 8.2 of this Agreement.

**Section 6.3 Subordination.** In order to facilitate obtaining financing for the construction of the Improvements by the Developer, the HRA may, in its sole and exclusive discretion, agree to modify this Agreement in the manner and to the extent it deems reasonable, upon request by the financial institution and the Developer.

## ARTICLE VII.

### PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

**Section 7.1 Representation as to Redevelopment.** The Developer represents and agrees that its undertakings pursuant to the Agreement, are for the purpose of development of the Property and not for speculation in land holding. The Developer further recognizes that, in view of the importance of the Development to the general welfare of Richfield and the substantial financing and other public aids that have been made available by the HRA for the purpose of making the Development possible, the qualification and identity of the Developer are of particular concern to the HRA. The Developer further recognizes that it is because of such qualifications and identity that

the HRA is entering into this Agreement, and, in so doing, is further willing to rely on the representations and undertakings of the Developer for the faithful performance of all undertakings and covenants agreed by the Developer to be performed.

**Section 7.2 Prohibition Against Transfer of Property and Assignment of Agreement.**

For the reasons set out in Section 7.1 of this Agreement, the Developer represents and agrees that prior to the issuance of the Certificate of Completion by the HRA:

(a) Except only by way of security for, and only for the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Property, or any part thereof, to perform its obligations with respect to the Development under this Agreement, and any other purpose authorized by this Agreement, the Developer, except as so authorized, has not made or created, and that it will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or any trust in respect to this Agreement or the Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the HRA; and

(b) The HRA shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such approval under this Section 7.2 that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, as determined by the HRA, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer or, in the event the transfer is of or relates to part of the Property, such obligations to the extent that they relate to such part,

(ii) any proposed transferee, by instrument in writing satisfactory to the HRA and in form recordable among the land records, shall for itself and its successor and assigns, and specifically for the benefit of the HRA, have expressly assumed all of the obligations of the Developer under this Agreement and agreed to be subject to such obligations, restrictions and conditions or, in the event the transfer is of, or relates to part of the Property, such obligations, conditions, and restrictions to the extent that they relate to such part; provided, that the effect that any transferee of, or any other successor in interest whatsoever to, the Property or any part thereof, shall, for whatever reason, not have assumed such obligations or agree to do so, shall not, unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the HRA, relieve or except such transferee or successor from such obligations, conditions, or restrictions, or deprive or limit the HRA of or with respect to any rights or remedies or controls with respect to the Property of the construction of the Improvements; it being the intent of this Section 7.2, together with other provisions of this Agreement, that to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in the Agreement no transfer of, or change with respect to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the HRA, or any rights or remedies or controls provided in or resulting from this Agreement with respect to the Property and the construction of the Improvements that the HRA would have had, had there been no such transfer or change, and

(iii) There shall be submitted to the HRA for review all instruments and other legal documents involved in effecting transfers described herein, and if approved by the HRA, its approval shall be indicated to the Developer in writing.

In the absence of specific written agreement by the HRA to the contrary, no such transfer or approval by the HRA thereof shall be deemed to relieve the Developer from any of its obligations with respect thereto. The sale of the Development to a Qualified Buyer shall not be deemed to be a transfer within the meaning of this Section 7.2.

**Section 7.3 Approvals.** Any approval required to be given by the HRA under this Article VII may be denied only in the event that the HRA reasonably determines that the ability of the Developer to perform its obligations under this Agreement will be materially impaired by the action for which approval is sought.

## ARTICLE VIII.

### EVENTS OF DEFAULT

**Section 8.1 Events of Default Defined.** The following shall be deemed Events of Default under this Agreement and the term shall mean, whenever it is used in this Agreement, unless the context otherwise provides, any one or more of the following events:

(a) Failure by the Developer to pay when due the payments required to be paid or secured under any provision of this Agreement;

(b) Subject to Section 9.7, failure by the Developer to complete the Improvements by April 30, 2020, absent any Unavoidable Delay;

(c) Failure by the Developer to observe and substantially perform any covenant, condition, obligation or agreement on its part to be observed or performed hereunder, including the time for such performance;

(d) Failure by the Developer to close with a Qualified Buyer within 180 days of completion or after that time as agreed upon by the parties.

(e) If the Developer shall admit in writing its inability to pay its debts generally as they become due, or shall file a petition in bankruptcy, or shall make an assignment for the benefit of its creditors, or shall consent to the appointment of a receiver of itself or of the whole or any substantial part of the Property;

(f) If the Developer, on a petition in bankruptcy filed against it, be adjudicated as bankrupt, or a court of competent jurisdiction shall enter an order or decree appointing, without the consent of the Developer, a receiver of the Developer or of the whole or substantially all of its property, or approve a petition filed against the Developer seeking reorganization or arrangement of the

Developer under the federal bankruptcy laws, and such adjudication, order or decree shall not be vacated or set aside or stayed within 60 days from the date of entry thereof; or

(g) If the Development is in default under any Mortgage and has not entered into a work-out agreement with the Holder of the Mortgage.

**Section 8.2 Remedies on Default.** Whenever any Event of Default occurs, the HRA may, in addition to any other remedies or rights given the HRA under this Agreement, take any one or more of the following actions following written notice by the HRA to the Developer as provided in Section 9.4 of this Agreement:

(a) suspend its performance under this Agreement until it receives assurances from the Developer, deemed reasonably adequate by the HRA, that the Developer will cure its default and continue its performance under this Agreement;

(b) cancel or rescind this Agreement;

(c) withhold the Certificate of Completion; or

(d) take whatever action at law or in equity may appear necessary or desirable to the HRA to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement; provided, however, that any exercise by the HRA of its rights or remedies hereunder shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way (a) the lien of any Mortgage authorized by this Agreement and (b) any rights or interest provided in this Agreement for the protection of the Holders of a Mortgage; and provided further that should any Holder succeed by foreclosure of the Mortgage or deed in lieu thereof to the Developer's interest in the Property, it shall, notwithstanding the foregoing, be obligated to perform the following obligations of the Developer only to the extent that the same have not therefore been performed by the Developer: Sections 3.3 through 3.7; Sections 4.1 through 4.5; Sections 5.1. Said Holder, upon foreclosure or taking of a deed in lieu, shall have no obligations pursuant to this Agreement other than as specifically set forth in the foregoing sentence.

**Section 8.3 No Remedy Exclusive.** No remedy herein conferred upon or reserved to the HRA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the HRA or the Developer to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article VIII.

**Section 8.4 No Additional Waiver Implied by One Waiver.** In the event of the occurrence of any Event of Default by either party, which Event of Default is thereafter waived by

the other party, such waiver shall be limited to the particular Event of Default so waived and shall not be deemed to waive any other concurrent, previous or subsequent Event of Default.

## ARTICLE IX.

### ADDITIONAL PROVISIONS

**Section 9.1 Conflict of Interests; Representatives Not Individually Liable.** No HRA officer who is authorized to take part in any manner in making this Agreement in his or her official capacity shall voluntarily have a personal financial interest in this Agreement or benefit financially there from. No member, official, or employee of the HRA shall be personally liable to the Developer, or any successor in interest, for any Event of Default by the HRA or for any amount which may become due to the Developer or successor or on any obligations under the terms of this Agreement.

**Section 9.2 Non-Discrimination.** The provisions of Minnesota Statutes Section 181.59, which relate to civil rights and non-discrimination, and any affirmative action program of the City shall be considered a part of this Agreement and binding on the Developer as though fully set forth herein.

**Section 9.3 Notice of Status and Conformance.** At such time as all of the provisions of this Agreement have been fully performed by the Developer, the HRA, upon not less than ten days prior written notice by the Developer, agrees to execute, acknowledge and deliver, without charge to the Developer or to any person designated by the Developer, a statement in writing in recordable form certifying the extent to which this Agreement has been performed and the obligations hereunder satisfied.

**Section 9.4 Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by mail, postage prepared, return receipt requested or delivered personally:

- (a) As to the HRA:
  - Richfield HRA
  - Executive Director
  - 6700 Portland Avenue South
  - Richfield, MN 55423
  
- (b) As to the Developer:
  - Twin Cities Habitat For Humanity (TCHFH)
  - ATTN: Chad Dipman
  - 1954 University Ave West
  - St Paul, MN 55104

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section 9.4.

**Section 9.5 Provisions Not Merged With Deed.** None of the provisions of this Agreement is intended to or shall be merged by reason of any deed transferring any interest in the Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

**Section 9.6. Counterparts.** This Agreement may be simultaneously executed in any number of counterparts, all of which shall constitute one and the same instrument.

**Section 9.7. Extensions.** Any extension to the Closing Date and/or extension of the completion date of the Improvements set forth in Section 4.3 that exceeds 6 months from the date agreed to in Section 3.4 and 4.3, respectively, must be approved by the HRA Board. HRA staff is authorized to extend the Closing Date to a date less than 6 months from the Closing Date agreed to in Section 3.4 and extend the completion date of the Improvements to a date less than 6 months from the completion date set forth in Section 4.3.

(The remainder of this page is intentionally left blank.)

**IN WITNESS WHEREOF**, the HRA has caused this Agreement to be duly executed in its name and behalf and its seal to be hereunto duly affixed and the Developer has caused this Agreement to be duly executed as of the day and year first above written.

**THE HOUSING AND REDEVELOPMENT  
AUTHORITY IN AND FOR THE CITY OF  
RICHFIELD, MINNESOTA**

By \_\_\_\_\_  
Its Chairperson

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA     )  
  )   SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, the Chairperson of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of Minnesota, on behalf of the HRA.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  )   SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, a public body corporate and politic under the laws of Minnesota, on behalf of the public body corporate and politic.

\_\_\_\_\_  
Notary Public



## **EXHIBIT A**

### **LIST OF CONSTRUCTION PLAN DOCUMENTS**

- Contract for Development, fully executed
- Concept Plans
- Site Plan

**EXHIBIT B**

**FORM OF QUIT CLAIM DEED**

STATE DEED TAX DUE HEREON: \$ \_\_\_\_\_

Date: \_\_\_\_\_

FOR VALUABLE CONSIDERATION, Housing and Redevelopment Authority in and for the City of Richfield, a public body corporate and politic under the laws of the State of Minnesota, Grantor, hereby conveys and quit claims to Twin Cities Habitat for Humanity, a non-profit corporation under the laws of the State of Minnesota, Grantee, real property in Hennepin County, Minnesota, described as follows:

Lot 4, Block 6, "Ray's Lynnhurst," according to the plat thereof on file or of record in the office of the Register of Deeds in and for Hennepin County, Minnesota.

This deed is subject to the terms and provisions of that certain Contract for Private Development between Grantor and Grantee (the "Contract"), dated \_\_\_\_\_, 2019, recorded \_\_\_\_\_, 2019, in the office of the Hennepin County Recorder as Document No. \_\_\_\_\_. Specifically, pursuant to Section 3.12 of the Contract, the Grantee agrees to convey the Property and Improvements to a Qualified Buyer (as that term is defined in the Contract). The Grantee must obtain the Grantor's prior approval of the terms and conditions of the purchase agreement with the Qualified Buyer, and the agreement terms and conditions must be consistent with the terms of the Contract.

(if more space is needed, continue on back)

together with all hereditaments and appurtenances.

A well disclosure certificate accompanies this document.

*HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD*

Affix Deed Tax Stamp Here

By \_\_\_\_\_  
Its Chairperson

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA

} ss.

COUNTY OF HENNEPIN

The foregoing was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Mary B. Supple, the Chairperson of the Housing and Redevelopment Authority in and for the City of Richfield, a public body corporate and politic under the laws of Minnesota, on behalf of the corporation, Grantor.

\_\_\_\_\_  
SIGNATURE OF PERSON TAKING

ACKNOWLEDGMENT

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RAK)

STATE OF MINNESOTA

} ss.

COUNTY OF HENNEPIN

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Steven L. Devich, the Executive Director, of Housing and Redevelopment Authority in and for the City of Richfield, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the corporation, Grantor.

\_\_\_\_\_  
SIGNATURE OF PERSON TAKING

ACKNOWLEDGMENT

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RAK)

Check here if part or all of the land is Registered (Torrens)

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

This instrument drafted by:  
Kennedy & Graven, Chartered  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, MN 55402

**EXHIBIT C**

**FORM OF CERTIFICATE OF COMPLETION**

The undersigned hereby certifies that \_\_\_\_\_, has fully and completely complied with its obligations under Article IV of that document entitled "Contract for Private Development," between the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota and \_\_\_\_\_ dated \_\_\_\_\_, filed \_\_\_\_\_ as Document No. \_\_\_\_\_ with respect to the construction of the approved construction plans at \_\_\_\_\_, legally described as \_\_\_\_\_ and is released and forever discharged from its obligations to construct under such above-referenced Article.

DATED: \_\_\_\_\_

THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND  
FOR THE CITY RICHFIELD

By \_\_\_\_\_  
Its Chairperson

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA    )  
  )SS  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Mary Supple the Chairperson of the Housing and Redevelopment Authority in and for the City of Richfield, a public body corporate and politic under the laws of the State of Minnesota on behalf of the public body corporate and politic.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA    )  
  )    SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, a public body corporate and politic under the laws of Minnesota, on behalf of the public body corporate and politic.

\_\_\_\_\_  
Notary Public

This instrument was drafted by:

Richfield Housing and Redevelopment Authority  
6700 Portland Ave S  
Richfield, MN 55423

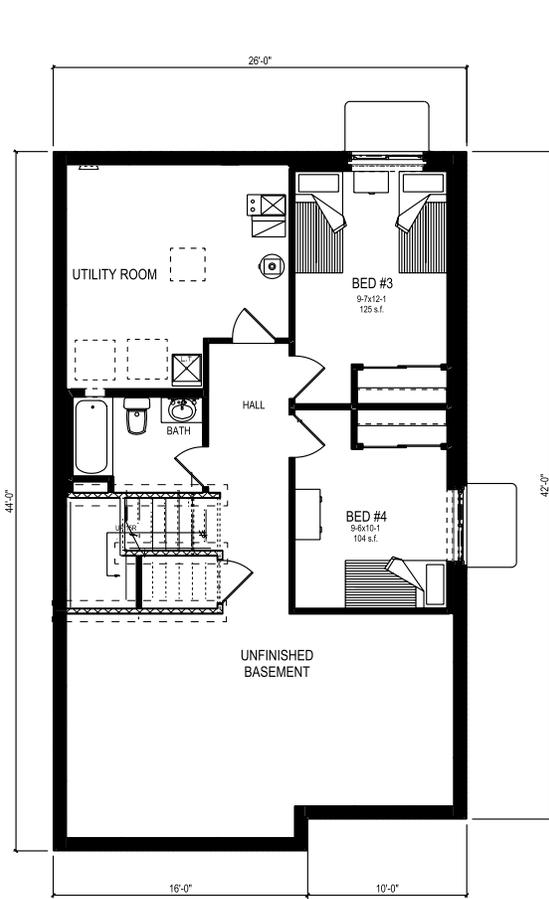
## **EXHIBIT D**

### **REQUIRED IMPROVEMENTS FOR ACCESSIBILITY**

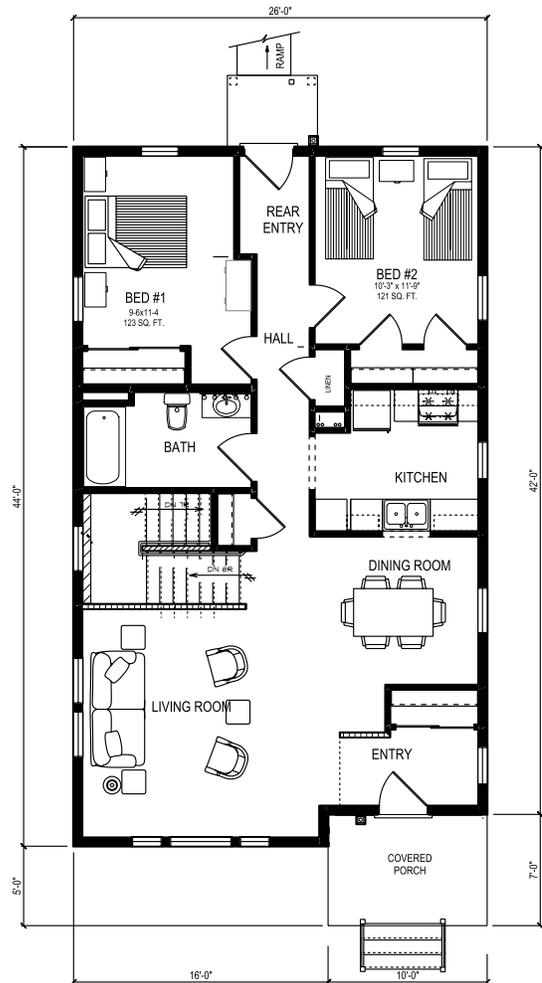
- One bedroom doorway will be 3' wide.
- The bathroom on the main level will be wide enough to accommodate a wheel chair.
- The bathroom on the main level will include wall reinforcements that will support grab bars.



RENDERING MAY NOT REFLECT ACTUAL  
CONSTRUCTED HOUSE



FOUNDATION PLAN



FIRST FLOOR PLAN



1954 UNIVERSITY AVE. W.  
ST. PAUL, MN 55104

OFFICE: 651-207-1100  
FAX: 651-641-8641

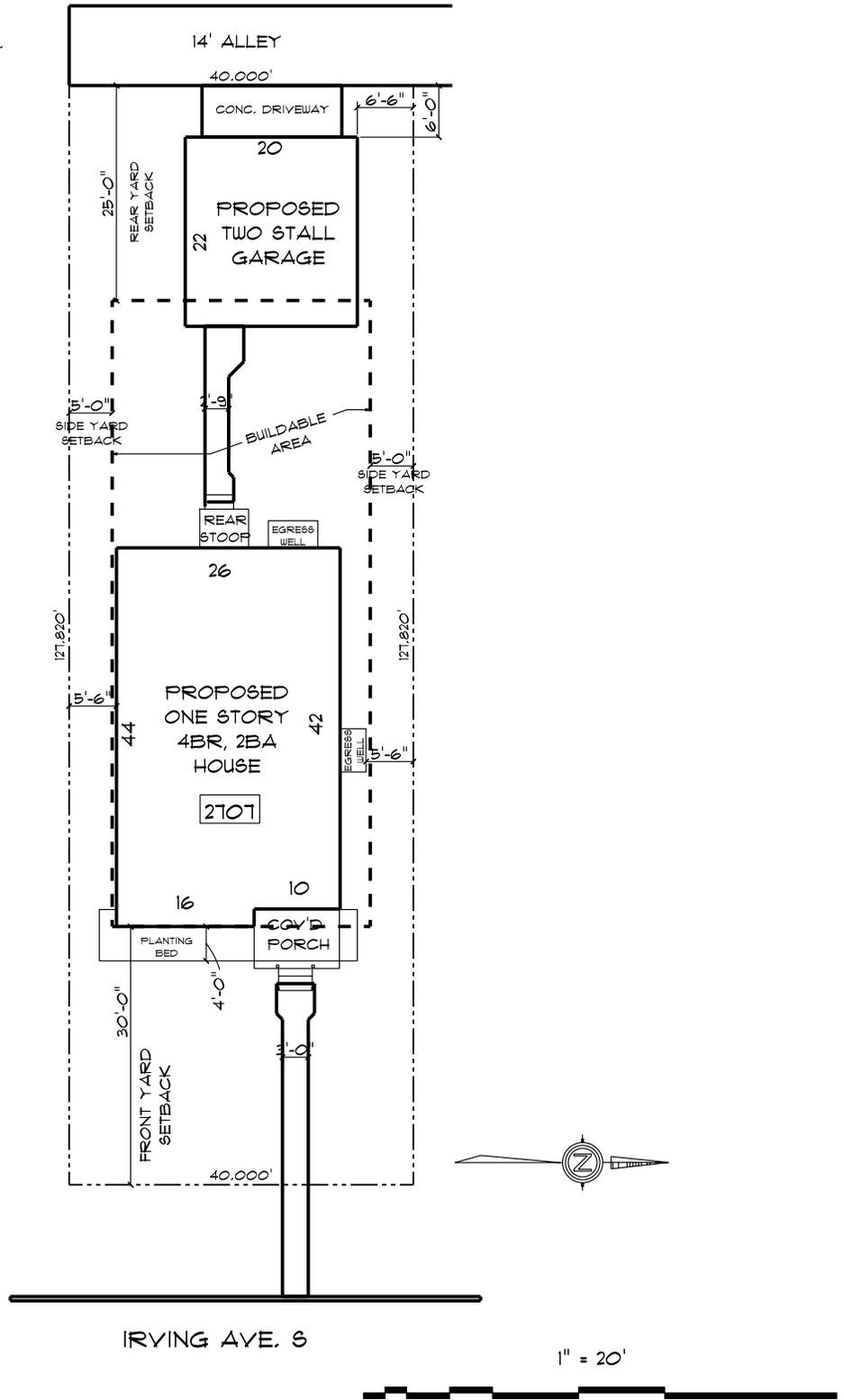
**SINGLE FAMILY DWELLING**  
**MODEL: 2TR4-2**

**6310 IRVING AVE. S.**  
**RICHFIELD, MN 55423**

BASEMENT UNFINISHED SQ. FT. = 731  
BASEMENT FINISHED SQ. FT. = 409  
MAIN FLOOR FINISHED SQ. FT. = 1,140  
\*TOTAL FINISHED SQ. FT. = 1,549  
\*Finished area calculated from outside edge of walls  
TOTAL SQ. FT. = 2280  
(INCLUDES UNFINISHED BASEMENT)

**NOTE:**

SITE PLAN AND MODEL ARE PROPOSED,  
SOIL CONDITIONS, EXISTING SITE CONDITIONS,  
AND LOCATION OF NEIGHBORING HOUSES MAY  
ALTER SITE PLAN AND/OR MODEL TYPE



P.I.D. - 2802824210075



1954 UNIVERSITY AVE. W.  
ST. PAUL, MN 55104

OFFICE: 651-207-1700  
FAX: 651-641-8641

**PROPOSED SITE PLAN**

SINGLE FAMILY DWELLING SITE: 1629  
MODEL: 2TR4-2  
6310 IRVING AVE. S.  
RICHFIELD, MN 55423

DRAWN BY: M. RICE

CHECKED BY: M. OJEDA

DATE: 5-10-19

PLOT DATE: 5/10/2019



**STAFF REPORT NO. 23**  
**HOUSING AND REDEVELOPMENT AUTHORITY**  
**MEETING**  
**5/20/2019**

REPORT PREPARED BY: Julie Urban, Housing Manager  
OTHER DEPARTMENT REVIEW: Katie Rodriguez, City Manager

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director  
5/15/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Public hearing and consider adoption of a resolution approving a Contract for Private Development with MWF Properties for redevelopment of the City Garage South site at 7700 Pillsbury Avenue S with 55 units of affordable workforce housing.**

**EXECUTIVE SUMMARY:**

MWF Properties (Developer) is proposing to purchase the City Garage South site at 7700 Pillsbury Avenue S (Property) from the Housing and Redevelopment Authority (HRA) and build 55 units of affordable workforce housing, including four to six units for people with disabilities.

The Developer is applying for federal Low Income Housing Tax Credits (LIHTC) to assist with financing the project. In addition, the Developer is seeking city financial participation through a write-down in the cost of the land. The Property appraised at \$770,000. The Developer is proposing to pay \$70,000 for the land at closing, with the remainder to be repaid through tax increment financing (TIF).

The proposed Contract for Private Development (Contract) provides the following terms:

- The Developer will construct minimum improvements of up to 55 units of rental housing, including four to six units for people with disabilities accompanied by supportive services.
- Rents for the project will be affordable for households earning between 30% to 70% of the Area Median Income (AMI).
- The Developer will pay the HRA \$70,000 at the time of closing on the Property.
- The remaining \$700,000 in acquisition cost will be repaid through TIF over 18.5 years.
- The terms of the Contract require construction of the apartments to begin by December 31, 2020, and be completed by December 31, 2021.
- The Contract requires that the Developer not discriminate against households using rental vouchers.
- The Contract is contingent upon the Developer being awarded tax credits.

**RECOMMENDED ACTION:**

**Conduct and close the public hearing and by motion: Adopt a resolution approving a Contract for Private Development with MWF Properties for the City Garage South site at 7700 Pillsbury Avenue S and selling the Housing and Redevelopment Authority owned property to MWF Properties.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- The Property formerly housed the offices for the City garage. Following the construction of the

new Public Works facility in 2007, this building was demolished, and ownership of the site was transferred to the Housing and Redevelopment Authority (HRA) to develop the site.

- On an interim basis, the site is being leased by Richfield-Bloomington Honda for employee parking. The HRA's lease with Richfield-Bloomington Honda allows for termination of the lease with at least 30 days' notice.
- The proposal from MWF is the second housing development that has been proposed for the site. In 2017, Nicolai Apartments proposed 21 units of market-rate housing. Nicolai Apartments decided not to move forward with the development.
- Work sessions were held on February 11, 2019, and March 26, 2019.
- The Developer hosted a neighborhood open house on the proposed development on April 29, 2019.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The Comprehensive Plan seeks to ensure a healthy balance of housing types that meets the needs of a diverse population with diverse needs through the following policies:
  - Acknowledge and support the City's allocation of the region's need for affordable housing.
  - Promote the development of a balanced housing stock that is available to a range of income levels.
  - Give priority to projects that provide two and three-bedroom units (or larger).
- The current Comprehensive Plan designation is medium density residential, which would allow up to 39 units to be built on the site. The Developer plans to ask policymakers for a Comprehensive Plan amendment to high density residential, which is consistent with other multi-family properties located along the I-494 Corridor. The Contract is contingent upon the Developer obtaining all necessary land use approvals from the City before closing on the Property.
- The City's **Inclusionary Housing Policy** commits the City to, "building a community that is welcoming and affordable to a diverse population of individuals and families at all stages of their lives." It requires new developments receiving financial assistance from the HRA to reserve 20% of all units as affordable to households earning no more than 60% of the Area Median Income (AMI) or contribute 15% of the tax increment financing (TIF) (or the value of other types of assistance) in lieu of including the units.
  - All units in the proposed development will have rents restricted to levels affordable to households earning between 30 and 70% of the AMI, which exceeds the affordable requirements of the Inclusionary Housing Policy, offering the opportunity to add a significant number of affordable units with minimal financial assistance. In addition, under the LIHTC requirements, affordability will be locked in for 40 years, as opposed to the 26 years required by a Housing TIF District.
  - The proposed development will provide much-needed larger rental units with 27 two bedroom and 15 three bedroom units.
  - Additional affordability will be possible through our Section 8 and Kids@Home programs.

**C. CRITICAL TIMING ISSUES:**

- The application for LIHTC is due June 3, 2019. Evidence of site control is required for the application.
- LIHTC awards will be made in November of 2019. The Contract is contingent upon the development being awarded tax credits.
- The Contract requires that the Developer obtain land use approvals for the project by June 1, 2020.
- The Contract requires that construction commence no later than December 31, 2020 and be completed by December 31, 2021.
- The TIF District was certified March 28, 2016, and expires in 2042.

**D. FINANCIAL IMPACT:**

- The property appraised for \$770,000 using the assumption that the proposed multi-family housing project would be developed on the Property. Under the proposed Contract, the Developer will pay \$70,000 of the acquisition price at closing, and the remaining \$700,000 will be paid over time with

tax increment. The full amount will be paid in 2040 under the following assumptions:

- A minimum tax value of \$7,590,000,
- Current 4d tax rate for affordable housing of .75 percent,
- Partial tax payments beginning in 2022; and
- Zero percent inflation.
- The City will be the recipient of the tax payments; therefore, the City assumes the risk if the Legislature reduces tax rates.
- The Developer has identified a need for public assistance to redevelop this site with affordable workforce housing: but for the use of public assistance, the development could not occur.
- The below-market rents and the cost of providing supportive services create a financing gap that is partially closed with tax credits. City assistance through a land write-down will close the remaining gap.
- The Developer will finance the development costs with a first mortgage and equity provided by LIHTC.
- There is significant competition for tax credits. With the reduced land price, the project will benefit in the LIHTC scoring process through reduced development costs and City financial participation. A reduction of the \$700,000 land write-down would have a significant, negative impact on the development's score in the competitive process for tax credits.
- The \$12,727 per unit subsidy for this development is relatively small compared to other multi-family projects that have received assistance from the HRA (e.g., Lyndale Plaza = \$15,063/unit; The Chamberlain = \$29,901/unit; RF64 = \$18,185/unit).
- The HRA will retain 10% of the TIF for administrative expenses.

**E. LEGAL CONSIDERATION:**

- HRA legal counsel drafted the proposed Contract in cooperation with staff and the Developer.
- There are occasionally changes of an administrative or technical nature that are required of a contract as more information becomes available; HRA legal counsel may be given authority to make these changes without further HRA consideration.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve the Contract for Private Development with additional provisions or modifications.
- Do not approve the Contract for Private Development.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Julie Eddington, HRA Legal Counsel; Rebecca Kurtz, HRA Financial Consultant; Representative(s) of MWF Properties

**ATTACHMENTS:**

Description	Type
▢ Resolution	Resolution Letter
▢ Contract for Private Development	Contract/Agreement

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD, MINNESOTA**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING CONTRACT FOR PRIVATE DEVELOPMENT  
WITH MWF PROPERTIES, L.L.C. WITH RESPECT TO A WORKFORCE HOUSING  
DEVELOPMENT AND AUTHORIZING THE CONVEYANCE OF LAND**

WHEREAS, the City of Richfield, Minnesota (the “City”) and the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) have approved the creation of Tax Increment Financing District No. 2014-1 (a redevelopment district) (the “TIF District”) within the Richfield Redevelopment Project in the City (the “Redevelopment Project”) and have adopted a tax increment financing plan for the purpose of financing certain improvements within the Redevelopment Project; and

WHEREAS, MWF Properties, L.L.C., a Minnesota limited liability company (the “Developer”), has proposed to acquire one parcel of property located within the TIF District, which is legally described as Lot 6, Block 4, “R.C. Soens Addition,” according to the recorded plat thereof, Hennepin County, Minnesota (the “Development Property”) and construct on the Development Property a development consisting of approximately 55 units of workforce housing, including 4 to 6 units of housing for people with disabilities, accompanied by supportive services (the “Minimum Improvements”); and

WHEREAS, there has been presented before this Board of Commissioners of the Authority (the “Board”) a Contract for Private Development (the “Development Agreement”) proposed to be entered into between the Authority and the Developer, pursuant to which the Developer will agree to construct the Minimum Improvements and the Authority will agree to sell the Development Property for a reduced price to the Developer and be reimbursed for the cost of the land with tax increment generated from the Development Property; and

WHEREAS, the land write-down the Authority proposes to provide to the Developer is in the amount of \$700,000 and the Authority will be repaid with tax increment derived from the TIF District with 3.00% per annum; and

WHEREAS, the Authority understands and acknowledges that the City conveyed the Development Property to the Authority with the understanding that the Authority would transfer any proceeds from the sale of the Development Property to the City upon receipt and the Authority will repay the City for the Development Property with the tax increment funds it receives; and

WHEREAS, on the date hereof, the Board conducted a duly noticed public hearing on the conveyance of the Development Property to the Developer in accordance with Minnesota Statutes, Section 469.029, subdivision 2; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota as follows:

1. The Development Agreement is hereby in all respects authorized, approved, and confirmed, and the Chair and the Executive Director are hereby authorized and directed to execute the Development Agreement for and on behalf of the Authority in substantially the form now on file with the Executive Director but with such modifications as shall be deemed necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

2. The Board finds that the proposed conveyance of the Development Property is in accordance with the redevelopment plan approved for the Redevelopment Project.

3. The conveyance of the Authority's right, title, and interest in the Development Property to the Developer described herein is hereby approved.

4. The Chair 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 Development Agreement.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 20<sup>th</sup> day of May, 2019.

---

Mary B. Supple, Chair

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Erin Vrieze Daniels, Secretary

May 14, 2019

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**CONTRACT**  
**FOR**  
**PRIVATE DEVELOPMENT**  
**between**

**HOUSING AND REDEVELOPMENT AUTHORITY IN AND  
FOR THE CITY OF RICHFIELD, MINNESOTA**

**and**

**MWF PROPERTIES, LLC**

Dated: \_\_\_\_\_, 2019

---

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THIS INSTRUMENT DRAFTED BY:  
Kennedy & Graven, Chartered (JAE)  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, MN 55402  
(612) 337-9300

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## CONTRACT FOR PRIVATE DEVELOPMENT

THIS CONTRACT FOR PRIVATE DEVELOPMENT (the “Agreement”) is made as of the \_\_\_ day of \_\_\_\_\_, 2019, between the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), and MWF PROPERTIES, LLC, a Minnesota limited liability company (the “Developer”).

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the “HRA Act”), and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Richfield (the “City”); and

WHEREAS, the Authority has undertaken a program to promote redevelopment and development of land that is underused or underutilized within the City, and in this connection the Authority administers a redevelopment project known as the Richfield Redevelopment Project (the “Redevelopment Project”) pursuant to the HRA Act; and

WHEREAS, pursuant to the HRA Act, the Authority is authorized to acquire real property, or interests therein, and to undertake certain activities to facilitate the redevelopment of real property by private enterprise and promote the development of housing within the City; and

WHEREAS, the City and the Authority have established the 2014-1 Tax Increment Financing District (City Garage Site) (the “TIF District”) within the Richfield Project pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended, in order to facilitate redevelopment of certain property in the Redevelopment Project and promote the development of housing within the City; and

WHEREAS, the Developer proposes to acquire certain property from the Authority located in the TIF District (the “Development Property”) and construct thereon approximately 55 units of workforce housing, including 4 to 6 units of housing for people with disabilities, accompanied by supportive services (the “Minimum Improvements”), which project is expected to receive federal low income tax credits; and

WHEREAS, in order to achieve the objectives of the Redevelopment Plan for the Redevelopment Project and make the Minimum Improvements economically feasible for the Developer to construct, the Authority is prepared to write-down the cost of the Development Property to the Developer and proposed to convey the Development Property to the Developer for a purchase price of \$70,000 (representing a write-down of \$700,000); and

WHEREAS, the Authority believes that the development of the TIF District pursuant to this Agreement, and fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable state and local laws and requirements under which the Redevelopment Project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## ARTICLE I

### Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Agreement” means this Contract for Private Development, as the same may be from time to time modified, amended, or supplemented.

“Authority” means the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota.

“Authority Representative” means the Executive Director of the Authority.

“Available Tax Increment” means, on each February 1 and August 1, the Tax Increment attributable to the Development Property and paid to the Authority by the County in the six (6) months preceding each February 1 and August 1 after first deducting therefrom ten percent (10%) of the Tax Increment to be used to reimburse the Authority for administrative expenses and the promotion of redevelopment and housing.

“Board” means the Board of Commissioners of the Authority.

“Certificate of Completion” means the certification provided to the Developer pursuant to Section 4.4 hereof and set forth in EXHIBIT B attached hereto.

“City” means the City of Richfield, Minnesota.

“Closing” has the meaning given such term in Section 3.2 hereof.

“Code” means the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Developer on the Development Property, including the Minimum Improvements, which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) shall include at least the following: (1) site plan; (2) foundation plan; (3) floor plan for each floor; (4) cross-sections of each (length and width); (5) elevations (all sides, including a building materials schedule); (6) landscape and grading plan; and (7) such other plans or supplements to the foregoing plans as the City may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means Hennepin County, Minnesota.

“Declaration” means Declaration of Restrictive Covenants substantially in the form set forth in EXHIBIT C.

“Developer” means MWF Properties, LLC, a Minnesota limited liability company, or its permitted successors and assigns.

“Development Property” means the real property described in EXHIBIT A attached hereto.

“Development Property Purchase Price” means \$770,000, as adjusted pursuant to the terms of this Agreement.

“Event of Default” means an action by the Developer listed in Article IX hereof.

“Holder” means the owner of a Mortgage.

“HRA Act” means Minnesota Statutes, Sections 469.001 through 469.047, as amended.

“Material Change” means a change in construction plans that adversely affects generation of tax increment or changes the number of units of rental housing.

“Minimum Improvements” means the construction of a multifamily housing development with approximately 55 Rental Housing Units, including 4 to 6 Rental Housing Units for people with disabilities, accompanied by supportive services, on the Development Property.

“Minimum Market Value” has the meaning set forth in Section 4.2(a)(vi) hereof.

“Mortgage” means any mortgage made by the Developer which is secured, in whole or in part, with the Development Property and which is a permitted encumbrance pursuant to the provisions of Article VII hereof.

“Project Area” means the real property located within the boundaries of the Redevelopment Project.

“Redevelopment Plan” means the Redevelopment Plan for the Redevelopment Project approved and adopted by the Authority and the City Council of the City.

“Redevelopment Project” means the Richfield Redevelopment Project.

“Rental Housing Units” means the workforce rental housing units constructed as part of the Minimum Improvements.

“State” means the State of Minnesota.

“Tax Credit Law” means Section 42 of the Code.

“Tax Increment” means that portion of the real property taxes which is paid with respect to the TIF District and which is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes, Sections 469.174 through 469.1794, as amended.

“Tax Increment District” or “TIF District” means the 2014-1 Tax Increment Financing District (City Garage Site), a redevelopment district, established within the Redevelopment Project.

“Tax Increment Plan” or “TIF Plan” means the Tax Increment Financing Plan for the TIF District, as approved by the City Council on February 25, 2014, as it may be amended and supplemented.

“Tax Official” means any County assessor; County auditor; County or State board of equalization, the commissioner of revenue of the State, or any State or federal district court, the tax court of the State, or the State Supreme Court.

“Termination Date” means the earlier of (i) the date the Development Property Purchase Price is paid in full as described in Section 3.3; and (ii) the date the TIF District is decertified.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather or acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the Authority in exercising its rights under this Agreement) which directly result in delays.

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## ARTICLE II

### **Representations and Warranties**

Section 2.1. Representations by the Authority. The Authority makes the following representations as the basis for the undertaking on its part herein contained:

(a) The Authority is a housing and redevelopment authority organized and existing under the laws of the State. Under the provisions of the Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder, and execution of this Agreement has been duly, properly and validly authorized by the Authority.

(b) The activities of the Authority are being undertaken to facilitate the construction of the Minimum Improvements in accordance with the terms of this Agreement to further the objectives of the Redevelopment Plan.

(c) The activities of the Authority undertaken pursuant to this Agreement are necessary to foster the redevelopment of certain real property which for a variety of reasons is presently underutilized, to eliminate current blighting factors and prevent the emergence of further blight at a critical location in the City, to promote affordable housing in the City, and to stimulate further development of the TIF District and Redevelopment Project as a whole.

(d) The execution, delivery and performance of this Agreement and of any other documents or instruments required pursuant to this Agreement by the Authority, and consummation of the transactions contemplated therein and the fulfillment of the terms thereof, do not and will not conflict with or constitute a breach of or default under any existing (i) indenture, mortgage, deed of trust or other agreement or instrument to which the Authority is a party or by which the Authority or any of its property is or may be bound; or (ii) legislative act, constitution or other proceedings establishing or relating to the establishment of the Authority or its officers or its resolutions.

(e) There is not pending, nor to the best of the Authority's knowledge is there threatened, any suit, action or proceeding against the Authority before any court, arbitrator, administrative agency or other governmental authority that materially and adversely affects the validity of any of the transactions contemplated hereby, the ability of the Authority to perform its obligations hereunder, or the validity or enforcement of this Agreement.

(f) No commissioner of the Board of the Authority or officer of the Authority has either a direct or indirect financial interest in this Agreement, nor will any commissioner or officer benefit financially from the Agreement within the meaning of Section 469.009 of the HRA Act.

Section 2.2. Representations by the Developer. The Developer represents and warrants that:

(a) The Developer is a limited liability company duly organized and in good standing under the laws of the State, is duly authorized to transact business within the State, and has the power to enter into this Agreement.

(b) The Developer will construct, operate and maintain the Minimum Improvements in accordance with the terms of this Agreement, Redevelopment Plan and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(c) The Developer has received no notice or communication from any local, state or federal official that the activities of the Developer or the Authority in or on the Development Property may be or will be in violation of any environmental law or regulation (other than those notices or communications of which the Authority is aware). The Developer is aware of no facts the existence of which would cause it to be in violation of or give any person a valid claim under any local, state or federal environmental law, regulation or review procedure.

(d) The Developer will obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) The proposed development by the Developer hereunder would not occur but for the tax increment financing assistance being provided by the Authority hereunder.

(g) The Developer shall promptly advise the Authority in writing of all litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially affecting the Minimum Improvements or materially affecting Developer or its business which may delay or require changes in construction of the Minimum Improvements.

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## ARTICLE III

### Property Acquisition; Financing

Section 3.1. Status of Development Property. The Authority currently owns fee absolute title to the Development Property and shall convey the Development Property to the Developer pursuant to the provisions of Section 3.2 hereof.

#### Section 3.2. Conveyance of Development Property.

(a) The Authority will convey the Development Property to the Developer via a quit claim deed. The conveyance of the Development Property to the Developer is contingent on the Board of the Authority holding a public hearing and approving the sale of the Development Property. The Authority will cause the Board of the Authority to hold such public hearing and consider such approvals no later than June 3, 2019. The Development Property will be conveyed “as-is” and “where-is.” Within sixty (60) days following execution of this Agreement, the Developer will obtain a commitment for title insurance from a title insurance company (the “Title Company”) acceptable to Developer. The Developer shall pay for the cost of obtaining a policy of title insurance.

(b) Within sixty (60) days after the Developer’s receipt of the title commitment, the Developer may give the Authority written notice of any alleged defect(s) in the marketability of the Authority’s actual and/or record title to the Development Property, or any portion thereof (the “Objections”) and request that the Authority make the Authority’s title marketable or conforming. The Developer’s failure to object to defects in the marketability of Authority’s title to the Property, in writing, within the time period set forth above or at any time prior to Closing, shall be deemed a waiver of the Developer’s right to require the Authority to cure such defects. If the Developer notifies the Authority of Objections within the time period set forth above, the Authority shall use good faith efforts to make the Authority’s actual and record title to the Property marketable. The Authority shall have up to forty-five (45) days from the Authority’s receipt of the Developer’s Objections to use good faith efforts to make the Authority’s actual and record title to the Property marketable. In no event will the Authority be required to expend more than \$1,000 in its good faith efforts to make the Authority’s actual and record title to the Property marketable. If the Authority makes the Authority’s title marketable within the forty-five (45) day period, the Authority shall notify the Developer, in writing, and the parties shall close pursuant to the terms of this Agreement. If the Authority is unable to make title marketable within the forty-five (45) day period, the Developer may either: (i) terminate this Agreement by delivering written notice of termination to the Authority; or (ii) notify the Authority that the Developer waives the Developer’s Objections. If the Developer waives the Developer’s Objections, the matters giving rise to such Objections shall be deemed a permitted encumbrance and the parties shall otherwise perform their obligations under this Agreement. The Authority shall have no obligation to take any action to clear defects in the title to the Property other than the good faith efforts described above.

(c) Without limitation, the Developer is responsible for satisfying itself as to matters such as contamination, soils conditions and soil stability, and survey. The Authority shall have no obligation to cure any defect or other matter regarding contamination, soils conditions and soil stability, and survey, but agrees to cooperate, at no cost or expense to it, in any efforts by Developer to achieve such a cure.

(d) On the date the Development Property is conveyed to the Developer (the “Closing”), the Developer shall provide the Authority with an executed Declaration and the Authority will execute and deliver to the Developer the following, in form and content reasonably acceptable to the Developer:

- (i) A quit claim deed conveying the Development Property to the Developer;

- (ii) A non-foreign affidavit, properly executed, containing such information as is required by Internal Revenue Code Section 1445(b)(2) and its regulations;
- (iii) A standard form Seller's Affidavit;
- (iv) A well certificate in the form required by law;
- (v) Any affidavit and disclosures required by law pertaining to private sewage treatment systems; and
- (vi) Any affidavits, certificates, or other documents that may be required under applicable law and/or that are reasonably determined by Developer or the Title Company to be necessary to transfer the Development Property to Developer and to evidence that the Authority has duly authorized the transactions contemplated hereby.

(e) The Developer acknowledges that the Authority will be conveying the Development Property to the Developer for the fair market value of the Development Property, which is \$770,000 (the "Development Property Purchase Price"). The Developer will provide the Authority with \$70,000 of the Development Property Purchase Price at Closing. To make the Minimum Improvements economically feasible, the Authority has agreed to provide the Developer with a subsidy of \$700,000 by writing-down the remainder of the Development Property Purchase Price.

(f) The Developer shall obtain all of the land use approvals required for the Minimum Improvement on or prior to June 1, 2020.

(g) The Closing will not take place until the Developer has obtained all necessary land use approvals from the City. In the event that the Closing has not taken place by September 1, 2020, and unless extended by mutual agreement of the parties, this Agreement will terminate and be of no further force and effect, and the parties will be relieved of any further obligations hereunder. Notwithstanding the foregoing, the deadline for the Closing may be postponed to December 31, 2020, if the Developer has completed the following actions: (i) submitted all paperwork necessary to the City to obtain all required building permits for the Minimum Improvements; and (ii) obtained a commitment from one or more lenders to provide financing for the Minimum Improvements.

Section 3.3. Land Write-Down; Reimbursement for Development Property Purchase Price. The parties acknowledge that the Development Property Purchase Price is \$770,000 and the Authority will convey the Development Property to the Developer for an amount less than the fair market value of the Development Property pursuant to Section 3.2(e) hereof. The Authority will reimburse itself for the land write-down in the amount of \$700,000 (the "Land Write-Down") from Available Tax Increment with interest at a rate of three percent (3%) per annum.

Section 3.4. Payment of Administrative Costs. Prior to the date of execution of this Agreement, the Developer deposited with the Authority \$3,500 and shall cause to be deposited with the Authority an additional \$4,000 (for a total deposit of \$7,500). The Authority will use such deposit to pay "Administrative Costs," which term means out of pocket costs incurred by the Authority, together with staff costs up to \$1,000 and consultant costs of the Authority, all attributable to or incurred in connection with the negotiation, preparation or modification of this Agreement and other documents and agreements in connection with the development of the Development Property, and not previously paid by the Developer. At the Developer's request, but no more often than monthly, the Authority will provide the Developer with a written report including invoices, time sheets or other comparable evidence of expenditures for Administrative Costs and the outstanding balance of funds deposited. At any time the deposit drops below \$1,000, the Developer shall

replenish the deposit to the full \$7,500 within thirty (30) days after receipt of written notice thereof from the HRA. If at any time the Authority determines that the deposit is insufficient to pay Administrative Costs, the Developer is obligated to pay such shortfall within fifteen (15) days after receipt of a written notice from the Authority containing evidence of the unpaid costs. If Administrative Costs incurred, and reasonably anticipated to be incurred are less than the deposit by the Developer, the Authority shall return to the Developer any funds not anticipated to be needed.

Section 3.5. Records. The Authority and its representatives shall have the right at all reasonable times after reasonable notice to inspect, examine and copy all books and records of Developer relating to the Minimum Improvements and the costs for which the Developer has been reimbursed with Available Tax Increment.

Section 3.6. Purpose of Assistance. The parties agree and understand that the purpose of the Authority's financial assistance to the Developer is to facilitate development of housing, and is not a "business subsidy" within the meaning of Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

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## ARTICLE IV

### Construction of Minimum Improvements

Section 4.1. Construction of Improvements. Following the conveyance of the Development Property to the Developer, the Developer agrees that it will construct the Minimum Improvements on the Development Property substantially in accordance with the Construction Plans as approved pursuant to Section 4.2 hereof, and at all times prior to the Termination Date, will operate and maintain, preserve and keep the Minimum Improvements or cause such improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition. The Authority shall have no obligation to operate or maintain the Minimum Improvements.

#### Section 4.2. Construction Plans.

(a) Before commencement of construction of the Minimum Improvements, the Developer shall submit the Construction Plans to the Authority. The Authority Representative will approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the goals and objectives of the Redevelopment Plan; (iii) the Construction Plans conform to all applicable federal, state and local laws, ordinances, rules and regulations; (iv) the Construction Plans are adequate to provide for construction of the Minimum Improvements; (v) the Construction Plans do not provide for expenditures in excess of the funds available to the Developer from all sources (including Developer's equity) for construction of the Minimum Improvements; (vi) the Construction Plans provide for the construction of Minimum Improvements having an estimated market value of at least \$7,590,000 (the "Minimum Market Value"); and (vii) no uncured Event of Default has occurred. Approval may be based upon a review by the City's Building Official of the Construction Plans. No approval by the Authority Representative shall relieve the Developer of the obligation to comply with the terms of this Agreement or of the Redevelopment Plan, applicable federal, state and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the Authority Representative shall constitute a waiver of an Event of Default. If approval of the Construction Plans is requested by the Developer in writing at the time of submission, such Construction Plans shall be deemed approved unless rejected in writing by the Authority Representative, in whole or in part. Such rejections shall set forth in detail the reasons therefor, and shall be made within thirty (30) days after the date of their receipt by the Authority. If the Authority Representative rejects any Construction Plans in whole or in part, the Developer shall submit new or corrected Construction Plans within thirty (30) days after written notification to the Developer of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the Authority. The Authority Representative's approval shall not be unreasonably withheld, delayed or conditioned. Said approval shall constitute a conclusive determination that the Construction Plans (and the Minimum Improvements constructed in accordance with said plans) comply to the Authority's satisfaction with the provisions of this Agreement relating thereto.

(b) If the Developer desires to make any Material Change in the Construction Plans after their approval by the Authority, the Developer shall submit the proposed change to the Authority for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 with respect to such previously approved Construction Plans, the Authority shall approve the proposed change and notify the Developer in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to the Developer, setting forth in detail the reasons therefor. Such rejection shall be made within thirty (30) days after receipt of the notice of such change. The Authority's approval of any such

change in the Construction Plans may be conditioned on amendment to provisions of this Agreement if such amendments will mitigate the materiality of such proposed changes.

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Developer will commence the construction of the Minimum Improvements by December 31, 2020, and substantially complete construction of the Minimum Improvements by December 31, 2021. Construction is considered to be commenced upon the beginning of physical improvements beyond grading. All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in substantial conformity with the Construction Plans as submitted by the Developer and approved by the Authority. If the Closing is postponed pursuant to Section 3.2(g) hereof, the Developer shall commence construction of the Minimum Improvements within sixty (60) days of the Closing.

The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Minimum Improvements.

Section 4.4. Certificate of Completion.

(a) Promptly after substantial completion of the Minimum Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Developer to construct the Minimum Improvements (including the dates for beginning and completion thereof), the Authority Representative will furnish the Developer with a Certificate of Completion shown as EXHIBIT B attached hereto. Notwithstanding anything to the contrary contained herein, the Authority shall issue the Certificate of Completion upon the City's issuance of a certificate of occupancy that allows tenants to occupy the Minimum Improvements. The Certificate of Completion will be a conclusive determination of the satisfaction and termination of the agreements and covenants in Articles III and IV of this Agreement and in the deed conveying the Development Property to the Developer with respect to the obligations of the Developer and its successors and assigns to construct the Minimum Improvements.

(b) If the Authority Representative shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4, the Authority Representative shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the Authority, for the Developer to take or perform in order to obtain such certification.

(c) Regardless of whether a Certificate of Completion is issued by the Authority, the construction of the Minimum Improvements shall be deemed to be complete upon issuance of a certificate of occupancy by the City.

Section 4.5. Affordability Covenants. The Developer agrees that the Minimum Improvements are subject to the following affordability covenants:

(a) Recent Federal legislation has introduced an income averaging option for the low-income housing tax credit program. This legislation allows projects to accept residents with higher average median incomes as long as the overall average of the income of tenants in the project does not exceed sixty percent (60%) of the area median income, which provides LIHTC projects the ability to serve tenants with a greater range of incomes ("Income Averaging"). The Minnesota Housing Finance Agency allows Income Averaging for the low-income housing tax credit program to be used for the Minimum Improvements. This Agreement requires the Developer to cause one hundred percent (100%) of the Rental Housing Units in the Minimum Improvements to be affordable to families at various levels using Income Averaging, if applicable;

provided, however, the overall average of the income of tenants of the Minimum Improvements shall not exceed sixty percent (60%) of the area median income.

(b) The Authority and its representatives will have the right at all reasonable times while the covenants in this Section are in effect, after reasonable notice to inspect, examine, and copy all books and records of the Developer and its successors and assigns relating to the covenants described in this Section and in the Declaration.

(c) During the term of the Declaration, the Developer shall not adopt any policies specifically prohibiting or excluding rental to tenants holding certificates/vouchers under Section 8 of the United States Housing Act of 1937, as amended, codified as 42 U.S.C. Sections 1401 et seq., or its successor because of such prospective tenant's status as such a certificate/voucher holder.

(d) The Developer will immediately notify the Authority if at any time during the term of the Declaration the dwelling units in the Minimum Improvements are not occupied or available for occupancy as required by the terms of the Declaration.

(e) The Developer shall include the following mix of Rental Housing Units within the Minimum Improvements:

<u>Unit Type</u>	<u>Number of Units</u>
One Bedroom	13
Two Bedroom	27
Three Bedroom	15

(f) The Developer shall reserve four to six Rental Housing Units within the Minimum Improvements for people with disabilities, with supportive services.

Section 4.6. Affordable Housing Reporting. At least annually, no later than April 1 of each year commencing on the April 1 first following the issuance of the Certificate of Completion for the Minimum Improvements, the Developer shall provide a report to the Authority evidencing that the Developer complied with the income affordability covenants set forth in Section 4.5 hereof during the previous calendar year. The income affordability reporting shall be on the form entitled "Tenant Income Certification" from the Minnesota Housing Finance Agency (MHFA HTC Form 14), or if unavailable, any similar form. The Authority may require the Developer to provide additional information reasonably necessary to assess the accuracy of such certification.

Section 4.7. Records. The Authority, the City, the legislative auditor, and the State auditor's office, through any authorized representatives, shall have the right after reasonable notice to inspect, examine and copy all books and records of the Developer relating to the construction of the Minimum Improvements. The Developer shall maintain such records and provide such rights of inspection for a period of six (6) years after issuance of the Certificate of Completion for the Minimum Improvements.

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## ARTICLE V

### Insurance

#### Section 5.1. Insurance.

(a) The Developer will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the Authority, furnish the Authority with proof of payment of premiums on policies covering the following:

(i) Builder's risk insurance, written on the so-called "Builder's Risk – Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy. The interest of the Authority shall be protected in accordance with a clause in form and content satisfactory to the Authority;

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with a Protective Liability Policy with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used). The Authority shall be listed as an additional insured on the policy; and

(iii) Workers' compensation insurance, with statutory coverage.

(b) Upon completion of construction of the Minimum Improvements and prior to the Termination Date, the Developer shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority shall furnish proof of the payment of premiums on, insurance as follows:

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses.

(ii) Comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$2,000,000, and shall be endorsed to show the Authority as additional insured.

(iii) Such other insurance, including workers' compensation insurance respecting all employees, if any, of the Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that the Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

(c) All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Developer will deposit annually with the Authority policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V each policy shall contain a provision that the insurer shall not cancel nor modify it in such a way as to reduce the coverage provided

below the amounts required herein without giving written notice to the Developer and the Authority at least thirty (30) days before the cancellation or modification becomes effective. In lieu of separate policies, the Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Developer agrees to notify the Authority immediately in the case of damage exceeding \$100,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In such event the Developer will forthwith repair, reconstruct and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Developer will apply the Net Proceeds of any insurance relating to such damage received by the Developer to the payment or reimbursement of the costs thereof.

The Developer shall complete the repair, reconstruction and restoration of the Minimum Improvements, whether or not the Net Proceeds of insurance received by the Developer for such purposes are sufficient to pay for the same. Any Net Proceeds remaining after completion of such repairs, construction and restoration shall be the property of the Developer.

(e) The Developer and the Authority agree that all of the insurance provisions set forth in this Article V shall terminate upon the termination of this Agreement.

Section 5.2. Subordination. Notwithstanding anything to the contrary contained in this Article V, the rights of the Authority with respect to the receipt and application of any proceeds of insurance shall, in all respects, be subject and subordinate to the rights of any lender under a Mortgage approved pursuant to Article VII hereof.

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## ARTICLE VI

### Tax Increment; Taxes

Section 6.1. Right to Collect Delinquent Taxes. The Developer acknowledges that the Authority is providing substantial aid and assistance in furtherance of the redevelopment through the Land Write-Down. The Developer agrees for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Development Property and the Minimum Improvements. The Developer acknowledges that this obligation creates a contractual right on behalf of the Authority to sue the Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the Authority shall also be entitled to recover its costs, expenses and reasonable attorney fees.

Section 6.2. Reduction of Taxes. The Developer agrees that after the date of certification of the Tax Increment District and prior to completion of the Minimum Improvements, it will not cause a reduction in the real property taxes paid in respect of the Development Property through: (A) willful destruction of the Development Property or any part thereof (except for the demolition of structures, if any, required to construct the Minimum Improvements); or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 hereof.

The Developer also agrees that it will not, prior to the Termination Date, (i) seek exemption from property tax for the Development Property; (ii) convey or transfer or allow conveyance or transfer of the Development Property to any entity that is exempt from payment of real property taxes under State law; or (iii) seek or agree to any reduction of the assessor's estimated market value to below the Minimum Market Value described in Section 4.2(a)(vi) hereof.

The Developer may, at any time following the issuance of the Certificate of Completion, seek through petition or other means to have the Assessors Estimated Market Value for the Development Property reduced to not less than the Minimum Market Value. Such activity must be preceded by written notice from the Developer to the Authority indicating its intention to do so. Notwithstanding the foregoing, the Authority acknowledges that the Developer intends for the Minimum Improvements to qualify as Class 4d low income rental housing, as defined in Minn. Stat. Section 273.13, subd. 25(e) for purposes of the property taxes imposed against the Minimum Improvements.

Section 6.3. Qualifications. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that upon transfer of the Development Property to another person or entity, the Developer will remain obligated under Sections 6.1 and 6.2 hereof, unless the Developer is released from such obligations in accordance with the terms and conditions of Section 8.2(b) or 8.3 hereof.

Section 6.4. Minimum Assessment Agreement. (a) On or before Closing, the Developer shall execute the Minimum Assessment Agreement pursuant to Minnesota Statutes, Section 469.177, subd. 8, specifying an assessor's minimum market value for the Development Property with the Minimum Improvements constructed thereon.

(b) The Minimum Assessment Agreement shall be substantially in the form attached hereto as EXHIBIT D. Nothing in the Assessment Agreement shall limit the discretion of the assessor to assign a market value to the property in excess of such assessor's minimum market value nor prohibit the Developer from seeking through the exercise of legal or administrative remedies a reduction in such market value for property tax purposes, provided however, that the Developer shall not seek a reduction of such market value

below the assessor's minimum market value in any year so long as such Minimum Assessment Agreement shall remain in effect. The Assessment Agreement shall remain in effect for the period described in EXHIBIT D.

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## ARTICLE VII

### Financing

#### Section 7.1. Mortgage Financing.

(a) Before the date of the Closing, the Developer shall submit to the Authority evidence of receipt of a reservation of low income tax credits under the Tax Credit Law from the Minnesota Housing Finance Agency. Before commencement of construction of the Minimum Improvements, the Developer shall submit to the Authority evidence of one or more commitments for financing which, together with committed equity for such construction and the low income tax credits, is sufficient for payment of the Minimum Improvements. Such commitments may be submitted as short term financing, long term mortgage financing, a bridge loan with a long term take-out financing commitment, or any combination of the foregoing.

(b) If the Authority finds that the financing is sufficiently committed and adequate in amount to pay the costs specified in paragraph (a) then the Authority shall notify the Developer in writing of its approval. Such approval shall not be unreasonably withheld and either approval or rejection shall be given within twenty (20) days from the date when the Authority is provided the evidence of financing. A failure by the Authority to respond to such evidence of financing shall be deemed to constitute an approval hereunder. If the Authority rejects the evidence of financing as inadequate, it shall do so in writing specifying the basis for the rejection. In any event the Developer shall submit adequate evidence of financing within twenty (20) days after such rejection.

Section 7.2. Authority's Option to Cure Default in Mortgage. In the event that any portion of the Developer's funds is provided through mortgage financing, and there occurs a default under any Mortgage authorized pursuant to Article VII hereof, the Developer shall cause the Authority to receive copies of any notice of default received by the Developer from the holder of such Mortgage. Thereafter, to the extent permitted by the Holder of any Mortgage, the Authority shall have the right, but not the obligation, to cure any such default on behalf of the Developer within such cure periods as are available to the Developer under the Mortgage documents. In the event there is an Event of Default under this Agreement, the Authority will transmit to the Holder of any Mortgage and any tax credit investor of the Developer a copy of any notice of an Event of Default given by the Authority pursuant to Article IX hereof if the Developer provides the names and contact information necessary to deliver such notices.

Section 7.3. Modification; Subordination. In order to facilitate the Developer obtaining financing for the development of the Minimum Improvements, the Authority agrees to subordinate its rights under this Agreement to the Holder of any Mortgage securing construction or permanent financing, under terms and conditions reasonably acceptable to the Authority. An agreement to subordinate this Agreement must be approved by the Board of the Authority.

Section 7.4. Termination. All the provisions of this Article VII shall terminate with respect to the Minimum Improvements, upon delivery of the Certificate of Completion for the Minimum Improvements. The Developer or any successor in interest to the Minimum Improvements or portion thereof, may sell or engage in financing or any other transaction creating a mortgage or encumbrance or lien on the Minimum Improvements or any portion thereof for which a Certificate of Completion has been obtained, without obtaining prior written approval of the Authority, provided that such sale, financing or other transaction creating a mortgage or encumbrance shall not be deemed as resulting in any subordination of the Authority's rights under this Agreement unless the Authority expressly consents to such a subordination.

## ARTICLE VIII

### **Prohibitions against Assignment and Transfer; Indemnification**

Section 8.1. Representation as to Development. The Developer represents and agrees that its purchase of the Development Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of development of the Development Property and not for speculation in land holding.

Section 8.2. Prohibition against Developer's Transfer of Property and Assignment of Agreement. The Developer represents and agrees that prior to issuance of the Certificate of Completion for the Minimum Improvements:

(a) Except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations with respect to constructing the Minimum Improvements under this Agreement, and any other purpose authorized by this Agreement, the Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same (except a lease to a residential occupant, a license, easement or similar arrangement entered into in the ordinary course of business, or transfers of partnership interests in the Developer, or its successors or assigns, pursuant to the Developer's (or its successors and assigns') organization documents (including an amended and restated agreement of limited partnership)), without the prior written approval of the Authority unless the Developer remains liable and bound by this Agreement in which event the Authority's approval is not required. Any such transfer shall be subject to the provisions of this Agreement.

(b) In the event the Developer, upon transfer or assignment of the Development Property seeks to be released from its obligations under this Agreement, the Authority shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such release that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Development Property or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the Authority of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Minimum

Improvements that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve the Developer or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII, shall be in a form reasonably satisfactory to the Authority.

In the event the foregoing conditions are satisfied then the Developer shall be released from its obligation under this Agreement.

After issuance of the Certificate of Completion for the Minimum Improvements, the Developer may transfer or assign the Development Property or the Developer's interest in this Agreement if it obtains the prior written consent of the Authority (which consent will not be unreasonably withheld) and the transferee or assignee is bound by all the Developer's obligations hereunder. The Developer shall submit to the Authority written evidence of any such transfer or assignment, including the transferee or assignee's express assumption of the Developer's obligations under this Agreement. If the Developer fails to provide such evidence of transfer and assumption, the Developer shall remain bound by all its obligations under this Agreement.

Notwithstanding anything to the contrary contained herein, the Developer may assign the rights and obligations under this Agreement to an affiliate of the Developer without the written consent of the Authority.

### Section 8.3. Release and Indemnification Covenants.

(a) The Developer releases from and covenants and agrees that the Authority and its governing body members, officers, agents, servants and employees thereof shall not be liable for and agrees to indemnify and hold harmless the Authority and its respective governing body members, officers, agents, servants and employees thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements.

(b) Except for any willful misrepresentation, gross negligence or any willful or wanton misconduct of the Authority, or its board members, officers, agents or employees, the Developer agrees to protect and defend the Authority and its governing body members, officers, agents, servants and employees thereof, now or forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance and operation of the Minimum Improvements. As to any willful misrepresentation, gross negligence or any willful or wanton misconduct of the Authority, or its board members, officers, agents or employees, the Authority agrees to protect and defend the Developer, its officers, agents, servants and employees and hold the same harmless from any such proceedings.

(c) The Authority and its governing body members, officers, agents, servants and employees thereof shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Development Property or Minimum Improvements due to any act of negligence of any other person.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the

Authority and not of any governing body member, officer, agent, servant or employee of the Authority in the individual capacity thereof.

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## ARTICLE IX

### Events of Default

Section 9.1. Events of Default. The following will be “Events of Default” under this Agreement and the term “Event of Default” means, whenever it is used in this Agreement, any one or more of the following events, after the non-defaulting party provides sixty (60) days’ written notice to the defaulting party of the event, but only if the event has not been cured within said sixty (60) days or, if the event is by its nature incurable within sixty (60) days, the defaulting party does not, within the sixty (60) day period, provide assurances reasonably satisfactory to the party providing notice of default that the event will be cured and will be cured as soon as reasonably possible:

(a) The failure by the Developer or the Authority to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

(b) The Developer:

(i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law;

(ii) makes an assignment for benefit of its creditors;

(iii) fails to pay real estate taxes on the Development Property or the Minimum Improvements as they become due;

(iv) admits in writing its inability to pay its debts generally as they become due; or

(v) is adjudicated as bankrupt or insolvent.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 hereof occurs, the non-defaulting party may exercise its rights under this Section 9.2 after providing sixty (60) days written notice to the defaulting party of the Event of Default, but only if the Event of Default has not been cured within said sixty (60) days or, if the Event of Default is by its nature incurable within sixty (60) days, the defaulting party does not provide assurances reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible:

(a) Suspend its performance under the Agreement until it receives assurances that the defaulting party will cure its default and continue its performance under the Agreement.

(b) Cancel and rescind or terminate the Agreement.

(c) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

Section 9.3. [Reserved].

Section 9.4. Revesting Title in Authority upon Happening of Event Subsequent to Conveyance to Developer. In the event that subsequent to conveyance of the Development Property to the Developer and

prior to Developer satisfying the conditions for receipt by the Developer of the Certificate of Completion for the Minimum Improvements, the Developer, subject to Unavoidable Delays, fails to commence or complete construction of the Minimum Improvements by the dates specified in Section 4.3 hereof, and such failure to commence or complete is not cured within ninety (90) days (or such longer amount of time agreed to by the Authority) after written notice from the Authority to the Developer to do so; then the Authority shall have the right to re-enter and take possession of the Development Property and to terminate and re-vest in the Authority the Development Property, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Development Property to the Developer shall be made upon, and that the deeds shall contain a condition subsequent to the effect that in the event of any default on the part of the Developer in performance of the obligations specified in this Section 9.4 and failure on the part of the Developer to remedy, end, or abrogate such default within the period and in the manner stated in this Section, the Authority at its option may declare a termination in favor of the Authority of the title, and of all the rights and interests in and to the Development Property and that such title and all rights and interests of the Developer, and any assigns or successors in interest to and in the Development Property, shall revert to the Authority, as applicable, but only if the events stated in this Section have not been cured within the time periods provided above. Any agreement to subordinate this Agreement to the Holder of any Mortgage pursuant to Section 7.3 shall also subordinate the Authority's rights granted in this Section 9.4.

Section 9.5. Resale of Reacquired Property; Disposition of Proceeds. Upon the re-vesting in the Authority of title to and/or possession of the Development Property, the Authority shall, pursuant to their responsibilities under law, use their best efforts to sell the Development Property and in such manner as the Authority to a qualified and responsible party or parties (as determined by the Authority) who will assume the obligation of making or completing the Minimum Improvements or such other improvements in their stead as shall be satisfactory to the Authority in accordance with the uses specified for the Development Property in this Agreement. During any time while the Authority has title to and/or possession of a parcel of property obtained by reverter, the Authority will not disturb the rights of any tenants under any leases encumbering such parcel. Upon resale of the Development Property, the proceeds thereof shall be applied:

(a) First, to reimburse the Authority for all costs and expenses incurred by them, including but not limited to salaries of personnel, in connection with the recapture, management, and resale of the Development Property (but less any income derived by the Authority from the property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Development Property or part thereof (or, in the event the Development Property is exempt from taxation or assessment or such charge during the period of ownership thereof by the Authority, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the Authority assessing official) as would have been payable if the Development Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Development Property, or part thereof at the time of re-vesting of title thereto in the Authority, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the subject improvements or any part thereof on the Development Property; and any amounts otherwise owing the Authority by the Developer and its successor or transferee; and

(b) Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the portion of the Development Property Purchase Price paid by the Developer under Section 3.2 hereof and the amount actually invested by it in making any of the subject improvements on the Development Property or part thereof, less any gains or income withdrawn or made by it from the Agreement or the Development Property.

Any balance remaining after such reimbursements shall be retained by the Authority as its property.

Section 9.6. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or the Developer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it, it shall not be necessary to give notice, other than the notices already required in Section 9.2 hereof.

Section 9.7. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.8. Attorney Fees and Costs. Whenever any Event of Default occurs and if the Authority employs attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, and the Authority prevails in the action, the Developer agrees that it will, within ten days of written demand by the Authority, pay to the Authority the reasonable fees of the attorneys and the other expenses so incurred by the Authority.

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## ARTICLE X

### Additional Provisions

Section 10.1. Conflict of Interests; Authority Representatives Not Individually Liable. The Authority and the Developer, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the Authority shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Authority or County or for any amount which may become due to the Developer or successor or on any obligations under the terms of the Agreement.

Section 10.2. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in the Agreement it will comply with all applicable federal, state and local equal employment and non-discrimination laws and regulations.

Section 10.3. Restrictions on Use. The Developer agrees that, prior to the Termination Date, the Developer, and such successors and assigns, shall use the Development Property solely for the development of multifamily housing in accordance with the terms of this Agreement, and shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon, or any part thereof.

Section 10.4. Provisions Not Merged with Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) in the case of the Developer, is addressed to or delivered personally to the Developer at 7645 Lyndale Avenue South, Minneapolis, MN 55423, Attn: Christopher J. Stokka with a copy to Winthrop & Weinstine, P.A., 225 South Sixth Street, Suite 3500, Minneapolis, MN 55402, Attn: Jeffrey Koerselman;

(b) in the case of the Authority, is addressed to or delivered personally to the Authority at 6700 Portland Avenue South, Richfield, MN 55423, Attn: Community Development Director;

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The Authority may record a memorandum of this Agreement and any amendments thereto with the County Recorder or the Registrar of Titles, as the case may be, of the County. The Developer shall pay all costs for recording.

Section 10.9. Amendment. This Agreement may be amended only by written agreement approved by the Authority and the Developer. The Authority and the Developer agree to amend this Agreement upon terms acceptable to both parties, as may be required by the Developer's tax credit investor and lenders in connection with the construction of the Minimum Improvements.

Section 10.10. Termination. This Agreement terminates on the Termination Date, except that such termination does not terminate, limit, or affect the rights of any party that arise before the Termination Date.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Authority has caused this Contract for Private Development to be duly executed in its name and behalf and the Developer has caused this Contract for Private Development to be duly executed in its name and behalf as of the date and year first written above.

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD,  
MINNESOTA**

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2019, by Mary Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2019, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

**MWF PROPERTIES, LLC**

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By Christopher J. Stokka  
Its Vice President

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2019, by Christopher J. Stokka, the Vice President of MWF Properties, LLC, a Minnesota limited liability company, on behalf of the Developer.

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Notary Public

**EXHIBIT A**

**DEVELOPMENT PROPERTY**

Lot 6, Block 4, "R.C. Soens Addition," according to the recorded plat thereof, Hennepin County, Minnesota.

**EXHIBIT B**

**CERTIFICATE OF COMPLETION**

The undersigned hereby certifies that MWF Properties, LLC, a Minnesota limited liability company (the "Developer"), has fully complied with its obligations under Articles III and IV of that document titled "Contract for Private Development," dated \_\_\_\_\_, 2019 (the "Agreement"), between the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota and the Developer, a memorandum of which was recorded in the Office of [County Recorder] [Registrar of Titles] of Hennepin County, Minnesota on \_\_\_\_\_, 2019, as Document No. \_\_\_\_\_, with respect to construction of the Minimum Improvements in accordance with Article IV of the Agreement, and that the Developer is released and forever discharged from its obligations with respect to construction of the Minimum Improvements under Articles III and IV of the Agreement.

Dated: \_\_\_\_\_, 20\_\_.

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD,  
MINNESOTA**

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

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

## EXHIBIT C

### FORM OF DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this “Declaration”) dated \_\_\_\_\_, 2019, by MWF PROPERTIES, LLC, a Minnesota limited liability company (the “Developer”), is given to the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”).

#### RECITALS

WHEREAS, the Authority entered into that certain Contract for Private Development, dated \_\_\_\_\_, 2019, filed \_\_\_\_\_, 20\_\_\_\_ in the Office of the [County Recorder] [Registrar of Titles] of Hennepin County as Document No. \_\_\_\_\_ (the “Contract”), between the Authority and the Developer; and

WHEREAS, pursuant to the Contract, the Developer is obligated to cause construction of 55 units of workforce rental housing, including 4 to 6 units for people with disabilities, accompanied by supportive services, on the property described in EXHIBIT A attached hereto (the “Property”), and to cause compliance with certain affordability covenants described in Section 4.5 of the Contract; and

WHEREAS, Section 4.5 of the Contract requires that the Developer cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in Section 4.5 of the Contract; and

WHEREAS, the Developer intends, declares, and covenants that the restrictive covenants set forth herein shall be and are covenants running with the Property for the term described herein and binding upon all subsequent owners of the Property for such term, and are not merely personal covenants of the Developer; and

WHEREAS, capitalized terms in this Declaration have the meaning provided in the Contract unless otherwise defined herein.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer agrees as follows:

1. Term of Restrictions.

(a) Occupancy Restrictions. The term of the Occupancy Restrictions set forth in Section 3 hereof shall commence at the end of the first taxable year of the credit period for the Property under the Tax Credit Law for all rental units on the Property. The period from commencement to termination is the “Qualified Project Period.”

(b) Termination of Declaration. This Declaration shall terminate upon the date that is thirty (30) years after the commencement of the Qualified Project Period.

(c) Removal from Real Estate Records. Upon termination of this Declaration, the Authority shall, upon request by the Developer or its assigns, file any document appropriate to remove this Declaration from the real estate records of Hennepin County, Minnesota.

2. Project Restrictions.

(a) The Developer represents, warrants, and covenants that:

(i) All leases of units to Qualifying Tenants (as defined in Section 3(a)(i) hereof) shall contain clauses, among others, wherein each individual lessee:

(1) Certifies the accuracy of the statements made in its application and Eligibility Certification (as defined in Section 3(a)(ii) hereof); and

(2) Agrees that the family income at the time the lease is executed shall be deemed substantial and material obligation of the lessee's tenancy, that the lessee will comply promptly with all requests for income and other information relevant to determining low or moderate income status from the Developer or the Authority, and that the lessee's failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the lessee's tenancy.

(ii) The Developer shall permit any duly authorized representative of the Authority to inspect the books and records of the Developer pertaining to the income of Qualifying Tenants residing in the Project.

3. Occupancy Restrictions.

(a) Tenant Income Provisions. The Developer represents, warrants, and covenants that:

(i) Qualifying Tenants. Recent Federal legislation has introduced an income-averaging option for the low-income housing tax credit program. This legislation allows projects to accept residents with higher average median incomes as long as the overall average of the income of tenants in the project does not exceed sixty percent (60%) of the area median income, which provides LIHTC projects the ability to serve tenants with a greater range of incomes ("Income Averaging"). The Minnesota Housing Finance Agency allows Income Averaging for the low-income housing tax credit program to be used for the Minimum Improvements (as defined in the Contract). From the commencement of the Qualified Project Period, one hundred percent (100%) of the Rental Housing Units shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants. Qualifying Tenants shall mean those persons and families who shall be determined from time to time by the Developer to have combined adjusted income that does not exceed sixty percent (60%) of the Minneapolis-St. Paul metropolitan statistical area (the "Metro Area") median income for the applicable calendar year, or such other income level in connection with any Income Averaging so long as the overall average of the income of tenants of the Rental Housing Units shall not exceed sixty percent (60%) of the Metro Area median income. For purposes of this definition, the occupants of a residential unit shall not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are "students," as defined in Section 151(c)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), not entitled to an exemption under the Code. The determination of whether an individual or family is of low or moderate income shall be made at the time the tenancy commences and on an ongoing basis thereafter, determined at least annually. If during their tenancy a Qualifying Tenant's income exceeds one hundred forty percent (140%) of the maximum income qualifying as low or moderate income for a family of its size, the

next available unit (determined in accordance with the Code and applicable regulations) (the “Next Available Unit Rule”) must be leased to a Qualifying Tenant or held vacant and available for occupancy by a Qualifying Tenant. If the Next Available Unit Rule is violated, the Rental Housing Unit will not continue to be treated as a Qualifying Unit. The annual recertification and Next Available Unit Rule requirements of this paragraph 3(a)(i) shall not apply to a given year if, during such year, no residential unit in the Project is occupied by a new resident whose income exceeds the applicable income limit for Low Income Tenants.

(ii) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant shall be required annually to sign and deliver to the Developer a form entitled “Tenant Income Certification” from the Minnesota Housing Finance Agency (MHFA HTC Form 14), or if unavailable, any similar form (the “Eligibility Certification”), in which the prospective Qualifying Tenant certifies as to qualifying as low or moderate income. In addition, such person shall be required to provide whatever other information, documents, or certifications are deemed necessary by the Authority to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that such tenant continues to be a Qualifying Tenant within the meaning of Section 3(a)(i) hereof. Eligibility Certifications will be maintained on file by the Developer with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year.

(iii) Lease. The form of lease to be utilized by the Developer in renting any units in the Project to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Eligibility Certification.

(iv) Annual Report. The Developer covenants and agrees that during the term of this Declaration, it will prepare and submit to the Authority on or before April 1 of each year the Eligibility Certification.

(v) Notice of Non-Compliance. The Developer will immediately notify the Authority if at any time during the term of this Declaration the dwelling units in the Project are not occupied or available for occupancy as required by the terms of this Declaration.

(b) Section 8 Housing. During the term of this Declaration, the Developer shall not adopt any policies specifically prohibiting or excluding rental to tenants holding certificates/vouchers under Section 8 of the United States Housing Act of 1937, as amended, codified as 42 U.S.C. Sections 1401 et seq., or its successor, because of such prospective tenant’s status as such a certificate/voucher holder.

4. Reserved.

5. Transfer Restrictions. The Developer covenants and agrees that the Developer will cause or require as a condition precedent to any transfer that the transferee of the Project pursuant to the Transfer assume in writing, in a form acceptable to the Authority, all duties and obligations of the Developer under this Declaration, including this Section 5, in the event of a subsequent transfer by the transferee prior to expiration of the Occupancy Restrictions provided herein (the “Assumption Agreement”). The Developer shall deliver the Assumption Agreement to the Authority prior to the transfer.

6. Reserved.

7. Enforcement.

(a) The Developer shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority to inspect any books and records of the Developer regarding the Project with respect to the incomes of Qualifying Tenants.

(b) The Developer shall submit any other information, documents or certifications requested by the Authority which the Authority deems reasonably necessary to substantial continuing compliance with the provisions specified in this Declaration.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in Section 4.5 of the Contract, and by reason thereof, the Developer, in consideration for assistance provided by the Authority under the Contract that makes possible the construction of the Minimum Improvements (as defined in the Contract) on the Property, hereby agrees and consents that the Authority shall be entitled, upon any breach of the provisions of this Declaration and the Developer's failure to cure such breach within the cure periods described in Section 9.1 of the Contract, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Developer of its obligations under this Declaration in a state court of competent jurisdiction. The Developer hereby further specifically acknowledges that the Authority cannot be adequately compensated by monetary damages in the event of any default hereunder.

(d) The Developer understands and acknowledges that, in addition to any remedy set forth herein for failure to comply with the restrictions set forth in this Declaration, the Authority may exercise any remedy available to it under Article IX of the Contract.

8. Indemnification. The Developer hereby indemnifies, and agrees to defend and hold harmless, the Authority from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, allegations, claims, demands, and judgments of any nature arising from the consequences of a legal or administrative proceeding or action brought against them, or any of them, on account of any failure by the Developer to comply with the terms of this Declaration, or on account of any representation or warranty of the Developer contained herein being untrue.

9. Agent of the Authority. Upon any default hereunder, after first providing the Developer with a reasonable amount of time to cure such default, the Authority shall have the right to appoint an agent to carry out any of its duties and obligations hereunder, and shall inform the Developer of any such agency appointment by written notice.

10. Severability. The invalidity of any clause, part or provision of this Declaration shall not affect the validity of the remaining portions thereof.

11. Notices. All notices to be given pursuant to this Declaration shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing. The Developer and the Authority may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent. The initial addresses for notices and other communications are as follows:

To the Authority: Housing and Redevelopment Authority in and for  
the City of Richfield  
6700 Portland Avenue  
Richfield, MN 55423  
Attention: Community Development Director

To the Developer: MWF Properties, LLC  
7645 Lyndale Avenue South  
Minneapolis, MN 55423  
Attn: Christopher J. Stokka

with a copy to: Winthrop & Weinstine, P.A.  
225 South Sixth Street, Suite 3500  
Minneapolis, MN 55402  
Attn: Jeffrey Koerselman

12. Governing Law. This Declaration shall be governed by the laws of the State of Minnesota and, where applicable, the laws of the United States of America.

13. Attorneys' Fees. In case any action at law or in equity, including an action for declaratory relief, is brought against the Developer to enforce the provisions of this Declaration, the Developer agrees to pay the reasonable attorneys' fees and other reasonable expenses paid or incurred by the Authority in connection with such action.

14. Declaration Binding. This Declaration and the covenants contained herein shall run with the real property comprising the Project and shall bind the Developer and its successors and assigns and all subsequent owners of the Project or any interest therein, and the benefits shall inure to the Authority and its successors and assigns for the term of this Declaration as provided in Section 1(b) hereof.

15. Relationship to Tax Credit Law Requirements. Notwithstanding anything to the contrary, during any period while at least 55 units in the Property are subject to income and rent limitations under the Tax Credit Law, evidence of compliance with such Tax Credit Law requirements filed with the Authority at least annually will satisfy any requirements otherwise imposed under this Declaration.

16. Notice of Sale. The Developer agrees to provide the Authority with at least ninety (90) days' notice of any sale of the Project.



This Declaration is acknowledged and consented to by:

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD,  
MINNESOTA**

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2019, by Mary Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2019, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

EXHIBIT A TO DECLARATION OF RESTRICTIVE COVENANTS

LEGAL DESCRIPTION

Lot 6, Block 4, "R.C. Soens Addition," according to the recorded plat thereof, Hennepin County, Minnesota.

## EXHIBIT D

### FORM OF MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT, made on or as of the \_\_\_ day of \_\_\_\_\_, 2019 (the “Minimum Assessment Agreement”), is by and between the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), and MWF PROPERTIES, LLC, a Minnesota limited liability company (the “Developer”).

WITNESSETH,

WHEREAS, the Authority and the Developer have entered into that certain Contract for Private Development, dated \_\_\_\_\_, 2019 (the “Contract”), regarding the acquisition of property, the construction of a multifamily housing development with approximately 55 units of workforce housing, including 4 to 6 units of housing for people with disabilities, accompanied by supportive services (the “Minimum Improvements”) to be constructed on property legally described in Exhibit A (the “Development Property”); and

WHEREAS, the Authority and the Developer desire to establish a minimum market value for the Development Property and the Minimum Improvements to be constructed thereon, pursuant to Minnesota Statutes, Section 469.177, subdivision 8; and

WHEREAS, the Authority and the County Assessor (the “Assessor”) have reviewed the preliminary plans and specifications for the Minimum Improvements and have inspected such improvements;

NOW, THEREFORE, the parties to this Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each to the other, do hereby agree as follows:

1. All capitalized terms used herein and not otherwise defined have the definition given such terms in the Contract.

2. The minimum market value which shall be assessed for ad valorem tax purposes for the Development Property, together with the Minimum Improvements constructed thereon, shall not be less than \$7,590,000 as of January 2, 2022 [or January 2, 2023 if tax credit application is postponed one year], notwithstanding the progress of construction by such date.

3. The minimum market value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate on the Termination Date. The Authority shall execute a certificate or affidavit upon the occurrence of a termination event referred to in this Section 3 indicating that this Minimum Assessment Agreement has terminated and shall supply such certificate to the Developer for recording. Notwithstanding anything to the contrary in this Minimum Assessment Agreement or in the Contract, this Minimum Assessment Agreement shall not terminate prior to the payment in full of Development Property Purchase Price.

4. This Minimum Assessment Agreement shall be promptly recorded by the Authority. The Developer shall pay all costs of recording.

5. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, nor shall they be construed as, modifying the terms of the Contract.

6. This Minimum Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

7. Each of the parties has authority to enter into this Minimum Assessment Agreement and to take all actions required of it, and has taken all actions necessary to authorize the execution and delivery of this Minimum Assessment Agreement.

8. In the event any provision of this Minimum Assessment Agreement shall be held invalid and unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

9. The parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements, amendments and modifications hereto, and such further instruments as may reasonably be required for correcting any inadequate, or incorrect, or amended description of the Development Property or the Minimum Improvements or for carrying out the expressed intention of this Minimum Assessment Agreement.

10. This Minimum Assessment Agreement may not be amended nor any of its terms modified except by a writing authorized and executed by all parties hereto.

11. This Minimum Assessment Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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

IN WITNESS WHEREOF, the Authority and the Developer have caused this Minimum Assessment Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date and year first written above.

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF RICHFIELD,  
MINNESOTA**

By \_\_\_\_\_  
Its Chairperson

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 20\_\_, by Mary B. Supple, the Chairperson of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 20\_\_, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

Signature page of the Developer to the Minimum Assessment Agreement, dated as of the date and year first written above.

**MWF PROPERTIES, LLC**

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By Christopher J. Stokka  
Its Vice President

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2019, by Christopher J. Stokka, the Vice President of MWF Properties, LLC, a Minnesota limited liability company, on behalf of the Developer.

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Notary Public



EXHIBIT A  
LEGAL DESCRIPTION

Lot 6, Block 4, "R.C. Soens Addition," according to the recorded plat thereof, Hennepin County, Minnesota.