

## **AGENDA**

### **MINNETONKA ECONOMIC DEVELOPMENT AUTHORITY**

**MONDAY, APRIL 5, 2010**

**FOLLOWING THE REGULAR CITY COUNCIL MEETING**

**COUNCIL CHAMBERS**

1. CALL TO ORDER
2. ROLL CALL: Ellingson-Allendorf-Greves-Wiersum-Hiller-Wagner-Schneider
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES: None
5. BUSINESS ITEMS
  - A. Election of Officers  
RECOMMENDATION: Elect EDA officers for 2010 (4 VOTES)
  - B. Review of Bylaws  
RECOMMENDATION: Discussion - no votes required
  - C. Tax Increment Financing Request from Presbyterian Homes  
RECOMMENDATION: Adopt the resolution (4 VOTES)
  - D. Affordable Housing Indexing System  
RECOMMENDATION: Approve a maximum percentage of decline for housing using indexing for maximum sales price (4 VOTES)
6. STAFF REPORT
7. OTHER BUSINESS
8. ADJOURN

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**EDA Agenda Item #5A  
Meeting of April 5, 2010**

**Brief Description:** Election of officers

**Recommended Action:** Elect EDA officers for 2010

**Background**

The EDA bylaws call for an election of a President and Vice-President each year. The offices are held for one-year terms.

The Secretary to the EDA is Community Development Staff, while the EDA Treasurer is the city's Finance Director, who also serves as City Treasurer.

**Recommendation**

Staff recommends the EDA take time on April 5 to elect a President and Vice-President.

Submitted through:

Julie Wischnack, AICP, Community Development Director

Originated by:

Elise Durbin, AICP, Community Development Supervisor

**EDA Agenda Item #5B**  
**Meeting of April 5, 2010**

**Brief Description:** EDA bylaws

**Recommended Action:** Review the bylaws and provide feedback

**Background**

The EDA is governed by a set of bylaws (pages A1-A3). These bylaws for the Minnetonka EDA were first established in 1988 when the HRA was dissolved and the EDA was formed.

**Recommendation**

With the recent changes in the structure of the EDA, staff is aware of certain articles and sections of the bylaws need to be updated, but wanted to provide the EDA the opportunity for additional input on changes that may be needed.

Staff recommends the EDA review the bylaws and provide feedback on sections that should be updated, deleted, or where new additions may be needed. The revised bylaws will then be brought back for EDA approval at the next meeting.

Originated by:

Julie Wischnack, AICP, Community Development Director  
Elise Durbin, AICP, Community Development Supervisor

## **BYLAWS**

### **ECONOMIC DEVELOPMENT AUTHORITY**

#### **CITY OF MINNETONKA**

##### **ARTICLE I - GENERAL**

The Minnetonka Economic Development Authority (EDA) has been established by City Council Resolutions 88-8637 and 94-9715, under Minnesota Statutes Section 369.090 et.seq. The EDA consists of seven Commissioners appointed by the Council, including two City Councilmembers and five citizen appointees.

##### **ARTICLE II - PURPOSE**

The EDA is appointed by the City Council to assist and advise the City Council regarding economic development, housing, and redevelopment matters, or other matters referred by the City Council, and to exercise certain powers as authorized by the City Council.

##### **ARTICLE III - MEETINGS**

###### **Section I, Regular Meetings**

The regular meetings of the EDA shall be held at the offices of the City of Minnetonka, located at 14600 Minnetonka Boulevard, at 6:00 P.M., on the second Tuesday of each month. Special meetings may be scheduled on other dates, and meetings may be cancelled or postponed as deemed necessary. All meetings shall be open to the public except as otherwise provided by law.

The EDA meeting will convene at 6:00 P.M. and conclude by 11:00 P.M. unless a majority of the members present vote to continue the meeting beyond 11:00 P.M. for a single item. Items not covered by 11:00 P.M. will be automatically continued to the next EDA meeting and given priority placement on the agenda.

At a public hearing, the meeting will be open for public discussion until the President determines that all information and statements have been heard. At that time, the President may terminate public discussion and limit discussion to EDA Commissioners.

For roll call votes, the voting order shall be alphabetical according to the last name of each Commissioner. The presiding officer shall always vote last.

## **Section II, Special Meetings**

A special meeting may be held when deemed necessary by four members of the EDA or by the request of the City Council.

## **Section III, Quorums**

At any duly called meeting of the EDA, four (4) members shall constitute a quorum.

## **Section IV, Agendas**

An agenda for each meeting shall be prepared by the Community Development Department for the City in cooperation with the President. The agenda shall be delivered to all members of the EDA along with supporting data on the Friday before the next regular meeting.

The EDA may continue consideration of any scheduled item when supportive material for that item has not been delivered to the members four days before the meeting at which it is considered.

# **ARTICLE IV - OFFICERS**

## **Section I, Election**

Officers of the EDA shall consist of the President, Vice-President, Secretary, and Treasurer. The President and Vice-President shall be elected for a one-year period at the meeting in April of every year. If there is no quorum at the regular meeting in April, the election shall be held at the next meeting having a quorum.

- A. **President:** The President shall preside over all meetings of the EDA. If the President and Vice-President are absent, the EDA Commissioners members present shall designate one of themselves to serve as President.
- B. **Vice-President:** The Vice-President shall perform all the duties of the President in the absence of the President.
- C. **Secretary:** A member of the Community Development Department staff will be secretary to the EDA. The secretary shall keep an accurate account of

meetings and proceedings of meetings, send written notices and agendas of all meetings to members, keep a policy file of all EDA records and documents, and notify the City Council in writing of all EDA conclusions and recommendations.

- D. **Treasurer:** The City Treasurer will be Treasurer to the EDA. The Treasurer shall keep an accurate account and record of all EDA finances.

#### **ARTICLE V - CODE OF ETHICS**

The EDA Commissioners shall abide by the Code of Ethics established in Section 105 of the 1982 Minnetonka Code as amended from time to time. Additionally, no EDA Commissioner shall act as a representative for any housing or development proposal that comes before the EDA or City Council.

#### **ARTICLE VI - PARLIAMENTARY PROCEDURE**

The proceedings of the EDA shall be governed by and conducted according to the latest rules of Roberts Rules of Order, as revised.

#### **ARTICLE VII - AMENDMENTS**

These bylaws may be amended or altered by a majority vote of the members of the EDA at any regular or special meeting having a quorum, provided the amendment was mailed or delivered to the Commissioners at least four days before the meeting.

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**EDA Agenda Item #5C  
Meeting of April 5, 2010**

**Brief Description:** Tax Increment Financing Request from Presbyterian Homes

**Recommended Action:** Adopt the resolution

**Background**

On January 31, 1994, the city, the EDA, and Beacon Hill Housing, Inc. entered into a Contract for Private Redevelopment regarding Presbyterian Homes' redevelopment of property for senior living facilities (Beacon Hill Terrace and Beacon Hill Commons) in the Glen Lake area (page A1). Additionally, Housing TIF District No. 2 was created as part of the redevelopment, and in exchange, Presbyterian Homes has provided 62 units of its total 152 units at its Beacon Hill facilities as affordable to those at 60 percent area median income (AMI).

Housing TIF District No. 2 was approved on February 14, 1994. The legal maximum term of the district is until December 31, 2021. The TIF note however, expired at the end of 2009 since all bonds had been paid in full. In 2009, the City Council determined that Housing TIF District No. 2, while it could be decertified, should remain in order to provide additional funds for affordable housing in the project area. This TIF district provides about \$148,000 per year in increment. Of that amount, 10 percent is kept for administration, therefore, approximately \$133,000 in increment is available for affordable housing purposes. Housing TIF districts, compared to other types of TIF districts, offer more flexibility where and when excess TIF funds can be used.

**Request**

Presbyterian Homes is aware that, per the redevelopment contract signed in 1994, they are obligated to provide 62 affordable units until December 31, 2010. In an effort to continue to make these units affordable into the future, Presbyterian Homes has submitted a request to the city asking for additional TIF funds (pages A2 to A4).

Currently, the breakout of affordable and market-rate units and rents at Beacon Hill are as follows:

	<b>Number of Units</b>	<b>Rents</b>
<b>1 Bedroom (Affordable)</b>	62	\$859 - \$912
<b>1 Bedroom (Market-Rate)</b>	39	\$996 - \$1139
<b>1 Bedroom + Den (Market-Rate)</b>	20	\$1114 - \$1254
<b>2 Bedroom (Market-Rate)</b>	31	\$1269 - \$2384
<i>Total Units: 152 (40% affordable)</i>		

If Presbyterian Homes would receive additional TIF funds, they would keep the unit mix and the rents as they exist now. However, if additional funds were not received, then the unit mix and rents over time may be as follows:

	<b>Number of Units</b>	<b>Rents</b>
<b>1 Bedroom (Affordable)</b>	0	--
<b>1 Bedroom (Market-Rate)</b>	101	\$996 - \$1139
<b>1 Bedroom + Den (Market-Rate)</b>	20	\$1114 - \$1254
<b>2 Bedroom (Market-Rate)</b>	31	\$1269 - \$2384
<i>Total Units: 152 (0% affordable)</i>		

### **Recommendation**

The attached addendum (pages A5-21) provides for an extension to the affordability for a period of five years. The document describes the increment will continue to be provided to the property owner until 2015, unless there is notice of termination provided by the developer. After 2015, there is a decreasing amount of increment that will be provided to the property owner. The increment starts at 90% and moves down incrementally to 50% at year 2020, while still maintaining the same affordability. Any time within the second 5 year period, the city can notify the developer they wish to cease providing the increment.

Staff believes continuing the provision of affordability at this project is valuable and will continue to provide a housing type that is very important to this area of the city. The agreement allows both parties an opportunity to cancel the commitment if other priorities arise. Staff recommends the EDA approve the addendum to a private redevelopment contract for Beacon Hill.

Originated by:

Julie Wischnack, AICP, Community Development Director



## LOCATION MAP

PROJECT: PRESBYTERIAN HOMES

LOCATION: BEACON HILL ROAD



This map is for illustrative purposes only

December 18, 2009



Julie Wischnack  
Community Development Director  
City of Minnetonka  
14600 Minnetonka Blvd.  
Minnetonka, MN 55345

Dear Julie,

Thank you for the discussions related to our Presbyterian Homes Beacon Hill project. I hope you have had the opportunity to visit Beacon Hill since our recent completion of updated interior renovations which has made a wonderful impact in our Beacon Hill community. It is our hope this renovation illustrates our continued commitment to quality and creating exceptional environments for our residents to enjoy.

Based on our recent discussions, it is my understanding the City is considering extending the life, or not decertifying the Tax Increment District that covers the Beacon Hill campus. As you know, when the project was developed back in 1994, at the request of Presbyterian Homes the City established a Qualified Housing Tax Increment District in an effort to meet our mutual goals of providing affordable senior housing to older adults in Minnetonka. As a result, we have been able to offer 40% of our units to residents whose income is below 60% of area median income. In addition, those income qualified residents enjoy reduced rental rates at well below market rate rents. This represents 62 units that have met affordable standards, as defined by the Metropolitan Council, for the last 15 years. As a non-profit, it is our goal to work with cities to offer quality housing options at the most affordable rents. We have met this goal at Beacon Hill with your assistance, generous support, and commitment through the use of TIF rebated taxes. You may not be aware, that 85% of our residents traditionally come from within 3-7 miles of a senior community such as Beacon Hill. As a result, the affordable housing extended to residents of Beacon Hill primarily represents a direct benefit to long standing older adults in Minnetonka.

In reviewing the TIF project documents, specifically "Exhibit B" of the Commitment Agreement (see attached), it is our understanding that the TIF contract will expire on December 13, 2010 and with it our obligation and ability to offer less than market rate rents. As you will note in the exhibit, the Extended Use Termination Date indicates "NA" (not applicable). With this pending expiration of the TIF district and tax rebate, we would no longer be able to offer restricted rents following the expiration of the TIF support. It would be our plan to continue to honor restricted rents for those residents we are currently serving but as those residents leave us, for whatever reason, we would re-lease those units to residents at the market rate. As a result, over time 62 units would change from affordable standards to market rate.

Management & Services  
2845 Hamline Avenue North  
Roseville, MN 55113

651.631.6100 tel  
651.631.6108 fax  
www.preshomes.org

*freedom to live well*

We are aware that certain restrictions exist for the use of pooled funds from TIF districts being extended beyond their originally contemplated term. We believe an extension of the TIF support to Beacon Hill for affordable housing would be a qualified use of the pooled funds. Further, it is our assumption the City continues to share our desire to meet affordable housing needs.

With those goals in mind, we would like the City to consider extending the TIF support to Beacon Hill residents to the maximum number of years the district can be in place. I believe this is 26 years and would represent an 11 year extension of TIF funding. We are prepared to work with the City staff and its legal consultants to prepare whatever documentation would be necessary to accommodate the extension at our expense. If you have questions or would like additional information, please contact Karen Casper-Robeson, Campus Administrator, at 952-988-8803, Duane Larson, Regional Operations Director, at 651-631-6146, or me at 651-631-6313.

I look forward to further discussions and thank you for your consideration.

Sincerely,



John Mehrkens  
Vice President

EXHIBIT B TO COMMITMENT AGREEMENT

The Project

Project Owner: Beacon Hill Housing, Inc.  
Owner Address: 3220 Lake Johanna Boulevard  
St. Paul, MN 55122-7997  
Project Name: Beacon Hill Housing  
Project Address: to be determined  
Building(s): Independent Assisted  
Senior Housing Senior Housing  
Unit Mix: 3BR  
2BR 41 6  
1BR 69 36  
EFF

Applicable Building Fraction: NA

Housing Credit Dollar Amount: NA

Extended Use Termination Date (which shall be a date not less than 15 years after the close of the Compliance Period): NA

Extended Use Period: as defined in Commitment Agreement

Compliance Period: January 1, 1995 through December 31, 2010

Special Early Termination Clause (if applicable and if more stringent than Section 2(a)(iii)(A)):

Test Elected: 20-50 Test \_\_\_\_\_  
40-60 Test  X

Additional Requirements: None

Exhibit B to  
Commitment Agreement

**Third Draft, March 29, 2010**

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**ADDENDUM TO  
CONTRACT  
FOR  
PRIVATE DEVELOPMENT**

**By and Between**

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

**and**

**CITY OF MINNETONKA, MINNESOTA**

**and**

**PHS/BEACON HILL, INC.**

**Dated as of: \_\_\_\_\_, 2010**

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This document was drafted by:  
KENNEDY & GRAVEN, Chartered  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, Minnesota 55402  
Telephone: (612) 337-9300

## ADDENDUM TO CONTRACT FOR PRIVATE DEVELOPMENT

THIS ADDENDUM, made on or as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between THE ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, a public body corporate and politic (the "Authority"), established pursuant to Minnesota Statutes, Sections 469.090 to 469.1081 (hereinafter referred to as the "Act"), the CITY OF MINNETONKA, a Minnesota municipal corporation (the "City") and PHS/BEACON HILL, INC. a Minnesota nonprofit corporation (the "Developer").

WITNESSETH:

WHEREAS, the Authority was created pursuant to the Act and was authorized to transact business and exercise its powers by a resolution of the City Council of the City; and

WHEREAS, the City and the Authority have undertaken a program to promote redevelopment of land that is characterized by blight and blighting factors within the City, and in this connection the Authority administers a redevelopment project known as the Glen Lake Station Housing Development and Redevelopment Project (the "Project") pursuant to Minnesota Statutes, Sections 469.001 to 469.047 (the "HRA Act"); and

WHEREAS, pursuant to the Act and the HRA Act, the Authority is authorized to undertake certain activities to facilitate the redevelopment of real property by private enterprise; and

WHEREAS, among the objectives for the Project, the Authority has determined to facilitate housing that is affordable to persons of low and moderate income; and

WHEREAS, the City and the Authority have established within the Project a tax increment financing district referred to as Housing District No. 2 (the "TIF District") and adopted a financing plan ("TIF Plan") for the TIF District in order to facilitate the development of a 110-unit rental housing facility for seniors and a 42-unit assisted living facility for seniors (the "Minimum Improvements"); and

WHEREAS, the Authority, City and Beacon Hill Housing, Inc. entered into a Contract for Private Development dated as of January 31, 1994 (the "Contract"), under which the Developer constructed the Minimum Improvements on the property described in Schedule A attached hereto (the "Development Property"), and the Authority provided certain tax increment financial assistance related to that development through issuance of the Authority's \$1,300,000 Tax Increment Revenue Note, Series 1995 (the "TIF Note"); and

WHEREAS, Beacon Hill Housing, Inc. assigned its rights and obligations under the Contract and the TIF Note to Presbyterian Homes Housing and Assisted Living, Inc.; and

WHEREAS, PHS/Beacon Hill, Inc. is the successor in interest to Presbyterian Homes Housing and Assisted Living, Inc., currently holds title to the Development Property, and has assumed all rights and obligations under the Contract;

WHEREAS, the Contract specified certain income and rent limitations for the Minimum Improvements, which limitations expire on December 31, 2010; and

WHEREAS, the TIF Note has now been paid in full, but Developer has agreed to extend the income and rent limitations for an additional period, in consideration of certain additional tax increment financing assistance described herein;

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:

1. Issuance of Supplemental Note. (a) *Generally.* The Developer warrants and represents that in 2008 and 2009, Developer undertook substantial renovation of the Minimum Improvements (referred to as “Renovation Improvements”). The Developer and Authority have further determined, that in light of the significant investment in Renovation Improvements, and the ongoing cash-flow required to maintain affordability at the levels specified in the original Contract, that it would not be financially feasible for Developer to maintain the income and rent restrictions after 2010 absent additional tax increment assistance. Therefore, in order to maintain such affordability for a longer period, the Authority shall issue to Developer a Supplemental Tax Increment Revenue Note, Series 2010 in the maximum principal amount of \$1,184,000 (the “Supplemental Note”). The Supplemental Note will be secured solely by “Available Tax Increment” as defined in the Supplemental Note.

(b) *Authorization and Delivery.* The Supplemental Note will be issued as a single note, without interest, substantially the form set forth in the Authorizing Resolution attached as Schedule B, to be approved by the Board of the Authority and the City Council of the City simultaneously with the approval of this Addendum. The obligation to deliver the Supplemental Note is conditioned upon (i) the Developer having submitted evidence satisfactory to the Authority that the Developer has paid Renovation Costs in at least the maximum principal amount of the Supplemental Note; (ii) the Developer having delivered to the Authority an investment letter for the Supplemental Note in a form reasonably satisfactory to the Authority; and (ii) there being no uncured Event of Default by the Developer under this Addendum

(c) *No representations.* The Developer understands and acknowledges that the Authority makes no representations or warranties regarding the amount of Available Tax Increment, or that revenues pledged to the Supplemental Note will be sufficient to pay the principal amount of the Supplemental Note. Any estimates of Available Tax Increment prepared by the Authority or its financial advisors in connection with the TIF District or this Addendum are for the benefit of the Authority, and are not intended as representations on which the Developer may rely. If the Renovation Costs exceed the maximum principal amount of the Supplemental Note, such excess is the sole responsibility of the Developer.

2. Affordability Covenants. (a) *Generally.* The Developer covenants that at least 61 units in the Minimum Improvements (referred to as “Affordable Units”) will meet the income and rent limits described in this section. The covenants in this Section commence on the date of this Addendum and terminate on the Maturity Date; provided that from and after February 2, 2015, Developer in its sole discretion may deliver written notice to the Authority that Developer releases all right, title and interest to the Supplemental Note and all Available Tax Increment, in which event the Supplemental Note and the covenants under this Section are terminated effective as of the date of the Authority’s receipt of such notice.

(b) *Income Limits.* All Affordable Units must be occupied, or held available for occupancy, by individuals or families whose income does not exceed sixty percent (60%) of the Minneapolis-St. Paul metropolitan statistical area (the “Metro Area”) median gross income for the applicable calendar year. Income, including adjustments for family size, shall be determined in accordance with Section 142(d) of the Internal Revenue Code of 1986 (the “Code”) and related regulations.

(c) *Rent Limits.* The rent charged for each of the Affordable Units shall not exceed 30 percent of the maximum income for that unit referenced in paragraph (b) of this Section, with adjustments for unit size in accordance with the same rules that govern federal low income housing tax credits under Section 42 of the Code and related regulations. For purposes of calculating rent payable with respect to the any Affordable Units that are assisted living units, the rent does not include the cost of the care package chosen by the tenant that must be purchased to live in the assisted living unit.

(d) *Reports.* Developer must file a written report with the Authority by January 15 each year during the term of this Section, demonstrating compliance with the income and rent restrictions for the Affordable Units for the prior calendar year. Evidence of income limitations must be generally consistent with the reports required under Section 142(d) of the Code, and evidence of rent restrictions must be generally consistent with the reports required under Section 42 of the Code.

(e) *Inspection.* The Authority and its representatives shall 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.

3. Definitions. As used in this Addendum, or in any portion of the Contract that remains in effect as described in this Section 4, the term “Maturity Date” means the date that the Supplemental Note has been paid in full, redeemed, or terminated in accordance with its terms; and the term “Note” means the Supplemental Note. All other capitalized terms in this Addendum have meaning provided herein.

4. Miscellaneous. (a) The following provisions of the original Contract remain in full force and effect through the Maturity Date:

(1) Section 2.2(a), (g) and (h), regarding Developer warranties and representations.

(2) Section 4.1, regarding operation and maintenance of the Minimum Improvements.

(3) Article V, regarding insurance.

(4) Sections 6.1 and 6.2, regarding property taxes.

(5) Section 6.4, regarding qualification of the TIF District; provided that references to a “qualified housing district” are deleted, and references to the Extended Low-Income Housing Commitment Addendum are replaced by references to Section 2 of this Addendum.

(6) Article VIII, regarding transfer and indemnification.

(7) Sections 9.1, 9.2, 9.6 and 9.7, regarding default.

(8) Article X, provided that

(i) in Section 10.3, references to the Extended Low-Income Housing Commitment Addendum are replaced by references to Section 2 of this Addendum; and

(ii) the covenants in Section 10.3(b) commence on the Maturity Date (as defined in Section 3 of this Addendum) and continue until the later of the date that the City’s \$10,710,000 Housing Facilities Revenue Refunding Bonds (Beacon Hill Housing Project) Series 2004 (or any bonds issued to refund such bonds) are no longer outstanding, or January 31, 2019 (which is 25 years after the date of the original Contract).

(b) Except as provided in paragraph (a) of this Section, the Contract and the Extended Low-Income Housing Commitment Agreement have no further force and effect.

(c) The Developer shall pay to the Authority, within 15 days after written notice from the Authority, the costs of consultants and attorneys retained by the Authority in connection with the negotiation, drafting and approval of this Addendum and issuance of the Supplemental Note.

IN WITNESS WHEREOF, the Authority has caused this Addendum to be duly executed in its name and behalf and its seal to be hereunto duly affixed and the Redeveloper has caused this Addendum to be duly executed in its name and behalf on or as of the date first above written.

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

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

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

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by \_\_\_\_\_ and John Gunyou, the President and Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body politic and corporate, on behalf of the Authority.

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

**CITY OF MINNETONKA**

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

By \_\_\_\_\_  
Its City Manager

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Terry Schneider and John Gunyou, the Mayor and City Manager of the City of Minnetonka, a Minnesota municipal corporation, on behalf of the City.

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



## **SCHEDULE A**

### **Description of Development Property**

Lot 1, Block 1; Lots 1 and 2, except the South 65 feet thereof, Block 2; and Outlot A;  
all in Beacon Hill.

**SCHEDULE B**

**AUTHORIZING RESOLUTION**

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

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

**RESOLUTION APPROVING ADDENDUM FOR CONTRACT FOR PRIVATE  
DEVELOPMENT BETWEEN THE CITY, EDA AND PHS/BEACON HILL, INC., AND  
APPROVING THE SALE OF, AND PROVIDING THE FORM, TERMS, COVENANTS  
AND DIRECTIONS FOR THE ISSUANCE OF A  
SUPPLEMENTAL TAX INCREMENT REVENUE NOTE, SERIES 2010**

BE IT RESOLVED BY the Board of Commissioners (“Board”) of the Economic Development Authority in and for the City of Minnetonka, Minnesota (the “Authority”) as follows:

Section 1. Approval of Addendum. The Authority and the City of Minnetonka have heretofore approved the establishment of Housing District No. 2 (the “TIF District”) within the Glen Lake Station Housing Development and Redevelopment Project (the “Project”), and have adopted a tax increment financing plan for the purpose of financing certain rental housing improvements within the Project. In connection with the TIF District, the Authority and City entered into a Contract for Private Development with Beacon Hill Housing, Inc. (the “Developer”) dated January 31, 1994 (the “Contract”). In order to maintain the affordability of the housing improvements in the TIF District, the Authority, City and PHS/Beacon Hill, Inc (the “Developer,” and successor in interest to Beacon Hill Housing, Inc.) have negotiated an Addendum to Contract for Private Development (the “Addendum”). The Board hereby approves the Addendum and authorizes the President and Executive Director to execute that document in substantially the form on file in City Hall, with modifications that do not alter the substance of the transaction that are approved by those officials; provided that execution of the Addendum by those officials will be conclusive evidence of their approval.

Section 1. Authorization; Award of Sale.

1.01. Authorization.

Pursuant to Minnesota Statutes, Section 469.178, the Authority is authorized to issue and sell its bonds for the purpose of financing a portion of the public development costs of the Project. Such bonds are payable from all or any portion of revenues derived from the TIF District and pledged to the payment of the bonds. The Authority hereby finds and determines that it is in the best interests of the Authority that it issue and sell its Supplemental Tax Increment Revenue Note in the maximum principal amount of \$1,184,000 (the “Note”) for the purpose of financing certain public redevelopment costs of the Project and maintaining affordability of housing that was constructed under the original Contract.

1.02. Issuance, Sale, and Terms of the Note. The Addendum is issued in accordance with Section 2 of the Addendum, for the consideration and subject to all the terms and conditions described therein. The Note shall be issued to the Developer, without interest thereon, shall be dated as of the date of delivery, and shall mature no later than February 1, 2020, subject to earlier termination as described in the form of the Note.

Section 2. Form of Note. The Note shall be in substantially the following form, with the blanks to be properly filled in and the principal amount and payment schedule adjusted as of the date of issue:

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

No. R-1

\$1,184,000

SUPPLEMENTAL TAX INCREMENT REVENUE NOTE  
SERIES 2010

Date  
of Original Issue

\_\_\_\_\_, 20\_\_

The Economic Development Authority in and for the City of Minnetonka (“Authority”) for value received, certifies that it is indebted and hereby promises to pay to PHS/Beacon Hill, Inc. or registered assigns (the “Owner”), solely from the sources and in the manner hereinafter provided, a principal amount not to exceed \$1,184,000 (the “Principal Amount”), without interest thereon. This Note is given in accordance with that certain Addendum to Contract Private Development between the Authority, the City of Minnetonka and PHS/Beacon Hill, Inc. (the “Developer”), dated as of \_\_\_\_\_, 2010 (the “Addendum”) and the authorizing resolution (the “Resolution”) duly adopted by the Authority on \_\_\_\_\_. Capitalized terms used and not otherwise defined herein have the meaning provided for such terms in the Addendum unless the context clearly requires otherwise.

1. Payments. Principal shall be paid in installments on each February 1 and August 1, commencing August 1, 2010 and continuing through February 1, 2020 (“Payment Dates”), subject to prior termination as described in Section 2 hereof, and payable solely from and to the extent of the sources set forth in Section 3 hereof. Payments are payable by mail to the address of the Owner or such other address as the Owner may designate upon 30 days written notice to the Authority. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Termination Rights. (a) Notwithstanding anything to the contrary herein, the Authority, in its sole discretion, may terminate this Note effective as of February 2, 2015, or effective on any subsequent February 2; provided that the Authority must deliver written notice of termination to the Owner at least one year before the effective date of termination. From and after the effective date of such termination, the Authority has no further obligations under this Note and the Owner has no right, title or interest in the Note or any Available Tax Increment.

(b) The Developer may terminate this Note in accordance with Section 2(a) of the Addendum.

3. Available Tax Increment. All payments on this Note are payable on each Payment Date solely from and in the amount of the “Available Tax Increment,” which means the following percentages of tax increment as defined in Minnesota Statutes, Section 469.174, subd. 25, clause (1) that is attributable to the Development Property as defined in the Addendum, and is paid to the Authority by Hennepin County within one year preceding the August 1, 2010 Payment Date, and within six months preceding each subsequent Payment Date:

<u>Payment Date</u>	<u>Percentage of Increment</u>
August 1, 2010 through February 1, 2015	90%
August 1, 2015 through February 1, 2016	80%
August 1, 2016 through February 1, 2017	70%
August 1, 2017 through February 1, 2018	60%
August 1, 2018 through February 1, 2019	50%
August 1, 2019 through February 1, 2020	50%

The Authority shall have no obligation to pay principal installments on this Note on each Payment Date from any source other than Available Tax Increment. The aggregate of payments on all Payment Dates may not exceed the Principal Amount.

4. Default. Upon an Event of Default by the Developer under the Addendum, the Authority may exercise the remedies with respect to this Note described in the Addendum, the terms of which are incorporated herein by reference.

5. Prepayment. The Principal Amount payable under this Note is prepayable in whole or in part at any time by and at the option of the Authority without premium or penalty.

6. Nature of Obligation. This Note is one of an issue in the maximum principal amount of \$1,184,000 issued to aid in financing certain public redevelopment costs and administrative costs of a Redevelopment Project undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended and is issued pursuant to the Resolution, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 to 469.1799, as amended. This Note is a limited obligation of the Authority which is payable solely from the revenues pledged to the payment hereof under the Resolution. This Note shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without

limitation, the Authority. Neither the State of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of this Note or other costs incident hereto except from and to the extent of the revenues pledged hereto, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of this Note or other costs incident hereto.

7. Estimated Tax Increment Payments. Any estimates of Available Tax Increment prepared by the Authority or its financial advisors in connection with the TIF District or the Addendum are for the benefit of the Authority, and are not intended as representations on which the Owner may rely. Actual Available Tax Increment collected from the TIF District may be less than originally estimated.

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

This Note shall not be transferred to any person unless the Authority has been provided with an opinion of counsel or a certificate of the transferor, in a form satisfactory to the Authority, that such transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws.

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

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

ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA

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

\_\_\_\_\_  
President

REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the City Finance Director, in the name of the person last listed below.

Date of Registration	Registered Owner	Signature of City Finance Director
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Federal Tax I.D. No. 30-0093682

Section 3. Terms, Execution and Delivery.

3.01. Denomination, Payment. The Note shall be issued as a single typewritten note numbered R-1.

The Note shall be issuable only in fully registered form. The Note shall be payable by check or draft issued by the Registrar described herein.

3.02. Payment Dates. Principal installments on the Note shall be payable by mail to the owner of record thereof as of the close of business on the fifteenth day of the month preceding the Payment Date, whether or not such day is a business day.

3.03. Registration. The Authority hereby appoints the City Finance Director to perform the functions of registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the Authority and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its office a bond register in which the Registrar shall provide for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.

(b) Transfer of Note. Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Note of a like aggregate principal amount and maturity, as requested by the transferor. Notwithstanding the foregoing, the Note shall not be transferred to any person unless the Authority has been provided with an opinion of counsel or a certificate of the transferor, in a form satisfactory to the Authority, that such transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until such Payment Date.

(c) Cancellation. The Note surrendered upon any transfer shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the Authority.

(d) Improper or Unauthorized Transfer. When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Note or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for its refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(e) Persons Deemed Owners. The Authority and the Registrar may treat the person in whose name the Note is at any time registered in the bond register as the absolute owner of the Note, whether the Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of such Note and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the Authority upon such Note to the extent of the sum or sums so paid.

(f) Taxes, Fees and Charges. For every transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee, or other governmental charge required to be paid with respect to such transfer or exchange.

(g) Mutilated, Lost, Stolen or Destroyed Note. In case any Note shall become mutilated or be lost, stolen, or destroyed, the Registrar shall deliver a new Note of like amount, maturity dates and tenor in exchange and substitution for and upon cancellation of such mutilated Note or in lieu of and in substitution for such Note lost, stolen, or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case the Note lost, stolen, or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Note was lost, stolen, or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance, and amount satisfactory to it, in which both the Authority and the Registrar shall be named as obliges. The Note so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the Authority. If the mutilated, lost, stolen, or destroyed Note has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Note prior to payment.

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

#### Section 4. Security Provisions.

4.01. Pledge. The Authority hereby pledges to the payment of the principal of the Note Available Tax Increment under the terms and as defined in the Note, subject to the Authority's rights of termination described in the form of the Note. Available Tax Increment shall be

applied to payment principal installments in accordance with the terms of the form of Note set forth in Section 2 of this resolution.

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

4.03. Additional Bonds. If the Authority issues any bonds or notes secured by Available Tax Increment, such additional bonds or notes are subordinate to the Note in all respects.

Section 5. Certification of Proceedings.

5.01. Certification of Proceedings. The officers of the Authority are hereby authorized and directed to prepare and furnish to the Owner of the Note certified copies of all proceedings and records of the Authority, and such other affidavits, certificates, and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the Authority as to the facts recited therein.

Section 6. Effective Date. This resolution shall be effective upon execution in full of the Addendum.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

President

\_\_\_\_\_

Executive Director

\_\_\_\_\_

## RESOLUTION NO. 2010-001

### RESOLUTION APPROVING ADDENDUM FOR CONTRACT FOR PRIVATE DEVELOPMENT BETWEEN THE CITY, EDA AND PHS/BEACON HILL, INC., AND APPROVING THE SALE OF, AND PROVIDING THE FORM, TERMS, COVENANTS AND DIRECTIONS FOR THE ISSUANCE OF A SUPPLEMENTAL TAX INCREMENT REVENUE NOTE, SERIES 2010

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BE IT RESOLVED by the Economic Development Authority of the City of Minnetonka, Minnesota as follows:

#### Section 1. Approval of Addendum.

1.01. The Economic Development Authority of the City of Minnetonka (the "Authority") and the City of Minnetonka have heretofore approved the establishment of Housing District No. 2 (the "TIF District") within the Glen Lake Station Housing Development and Redevelopment Project (the "Project"), and have adopted a tax increment financing plan for the purpose of financing certain rental housing improvements within the Project. In connection with the TIF District, the Authority and City entered into a Contract for Private Development with Beacon Hill Housing, Inc. (the "Developer") dated January 31, 1994 (the "Contract"). In order to maintain the affordability of the housing improvements in the TIF District, the Authority, City and PHS/Beacon Hill, Inc. (the "Developer," and successor in interest to Beacon Hill Housing, Inc.) have negotiated an Addendum to Contract for Private Development (the "Addendum"). The Board hereby approves the Addendum and authorizes the President and Executive Director to execute that document in substantially the form on file in City Hall, with modifications that do not alter the substance of the transaction that are approved by those officials; provided that execution of the Addendum by those officials will be conclusive evidence of their approval.

#### Section 2. Authorization; Award of Sale.

2.01. Pursuant to Minnesota Statutes, Section 469.178, the Authority is authorized to issue and sell its bonds for the purpose of financing a portion of the public development costs of the Project. Such bonds are payable from all or any portion of revenues derived from the TIF District and pledged to the payment of the bonds. The Authority hereby finds and determines that it is in the best interests of the Authority that it issue and sell its Supplemental Tax Increment Revenue Note in the maximum principal amount of \$1,184,000 (the "Note") for the purpose of financing certain public redevelopment costs of the Project and maintaining affordability of housing that was constructed under the original Contract.

2.02. The Addendum is issued in accordance with Section 2 of the Addendum, for the consideration and subject to all the terms and conditions described therein. The Note shall be issued to the Developer, without interest thereon, shall be dated as of the date of delivery, and shall mature no later

than February 1, 2020, subject to earlier termination as described in the form of the Note.

Section 3. Form of Note.

3.01. The Note shall be in substantially the following form, with the blanks to be properly filled in and the principal amount and payment schedule adjusted as of the date of issue:

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

No. R-1

\$1,184,000

SUPPLEMENTAL TAX INCREMENT REVENUE NOTE  
SERIES 2010

Date  
of Original Issue

\_\_\_\_\_, 20\_\_

The Economic Development Authority in and for the City of Minnetonka ("Authority") for value received, certifies that it is indebted and hereby promises to pay to PHS/Beacon Hill, Inc. or registered as signs (the "Owner"), solely from the sources and in the manner hereinafter provided, a principal amount not to exceed \$1,184,000 (the "Principal Amount"), without interest thereon. This Note is given in accordance with that certain Addendum to Contract Private Development between the Authority, the City of Minnetonka and PHS/Beacon Hill, Inc. (the "Developer"), dated as of \_\_\_\_\_, 2010 (the "Addendum") and the authorizing resolution (the "Resolution") duly adopted by the Authority on \_\_\_\_\_. Capitalized terms used and not otherwise defined herein have the meaning provided for such terms in the Addendum unless the context clearly requires otherwise.

1. Payments. Principal shall be paid in installments on each February 1 and August 1, commencing August 1, 2010 and continuing through February 1, 2020 ("Payment Dates"), subject to prior termination as described in Section 2 hereof, and payable solely from and to the extent of the sources set forth in Section 3 hereof. Payments are payable by mail to the address of the Owner or such other address as the Owner may designate upon 30 days written notice to the Authority. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Termination Rights. (a) Notwithstanding anything to the contrary herein, the Authority, in its sole discretion, may terminate this Note effective as of February 2,

2015, or effective on any subsequent February 2; provided that the Authority must deliver written notice of termination to the Owner at least one year before the effective date of termination. From and after the effective date of such termination, the Authority has no further obligations under this Note and the Owner has no right, title or interest in the Note or any Available Tax Increment.

(b) The Developer may terminate this Note in accordance with Section 2(a) of the Addendum.

3. Available Tax Increment. All payments on this Note are payable on each Payment Date solely from and in the amount of the "Available Tax Increment," which means the following percentages of tax increment as defined in Minnesota Statutes, Section 469.174, subd. 25, clause (1) that is attributable to the Development Property as defined in the Addendum, and is paid to the Authority by Hennepin County within one year preceding the August 1, 2010 Payment Date, and within six months preceding each subsequent Payment Date:

<u>Payment Date</u>	<u>Percentage of Increment</u>
August 1, 2010 through February 1, 2015	90%
August 1, 2015 through February 1, 2016	80%
August 1, 2016 through February 1, 2017	70%
August 1, 2017 through February 1, 2018	60%
August 1, 2018 through February 1, 2019	50%
August 1, 2019 through February 1, 2020	50%

The Authority shall have no obligation to pay principal installments on this Note on each Payment Date from any source other than Available Tax Increment. The aggregate of payments on all Payment Dates may not exceed the Principal Amount.

4. Default. Upon an Event of Default by the Developer under the Addendum, the Authority may exercise the remedies with respect to this Note described in the Addendum, the terms of which are incorporated herein by reference.

5. Prepayment. The Principal Amount payable under this Note is prepayable in whole or in part at any time by and at the option of the Authority without premium or penalty.

6. Nature of Obligation. This Note is one of an issue in the maximum principal amount of \$1,184,000 issued to aid in financing certain public redevelopment costs and administrative costs of a Redevelopment Project undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended and is issued pursuant to the Resolution, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 to 469.1799, as amended. This Note is a limited obligation of the Authority which is payable solely from the revenues pledged to the payment hereof under the Resolution. This Note shall not be deemed to constitute a general obligation of the

State of Minnesota or any political subdivision thereof, including, without limitation, the Authority. Neither the State of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of this Note or other costs incident hereto except from and to the extent of the revenues pledged hereto, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of this Note or other costs incident hereto.

7. Estimated Tax Increment Payments. Any estimates of Available Tax Increment prepared by the Authority or its financial advisors in connection with the TIF District or the Addendum are for the benefit of the Authority, and are not intended as representations on which the Owner may rely. Actual Available Tax Increment collected from the TIF District may be less than originally estimated.

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

This Note shall not be transferred to any person unless the Authority has been provided with an opinion of counsel or a certificate of the transferor, in a form satisfactory to the Authority, that such transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws.

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

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

ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA

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

\_\_\_\_\_  
President

## REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the City Finance Director, in the name of the person last listed below.

Date of Registration	Registered Owner	Signature of City Finance Director
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Federal Tax I.D. No. 30-0093682

Section 4. Terms, Execution and Delivery.

4.01. The Note shall be issued as a single typewritten note numbered R-1.

The Note shall be issuable only in fully registered form. The Note shall be payable by check or draft issued by the Registrar described herein.

4.02. Principal installments on the Note shall be payable by mail to the owner of record thereof as of the close of business on the fifteenth day of the month preceding the Payment Date, whether or not such day is a business day.

4.03. The Authority hereby appoints the City Finance Director to perform the functions of registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the Authority and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its office a bond register in which the Registrar shall provide for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.

(b) Transfer of Note. Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Note of a like aggregate principal amount and maturity, as requested by the transferor. Notwithstanding the foregoing, the Note shall not be transferred to any person unless the Authority has been provided with an opinion of counsel or a certificate of the transferor, in a form satisfactory to the Authority, that such transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until such Payment Date.

(c) Cancellation. The Note surrendered upon any transfer shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the Authority.

(d) Improper or Unauthorized Transfer. When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Note or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for its refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(e) Persons Deemed Owners. The Authority and the Registrar may treat the person in whose name the Note is at any time registered in the bond register as the absolute owner of the Note, whether the Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of such Note and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the Authority upon such Note to the extent of the sum or sums so paid.

(f) Taxes, Fees and Charges. For every transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee, or other governmental charge required to be paid with respect to such transfer or exchange.

(g) Mutilated, Lost, Stolen or Destroyed Note. In case any Note shall become mutilated or be lost, stolen, or destroyed, the Registrar shall deliver a new Note of like amount, maturity dates and tenor in exchange and substitution for and upon cancellation of such mutilated Note or in lieu of and in substitution for such Note lost, stolen, or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case the Note lost, stolen, or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Note was lost, stolen, or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance, and amount satisfactory to it, in which both the Authority and the Registrar shall be named as obliges. The Note so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the Authority. If the mutilated, lost, stolen, or destroyed Note has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Note prior to payment.

4.04. The Note shall be prepared under the direction of the Executive Director and shall be executed on behalf of the Authority by the signatures of its President and Executive Director. In case any officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. When the Note has been so executed, it shall be delivered by the Executive Director to the Owner thereof in accordance with the Addendum.

Section 5. Security Provisions.

- 5.01. The Authority hereby pledges to the payment of the principal of the Note Available Tax Increment under the terms and as defined in the Note, subject to the Authority's rights of termination described in the form of the Note. Available Tax Increment shall be applied to payment principal installments in accordance with the terms of the form of Note set forth in Section 2 of this resolution.
- 5.02. Until the date the Note is no longer outstanding and no principal (to the extent required to be paid pursuant to this resolution) remains unpaid, the Authority shall maintain a separate and special "Bond Fund" to be used for no purpose other than the payment of the principal of the Note. The Authority irrevocably agrees to appropriate to the Bond Fund in each year the Available Tax Increment for that year. Any Available Tax Increment remaining in the Bond Fund shall be transferred to the Authority's account for the TIF District upon termination of the Note in accordance with its terms.
- 5.03. If the Authority issues any bonds or notes secured by Available Tax Increment, such additional bonds or notes are subordinate to the Note in all respects.
- Section 6. Certification of Proceedings.
- 6.01. The officers of the Authority are hereby authorized and directed to prepare and furnish to the Owner of the Note certified copies of all proceedings and records of the Authority, and such other affidavits, certificates, and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the Authority as to the facts recited therein.
- Section 7. Effective Date.
- 7.01. This resolution shall be effective upon execution in full of the Addendum.
- Section 8. Economic Development Authority Action.
- 8.01. The Addendum for Contract for Private Redevelopment between the City, EDA, and PHS/Beacon Hill, Inc. and authorization of the sale of a supplemental tax increment revenue note, Series 2010, is approved.
- 8.02. The President and Executive Director are authorized and directed to execute the documents or certificates necessary to carry out the transactions described in the Addendum for Contract for Private Redevelopment.

Adopted by the Economic Development Authority of the City of Minnetonka, Minnesota, on April 5, 2010.

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President

ATTEST:

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Secretary

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on April 5, 2010.

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Secretary

**EDA Agenda Item #5D  
Meeting of April 5, 2010**

**Brief Description:** Affordable housing indexing system

**Recommendation:** Approve a maximum percentage of decline for housing using indexing for maximum sales price

**Background**

Prior to the establishment of Homes Within Reach (WHAHLT), the indexing system was set up to maintain affordability of owner-occupied homes and has been used in several developments, including (see page A1 for a map of their locations):

DEVELOPMENT	NUMBER OF INDEXED UNITS	YEAR BUILT
The Gables at Westridge Market	48	1996/1997
Ridgebury	56	2000
The Enclave	1	2002
Wyldeewood Condominiums	8	2006
Cloud 9 Condominiums	16	2006
<b>TOTAL</b>	<b>129</b>	

The Gables, Ridgebury, and Enclave units are all townhouse units. The Wyldeewood and Cloud 9 Condominium units, which were constructed after the establishment of Homes Within Reach, use the indexing system because the land trust model is not able to provide long-term affordability on condominium units like it can on single-family or townhouse units.

The indexing system, which is set through Restrictive Covenants filed against the property, sets a maximum resale price, which is adjusted each year by calculating the average annual increase in sales price for the metropolitan area. The sales price of these indexed units cannot exceed this calculated maximum resale. Page A2 provides an example of how the calculations work.

**Metropolitan average sales price**

Over the 14 years that the restrictive covenants have been in place, the average sales price in the metropolitan area (13 counties) has increased, until the past three years.

Year	Average Sales Price
1995	\$117,053
1996	\$124,022
1997	\$130,171
1998	\$140,300
1999	\$155,108

2000	\$172,849
2001	\$209,710
2002	\$221,329
2003	\$238,446
2004	\$256,252
2005	\$272,522
2006	\$278,462
2007	\$274,767
2008	\$236,953
2009	\$199,404

### **Impacts**

With the recent large decrease in the average sales price, this significantly impacts the maximum resale value of the units. For units that have been in the program from the beginning, such as The Gables and Ridgebury, there is less of an impact on the maximum resale value. The decline in average sales price for the newer units, such as The Enclave, Wyldewood and Cloud 9, has much more impact, and in Wyldewood and Cloud 9, the maximum resale price in 2010 is less than the original sales price of the unit. For example, a unit at Wyldewood Condominiums, which sold in 2006 for \$193,700, could only be allowed to sell in 2010 for \$179,532 under the current structure of the system.

### **Recommendation**

The decline in average sales price in 2008 did impact the 2009 maximum resale prices by lowering them from the year prior; however, the amount was not significant enough make the maximum resale price lower than the original price of the unit, allowing someone with a traditional fixed rate mortgage to repay it—therefore that decrease did not concern staff. However, after two years of significant declines, 13.7% from 2007 to 2008 and 15.8% from 2008 to 2009, it now is concerning that certain properties may not be able to repay a mortgage based upon the current covenants.

While the purpose of the program is to maintain affordability, the original intention of the program was never to set a maximum resale price so low that a homeowner may not have the opportunity to repay their mortgage. Therefore, staff recommends that fluctuations be allowed to continue, but that annual decreases are capped at seven percent. Ultimately, the real estate market will decide if the unit can even be sold at the maximum resale price calculated through the indexing system.

Submitted through:

Julie Wischnack, AICP, Community Development Director

Originated by:

Elise Durbin, AICP, Community Development Supervisor

# LOCATION MAP



No.	Development	Number of Indexed Units
1	The Gables of West Ridge	48
2	Ridgebury	56
3	The Enclave	1
4	Wyldeewood Condominiums	8
5	Cloud 9 Condominiums	16



**2010 Resale Price**

As of December 31 <sup>st</sup> of the Year	Year	Average Sales Price of Metro Area	Average Annual Percent Increase	50% Average Annual Percent Increase	Your Resale Price for Year	Your Resale—No Real Estate Commission	Your Maximum Resale Price (Includes 6% Real Estate Commission)
2005	Base	\$272,522					
2006	1	\$278,462					
2007	2	\$274,767					
2008	3	\$236,953					
2009	4	\$199,404	-6.7%	-3.3%	<b>2010</b>	<b>\$169,370</b>	<b>\$179,532</b>

**CALCULATIONS FOR MAXIMUM RESALE PRICE**

**1. Find 50% of the Average Annual Percent Increase**

- A) 
$$\frac{2009 \text{ Avg Metro Sales Price} - \text{Base Price}}{\text{Base Price (2005 Ave. Metro Sales Price)}} = \frac{(\$199,404 - \$272,522)}{\$272,522} = -27\% \text{ total increase since 2005}$$
- B) 
$$\frac{\text{Total Increase since 2005}}{\text{Total Number of Years}} = \frac{-27\%}{4 \text{ Years}} = -6.7\% \text{ average annual percent increase}$$
- C) 
$$\text{Ave. Annual Percent Increase} * 50\% = -6.7\% * 50\% = -3.3\%$$

**2. Calculate the Adjusted Resale Price**

Original Value \* % Increase = Dollar Increase + Original Value = Adjusted Resale Price  
 \$193,700 \* -3.3% = -\$6,392 + \$193,700 = \$187,308 (Adjusted Resale Price for Year 1)  
 \$187,308 \* -3.3% = -\$6,181 + \$187,308 = \$181,127 (Adjusted Resale Price for Year 2)  
 \$181,127 \* -3.3% = -\$5,977 + \$181,127 = \$175,150 (Adjusted Resale Price for Year 3)  
 \$175,150 \* -3.3% = -\$5,780 + \$175,150 = \$169,370 (Adjusted Resale Price for Year 4)

**3. Calculate the Maximum Resale Price for 2010**

Adjusted Resale Price + 6% Real Estate Commission = Maximum Resale Price  
 \$169,370 + 6% = \$179,532

**YOUR MAXIMUM SALES PRICE FOR 2010=\$179,532**

**EDA Agenda Item #6  
Meeting of April 5, 2010**

**Brief Description:** Staff Report

**Southwest Transitway and Station Area Planning**

The Metropolitan Council is in the process of amending their Transportation Policy Plan to include the Southwest Transitway LRT preferred alternative. Currently, public comment is being sought, and a public hearing and a public meeting will be held during the week of April 12. The Metropolitan Council is expected to act on the amendment on May 12. After this action, the Metropolitan Council will be preparing a New Starts application to the Federal Transit Administration (FTA) to enter Preliminary Engineering. Information is posted on the city's website about this process and how public comments can be made.

The Hennepin County board passed a resolution designating the Southwest Corridor LRT as a Community Works project in December. In general, the purpose of a Community Works project is to create jobs, provide access to employment, and enhance the community through infrastructure, public works, parks and the natural environment. A work plan for the Community Works project is currently being developed by county and city staff and will be presented to the Hennepin County board in the upcoming months. The work plan will cover what types of projects/planning will be undertaken by the Community Works project, how the Community Works project will be integrated with the LRT corridor planning, and a budget will be developed for the project as well.

**Dial-a-Ride**

Changes to the Minnetonka Dial-a-Ride system began in March. One of the previous limitations to the Dial-a-Ride system is that residents cannot cross city boundaries, leaving those that may need to access facilities in other communities struggling to find other ways to get there. In March, the Dial-a-Ride system changed to a county-wide system. Fares will be based on length of travel, but reservations will be made the same as in the past.

The hours for the county-wide system will be from 6:00 a.m. to 7:00 p.m. Monday through Friday. However, the Minnetonka area only will have slightly extended hours operating until 9:00 p.m. on weekdays and from 8:00 a.m. to 4:00 p.m. on Saturdays. The change to a county-wide system is a benefit as staff has consistently received input about how difficult it is to get transportation to other communities especially if there is not fixed route service available.

**Transit Study**

Requests for Proposals have been sent to various consultants and posted online for a transit service analysis and evaluation. The purpose of this study is to provide a comprehensive review of current transit routes and services; examine opportunities for additional routes and services, and evaluate area transit providers. Proposals are due back at the end of the month.

**Upcoming Events**

- Monday, April 12                      Metropolitan Council public hearing on Southwest Transitway LRT  
5:00 p.m.  
Metropolitan Council offices (St. Paul)
- Thursday, April 15                      Metropolitan Council public meeting on Southwest Transitway  
5:00 p.m.  
Hopkins City Hall
- Wednesday, April 28                      Sensible Land Use Coalition  
Extreme Subdivision Makeover--Bringing Projects Back to the  
Market  
11:30 a.m.—1:30 p.m.  
DoubleTree Park Place (St. Louis Park)

*Please let staff know by Tuesday, April 20 if you are interested in attending*

**Attachments**

- Project update (page A1)
- April 28 Sensible Land Use Coalition program information (page A2-3)

Submitted through:

Julie Wischnack, AICP, Community Development Director

Originated by:

Elise Durbin, AICP, Community Development Supervisor

## PROJECT UPDATE

### Affordable Housing

#### *Livable Communities Act Goals*

\*(The results to date include all affordable units approved by the City Council; however, some units have not been built yet).

	Goals (1995-2010)	Results	Percent of Goals
Owner-Occupied New Construction	180 units	223 units	124%
Rental New Construction	324 units	223 units	69%
TOTAL	504 units	446 units	88%

#### *Project Updates*

Project	Total Units	Affordable Units	Update
Sanctuary	23	4	Fourth unit is still pending.
Glen Lake	248	41	All 11 affordable units at The Oaks of Glen Lake (Exchange building) are occupied.
HWR (WHAHLT)			39 Minnetonka units, 74 units total.

### Transit

#### *Metro Transit*

- Route 679, a new express route from the County Road 73/I-394 park and ride to Target Field will run before and after all Twins home games.
- Dial-a-Ride changes were made in March 2010

### Economic Development/Business

- Funding applications submitted to DEED and MnDOT for Highway 169/Bren Road interchange expansion.

#### **Other Projects (Detailed information can be found at [www.eminnetonka.com](http://www.eminnetonka.com))**

Project	Description	Status
Eddie Merlots	Restaurant on old Cattle Company Site	Awaiting financing
Shady Oak Road	Reconstruction from Bren Rd to Co Rd 3	Construction is substantially complete. Landscaping in spring.
Shady Oak Road	Reconstruction from Co Rd 3 to Hwy 7	Met Council Transportation Advisory Board approved \$7 million for this project

Updated April 1, 2010



## Extreme Subdivision Makeover – Bringing Projects Back to Market

Continuing education credit status:  
1.0 hour of AICP CM and  
1.0 hour of CRE applied for.

Program date: April 28, 2010  
Registration begins: 11:15 am  
Luncheon: 11:30 am  
Cost: \$25/full-time student  
\$38/member  
\$48/nonmember  
\$10 additional at the door  
[Contact us](#) about special rate for unemployed members

Location: [DoubleTree Park Place](#)  
[www.sensibleland.org](http://www.sensibleland.org)



[Register online](#)  
[Download.pdf](#) registration form  
[Cancellation policies](#)

### Panelists:

**Mike Robertson** – City Administrator, City of Otsego  
**Jim Stanton** – Owner, Shamrock Companies  
**Terry Forbord** – Asset Manager, Mountain Special Services LLC

We have all heard of real estate foreclosures, slow housing starts, drops in market values, even a number of banks closing their doors. So what is being done with projects and properties that have been on the chopping block? What is happening locally? What is happening nationally? **How do we get these projects back on the market? Will it take “extreme subdivision makeover?”**

This program looks at the issues and solutions from three points of view:

- **CITY PERSPECTIVE** - The City of Otsego saw tremendous growth before the bubble burst, and continues to see relatively strong growth compared to similar markets. What factors have contributed to this growth? How did the city address foreclosed homes and subdivisions? What is the city doing today in response to

the changing housing market? (Note: Otsego ranked number 10 in overall housing starts in 2009, and number 8 in closings. Otsego had 87 starts in 2009 and 164 closings.) *What is happening to cause this reduction in inventory, as well as improving demand.*

- **DEVELOPER PERSPECTIVE** - Some developers are being pro-active in the marketplace and seizing opportunities. How is this being done? What impacts do such actions have on the marketplace and the existing residents in affected communities? And, on their homeowners associations? *Is there any associated backlash?*
- **LENDER PERSPECTIVE** – Foreclosures are continuing to plague the market. Institutional lenders are dealing with numerous foreclosures and a growing bleaker portfolio. What are lenders doing to get the foreclosed properties back on the market? And more importantly, how big is the problem? *Some lenders are keeping the developer in place with non-performing loans. Is this working, or just delaying the inevitable?*

***Join us in seeing some cold hard reality and some real examples of success as cities, lenders, communities and markets are adjusting to the continuing housing recession.***

Join us on  [LinkedIn](#)

**[Click here to register online at www.sensibleland.org](http://www.sensibleland.org) for  
April 28, 2010**

If you feel that you have received this message in error, or if you no longer wish to receive these notifications, please send a cancellation request to [pat@arnst.net](mailto:pat@arnst.net).