

AGENDA

MINNETONKA ECONOMIC DEVELOPMENT AUTHORITY

MONDAY, SEPTEMBER 13, 2010

6:30 P.M.

COUNCIL CHAMBERS

1. CALL TO ORDER
2. ROLL CALL: Greves-Wiersum-Hiller-Wagner-Ellingson-Allendorf-Schneider
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES: April 5, 2010
5. BUSINESS ITEMS
 - A. Items related to use of tax increment for the St. Therese project from Boulevard Gardens District

RECOMMENDATION: Adopt the resolution (4 VOTES)
 - B. Items related to use of tax increment for the St. Therese project

RECOMMENDATION: Adopt the resolution (4 VOTES)
 - C. 2011 Preliminary HRA Levy

RECOMMENDATION: Adopt the resolution (4 VOTES)
6. STAFF REPORT
7. ADJOURN

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**MINUTES
MINNETONKA ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, APRIL 5, 2010**

1. CALL TO ORDER.

Mayor Schneider called the meeting to order at 7:53 p.m.

2. ROLL CALL

EDA Members Dick Allendorf, Amber Greves, Brad Wiersum, James Hiller, James Hiller, Tony Wagner, Bob Ellingson, and Terry Schneider were present.

3. APPROVAL OF AGENDA

Community Development Director Julie Wischnack gave a summary of the changes to the EDA.

Items C and D were re-ordered on the agenda.

Greves moved, Wiersum seconded a motion to accept the agenda. All voted "yes." Motion carried.

4. APPROVAL OF MINUTES: None

5. BUSINESS ITEMS

A. Election of Officers

Allendorf said he asked himself who on the council had the best background to fill the positions of president and vice president in order to provide a seamless transition. He suggested that the two councilmembers, Wagner and Wiersum, who had served as liaisons on the prior EDA would be the most qualified to provide the seamless transition.

Wagner said he had talked with City Manager John Gunyou earlier in the day about how other cities handle the duties of the EDA. Would it be best to be consistent to follow the mayor/acting mayor format versus having council members switch seats during meetings? He said he was open to Allendorf's suggestion but no matter what format was adopted he and Wiersum would not be hesitant to inform the other members about the history and feedback.

Hiller agreed with Wagner that the best option would be to follow the current council procedures because there were no special duties of the president and vice president of the EDA other than running the meetings and signing documents.

Schneider agreed the simplest thing to do would be to have the mayor and acting mayor serve as the president and vice president of the EDA.

Wiersum agreed with Schneider that having the mayor and acting mayor serve as president and vice president made the most sense.

Greves asked if the president or vice president would serve as the liaison to the EDAC. Schneider said any of the council members could serve as the liaison.

Wiersum moved Greves seconded a motion that the mayor and acting mayor serve as the president and vice president of the EDA. All voted "yes." Motion carried.

Schneider noted that an article had run in the Minnetonka Memo asking for applicants to the EDAC. He also has two or three candidates from past applications that are good candidates. He would talk to Wagner or Wiersum about serving as the liaison.

Wagner said given schedules it might be a good idea to have two liaisons in case the primary liaison was not available.

Schneider said part of the Memo article stated something that wasn't what he was envisioning for the EDAC. The article indicated the meetings would not be regular but would occur as needed. He said his intention was there would be regular scheduled monthly meeting but the EDAC would only meet when it was necessary. Wischnack said she had already saved the EDA dates that had been scheduled before the change.

B. Review of Bylaws

Wischnack noted when the EDA first was established there were bylaws that were adopted. She suggested the bylaws should be reviewed and changed if necessary.

Greves asked if Wischnack had any potential wording in mind for the purpose in the bylaws. Wischnack said the purpose could be worded similarly with what had been established in the policy. Greves said some of the topic areas probably had not changed but topics like the HRA levy or affordable housing could be added. She said the point of a purpose statement would be to make the legal authority of the EDA clearer as well a statement about the EDAC's advisory function. Clarity would help with future direction. Wischnack said staff would propose some language at the next EDA meeting.

Hiller asked Schneider to clarify if the EDA meetings would be regularly held with the council meetings. Schneider said that was correct. The only exception would be if a controversial redevelopment issue came forward that would require a longer meeting. Hiller asked that the staff reports and information make references to the EDA and the EDAC clear so that people can understand what group is being referenced.

Wiersum suggested adopting a rule that if a regular council meeting goes beyond a certain time, the EDA meeting would be held the following Monday. Schneider suggested if the EDA agenda was perfunctory with noncontroversial items and there was a busy council meeting agenda, the EDA meeting could be held before the council meeting. If there were major items on both agendas, then the meetings could be split and held on different Mondays. Gunyou noted that staff tries to manage the agendas so that there are not a lot of controversial items on the same night. Schneider said it would also be helpful if any of the EDA members had issues with a particular item to let staff know ahead of time so staff could better prepare to manage the meeting. Gunyou said from a logistical standpoint it would make sense that when he does his regular calls to each council member, the council member would let him know if they have a major issue with an item.

D. Affordable Housing Indexing System

Community Development Supervisor Elise Durbin gave the staff report. She noted a change suggested by Wagner that was included in the change memo.

Wagner said the reason he was suggesting the change was because of an EDA discussion about a year ago. At that time there was a young couple who wanted to buy the Enclave affordable unit but their bank would not give them a loan because as soon as the paperwork was signed, the property would have been valued less than the loan. He said when the restrictive covenant was first envisioned, the covenant could increase as much as the market did but it was decided that was too much. A fifty percent limit was then imposed. Now the market has changed and has gone the other way. Wagner said the whole purpose was to maintain affordability while allowing people who need that affordability to live in the city to be able to stay in their properties. He found it concerning to cap the downside at seven percent but someone could still owe more than the property was worth as soon as the property was purchased. His proposed change would keep the indexing system as it currently is while allowing people who purchased property five or six years to sell it for at least what they bought it for instead of forcing them into a loss.

Wiersum said he thought Wagner's suggestion was a good one. The real purpose of the indexing system was to ensure continued affordability. The market would still prevail because a property won't sell for more than it's worth. He said the proposed change would provide the opportunity for someone to sell their property for what they paid for it as long as they could find a buyer. This would not defeat any of the objectives of the policy.

Schneider said the proposed change made sense and would be easier to manage than trying to cap a percent.

Wagner moved, Wiersum seconded a motion to modify the indexing policy as follows: for all units currently under the affordable housing indexing system as of April 5, 2010, the maximum resale price will be calculated on an annual basis, per the restrictive covenants filed against the property. If the annually calculated resale price of the unit falls below the purchase price the current homeowner bought the unit for, then the purchase price will be used as the maximum resale price. All voted "yes." Motion carried.

Wischnack noted all the owners would be notified within the next month of the change.

C. Tax Increment Financing Request from Presbyterian Homes

Wischnack gave the staff report.

Wagner asked if the city allowed the district to lapse for 30 days, would the affordable units be considered as new affordable housing units. Durbin said Beacon Hill was not included as being counted for affordability when the affordable housing goals were negotiated with the Metro Council. The units therefore could be counted.

Greves noted that the legal maximum term for the TIF district would go until December 31, 2021. She asked if the rationale for tapering off the increment starting in 2015 was for the city to be able to use the funds for something else. Wischnack said the previous EDA did not want to over commit the city and it couldn't be anticipated when the funds would be needed. After five years there would be an out. Greves asked if the term could still go beyond 2015. Wischnack confirmed that was correct. Wagner said the EDA also discussed if there was a need to build up a balance in case a project came forward in 2017 or 2018. Gunyou noted tapering the increment down would be better for the current residents. Typically the funding would expire and the units would go back to the market rate. By phasing it out over time, there would be less of an impact.

Allendorf said typically when he sees an item that appears to be a no brainer it is because he hasn't looked at the alternatives. He asked what the alternatives were for the immediate use of the extra increment. Steve Bubul from Kennedy and Graven said because the tax increment involved a housing district, the use was broad and the funds could be used for other income qualified housing projects that were outside the district. One requirement was that the project that received the assistance in the first place has to maintain its affordability. If the city allowed the existing contract to expire and there were no more affordability requirements, then the city could not use the increment and there would be no choice other than closing the district and allowing the funds to go back to the county. He said this system allows the district to remain open and the declining percentage means over time there would be affordability in place with extra dollars that could be used for other affordability housing projects. Allendorf asked Bubul if it was a no brainer to approve the item. Bubul said it appears to be a wise public policy decision given the city's goals for affordable housing.

Wiersum asked what the typical tenure was for a resident in the Presbyterian Homes. Presbyterian Homes Vice President John Mehrkens said the average length of stay was nine years for an independent living resident entering the continuum of care. Wiersum said he agreed the decision was a no brainer. He said he had a concern with the sticker shock aspect. Before the five years runs out, he would like the city to look at extending the term or finding an alternative use in order to be considerate of the residents who rely on the affordability.

Hiller asked for clarification about information indicating that the increment would start at 90 percent and move down incrementally to 50 percent at year 2020 while still maintaining the same affordability. He asked if the total amount of units would stay the same or if the amount per unit would decrease over time. Wischnack said the idea was for the affordability to remain but it was important to keep in mind the developer could cancel the agreement. The way the agreement is structured is in order to get 50 percent of the increment, there has to be 62 affordable units.

Schneider said the city was trying to avoid having a drop dead date where people who are occupying the units would no longer qualify. By allowing the applicant some flexibility, when the 60 and 70 percent level is reached, the city might allow the developer to drop off a few units and let those rent at the market rate in order to keep the rest affordable. He said that would be better than an all or nothing approach. Bubul said one issue was the statutory affordability requirements had to be maintained because the district is a housing district. He said there was some hope that because over time there had been quite a few legislative changes beneficial to affordable housing, a possibility is there might be some changes that

would allow the district to stay open in order to fund other projects while the increment was being collected.

Wagner asked if one of the restrictions was that the funds could only be used for adjacent land to the existing district. Bubul said the funds could be used anywhere within the whole project area.

Hiller moved, Wiersum seconded a motion to approve the addendum to a private redevelopment contract for Beacon Hill. All voted "yes." Motion carried.

6. STAFF REPORT

Schneider said he preferred to have the staff report at the beginning of the meeting agenda, as is done in council meetings. Wischnack said typically the EDA staff report was not about a specific project action. The staff report was more for updating the EDA about other economic activities that were occurring and to notify the commissioners about meetings. She said the EDA staff report probably would be discontinued once the EDAC was up and running. Schneider said his expectation was the EDA would give the EDAC specific charges not necessarily related to specific projects. Wischnack suggested including a work plan update at every meeting. Wagner said historically the reason the report had been placed at the end of the agenda was typically the report was more informational and it allowed people who were at the meeting for a specific project to leave once their item was complete.

Durbin reported the dollar a ride changes started last month. The system is now countywide rather than just Minnetonka based. The hours have not changed. She said she had received one concern about the fixed route service. She also reported that the request for proposals for transit study went out the previous Thursday. The responses have to be received by April 30.

Greves asked what the due date was for the New Starts applications. Durbin said applicants can submit their applications at any time. She said the plan was to submit the application later this summer but there has been dialogue with the FTA and portions of the application likely would be submitted sooner.

7. OTHER BUSINESS: None

8. ADJOURNMENT

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 8:42 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk

EDA Agenda Item #5A
Meeting of September 13, 2010

Brief Description Items related to use of tax increment for the St. Therese project from Boulevard Gardens District

Recommendation Adopt the resolution

Background

The St. Therese project is proposed to be a 150 unit senior facility located in the Glen Lake area. The site is located north of Excelsior Boulevard and West of Woodhill Road. The project was originally approved in January of 2009, but because of economic conditions, construction did not proceed. This past summer, the developer renewed interest in constructing the building. During the review of the project costs, it was determined that the city's previous fee structure for sewer and water hook-ups was very different than the current requirements. The original estimates were approximately \$35,000 for the hook up fees, but the new requirements, adopted in May of 2009, require \$215,000. This substantial increase created a challenge for the project's implementation.

Statute Changes

In an effort to assist the project, staff has researched various methods for payment of the fees. The council agenda includes a resolution to assess a portion or all of the costs of the hook up fees. However, because of changes to tax increment laws in 2010, there were various statutes amended which allowed for the use of tax increment dollars to stimulate job growth. Staff is proposing to use \$100,000 of the approximately \$350,000 available increment from the Boulevard Garden's district to support the creation of 30 full time jobs with the St. Therese project. The remaining portion of the increment would also be available for private development, if the council took action to do so. At this time, staff does not have a specific project, but the spending plan (see pages A1-A4) preserves this option. If the project does not begin by July 1, 2011, the funds are returned to all appropriate taxing jurisdictions.

Recommendation

Staff recommends adoption of the resolution approving a spending plan for redevelopment tax increment financing district no. 2 (see pages A5-A7).

Submitted through:
John Gunyou, City Manager

Originated by:
Julie Wischnack, AICP, Community Development Director

ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA

CITY OF MINNETONKA

SPENDING PLAN

FOR REDEVELOPMENT TAX INCREMENT FINANCING DISTRICT NO. 2

(TEMPORARY TIF AUTHORITY UNDER MINN. STATS., SECTION 469.176, SUBD. 4M)

ADOPTED BY EDA BOARD _____, 2010

ADOPTED BY CITY COUNCIL _____, 2010

SPENDING PLAN
FOR TAX INCREMENT FINANCING DISTRICT NO. 2
(TEMPORARY TIF AUTHORITY UNDER MINN. STATS., SECTION 469.176, SUBD. 4M)

I. PURPOSE

The City of Minnetonka (the “City”) and the Economic Development Authority in and for the City of Minnetonka (the “the “Authority”) propose to adopt a spending plan (the “Spending Plan”) for Tax Increment Financing District No. 2 (the “TIF District”) in accordance with 2010 Minnesota Law, Chapter 216, Section 32 (codified as Minnesota Statutes, Section 469.176 Subd. 4m, and referred to as the “Temporary TIF Authority Act”).

Under the Temporary TIF Authority Act, the Authority is authorized to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if the following conditions exist:

- (1) Such assistance will create or retain jobs in the State of Minnesota, including construction jobs;
- (2) Construction commences before July 1, 2011;
- (3) The construction would not have commenced before that date without the assistance; and
- (4) The City Council approves a written spending plan (after a duly noticed public hearing) that specifically authorizes the Authority to take such actions.

The City and Authority have determined to authorize expenditures of tax increment from the TIF District under the Temporary TIF Authority Act as further described in this Spending Plan.

II. SPENDING PLAN

The Authority is authorized as follows:

(a) The Authority may use any available tax increments from the TIF District on hand at the time of approval of this Spending Plan and received through December 31, 2010 and not otherwise pledged to any outstanding contract or obligation (referred to as “Available Spending Plan Increment”), to provide improvements, loans, interest rate subsidies, or assistance in any form to private development occurring anywhere within the City that meets the requirements of the Temporary TIF Authority Act described above.

(b) The assistance authorized under this Spending Plan expressly includes, but is not limited to, assistance to Glen Lake Senior Housing Development, LLC (the “Phase II Subdeveloper”) in the amount of not more than \$100,000 to defray a portion of certain City

utility charges owing by the Phase II Subdeveloper in connection with construction of an approximately 150-unit senior rental housing development in the City. Such development is referred to as “Phase II” in the Contract for Private Redevelopment among the Authority, the City and Glen Lake Redevelopment LLC dated as of January 4, 2010 (the “Contract”), as partially assigned to the Phase II Subdeveloper.

In connection with such assistance, the Authority and City expressly find that:

1. Construction of Phase II will create approximately 30 new full-time equivalent jobs in the State (representing jobs that would not otherwise exist elsewhere in Minnesota), based on estimates provided by the Phase II Subdeveloper.
2. Under the Contract (as partially assigned), the Phase II Subdeveloper is required to commence construction of Phase II by August 1, 2012, but the Authority expects that construction will in fact commence before July 1, 2011, and the Authority will require such accelerated construction as a condition of providing assistance under this Spending Plan..
3. Construction of Phase II would not have commenced before July 1, 2011 without the assistance under this Spending Plan, both because that date accelerates the construction schedule otherwise required under the Contract, and because unexpected increases in various utility charges exceed amounts in the Phase II Subdeveloper’s planned pro forma for Phase II, making the development infeasible without the assistance under this Spending Plan.

(c) In addition to the assistance for the Phase II housing development described above, the Authority is authorized to spend Available Spending Plan Increment for any other private development in the City for which the Authority finds that the private development will create or retain jobs in the State (including construction jobs); that the private development will commence before July 1, 2011; and that such construction would not have commenced before that date without the assistance under this Spending Plan. The Authority must document its findings under this section at the time of approval of assistance to each development.

(d) In accordance with the Temporary TIF Authority Act, the Authority may implement this Spending Plan by making an equity or similar investment in a corporation, partnership or limited liability that the Authority determines is necessary to make construction that meets the requirements of paragraph (c) financially feasible.

(e) This Spending Plan authorizes, but does not obligate, the Authority to spend Available Spending Plan Increment. Any obligation to provide assistance under this Spending Plan must be evidenced by a contract approved by the Authority’s board, entered into with a private party who otherwise meets the requirements of this Spending Plan and the Temporary TIF Authority Act.

(f) In accordance with the Temporary TIF Authority Act, the authority to spend Available Spending Plan Increment under this Spending Plan expires on December 31, 2011. No Available Spending Plan Increment may be spent under this Spending Plan after December 31, 2011 unless such expenditure is otherwise authorized by law without regard to the Temporary TIF Authority Act.

(g) The City and Authority acknowledge that assistance provided pursuant to this Spending Plan will be subject to Minnesota Statutes, Sections 116J.993 to 116J.995 (the “Business Subsidy Act”), unless the assistance provided to a specified recipient is exempt from the Business Subsidy Act under the terms of that statute.

(h) The Authority and City may amend this Spending Plan at any time in accordance with the procedures for approval of the Spending Plan under the Temporary TIF Authority Act.

(i) Authority staff are authorized and directed to maintain a copy of this Spending Plan with the Authority’s records for the TIF District, and to file a copy of the Spending Plan with the Office of the State Auditor (as requested by the State Auditor in the August, 2010 TIF Division Newsletter).

RESOLUTION NO. 2010-xx

**RESOLUTION APPROVING SPENDING PLAN FOR REDEVELOPMENT
TAX INCREMENT FINANCING DISTRICT NO. 2 (TEMPORARY TIF
AUTHORITY UNDER MINN. STATS. SECTION 469.176, SUBD. 4M)**

BE IT RESOLVED by the board of commissioners (the "Board") of the Economic Development Authority in and for the City of Minnetonka, Minnesota as follows:

Section 1. Background.

- 1.01. 2010 Minnesota Law, Chapter 216, Section 32 (codified as Minnesota Statutes, Section 469.176 Subd. 4m, and referred to as the "Temporary TIF Authority Act") authorizes the to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if the following conditions exist:
 - (1) Such assistance will create or retain jobs in the State of Minnesota, including construction jobs;
 - (2) Construction commences before July 1, 2011;
 - (3) The construction would not have commenced before that date without the assistance; and
 - (4) The City Council approves a written spending plan (after a duly noticed public hearing) that specifically authorizes the Authority to take such actions.
- 1.02. The Authority has proposed to apply available tax increments from Redevelopment Tax Increment Financing District No. 2 (the "TIF District") for various uses in accordance with the Temporary TIF Authority Act, and to that end has caused to be prepared a document titled "Spending Plan for Redevelopment Tax Increment Financing District No. 2 (Temporary Authority under Minn. Stats., Section 469.176, Subd. 4m) (the "Spending Plan").
- 1.03. On this date, the City Council is scheduled to hold a public hearing regarding the Spending Plan, for which notice was published in a newspaper of general circulation in the City at least once, not less than ten days nor more than 30 days prior to the hearing, and at which hearing all persons will be given the opportunity to be heard.

Section 2. Spending Plan Approved.

- 2.01. The Authority approves the Spending Plan in substantially the form on file in City Hall, subject only to approval of such plan by the City Council after public hearing, all in accordance with the Temporary TIF Authority Act.
- 2.02. After approval of the Spending Plan by the City Council, the Authority is authorized to take all actions specified in the Spending Plan, subject to compliance with all terms and conditions of the Temporary TIF Authority Act.

Adopted by the board of commissioners of the Economic Development Authority in and for the City of Minnetonka this 13th day of September, 2010.

Terry Schnieder, President

ATTEST:

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 Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held September 13, 2010.

Secretary

EDA Agenda Item #5B
Meeting of September 13, 2010

Brief Description	Items related to use of tax increment for the St. Therese project
Recommendation	Adopt the resolution

Background

As part of the actions related to the use of tax increment, an agreement with the developer regarding the TIF assistance is required (see pages A1-A5).

Recommendation

Staff recommends adoption of the resolution approving a temporary TIF authority assistance agreement between the Economic Development Authority and the city of Minnetonka and Glen Lake Senior Housing LLC (see pages A6-A9).

Submitted through:
John Gunyou, City Manager

Originated by:
Julie Wischnack, AICP, Community Development Director

TEMPORARY TIF AUTHORITY ASSISTANCE AGREEMENT

BETWEEN

THE ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, AND GLEN LAKE SENIOR HOUSING, LLC

This Agreement is entered into as of this ____ day of _____, 2010 between the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, a political subdivision organized and existing under the laws of the State of Minnesota with offices at 14600 Minnetonka Boulevard, Minnetonka, Minnesota (the “Authority”), and Glen Lake Senior Housing, LLC, a limited liability company organized under the laws of Minnesota with offices at Great Lakes Management 5000 Glenwood Avenue, Suite 150, Golden Valley, MN 55422 (the “Phase II Subdeveloper”).

BACKGROUND

A. The City of Minnetonka (the “City”), the Authority and the Glen Lake Redevelopment, LLC (the “Redeveloper”) entered into a Second Amended and Restated Contract for Private Development, dated January 4, 2010 (the “Contract”), which among other things provides for the construction of an approximately 150-unit senior rental housing facility defined in the Contract as “Phase II.”

B. Obligations of the Redeveloper regarding Phase II were assigned to, and assumed by, the Phase II Subdeveloper pursuant to an Assignment and Assumption between Redeveloper and Phase II Subdeveloper dated as of September 1, 2010 (the “Assignment”). Under the Contract as partially assigned to the Phase II Subdeveloper, the Phase II Subdeveloper is required to commence construction of Phase II by August 31, 2012.

C. The Authority and Phase II Subdeveloper now desire to accelerate commencement of construction of the Phase II, and to address the financial impact of certain City utility charges that impair the financial feasibility of Phase II.

D. 2010 Minnesota Law, Chapter 216, Section 32 (codified as Minnesota Statutes, Section 469.176 Subd. 4m, and referred to as the “Temporary TIF Authority Act”) authorizes the Authority to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if the following conditions exist:

- (1) Such assistance will create or retain jobs in the State of Minnesota, including construction jobs;
- (2) Construction commences before July 1, 2011;

- (3) The construction would not have commenced before that date without the assistance; and
- (4) The City Council approves a written spending plan (after a duly noticed public hearing) that specifically authorizes the Authority to take such actions.

E. The Authority has determined that assistance to the Phase II Subdeveloper for Phase II meets the requirements of the Temporary TIF Authority Act, and the City Council has approved a spending plan (the "Spending Plan") that authorizes use of certain tax increments from Redevelopment Tax Increment Financing District No. 2 (the "TIF District") to assist Phase II as further described in this Agreement. Such revenues are referred to in the Spending Plan as "Available Spending Plan Increment."

NOW THEREFORE the Authority and Phase II Subdeveloper hereby mutually agree as follows:

1. In accordance with the Spending Plan, the Authority shall apply Available Spending Plan Increment in the amount of \$100,000 to pay to the City, on behalf of the Phase II Subdeveloper, a portion of the City's sanitary sewer and water connection fees (the "Connection Fees") with respect to Phase II. Such payment shall be made at the time such Connection Fees are otherwise due and payable under City ordinances and procedures.

2. The Authority's payment of Available Spending Plan Increment under this Agreement is conditioned upon satisfaction of the following conditions:

- (a) The Phase II Subdeveloper has closed on acquisition of the Phase II Property;
- (b) The Phase II Subdeveloper has obtained all other land use and related approvals required under City ordinances in order to commence construction of Phase II; and
- (c) The City has issued a building permit for construction of Phase II under City ordinances (or will issue such permit simultaneously with payment of the Connection Fees under this Agreement).

3. Notwithstanding anything to the contrary in the Contract or the Assignment (except as otherwise provided in Section 5 hereof), the Phase II Subdeveloper shall commence construction of Phase II by no later than July 1, 2011. For the purposes of this Agreement, the term "commence construction" means pouring cement for the building or placing footings in the ground.

4. As of the date that Phase II is placed in service (but in no event later than the date required for completion of Phase II under the Contract), the Phase II Subdeveloper shall cause to be created at least 30 new full time equivalent jobs on the Phase II Property, where one full-time equivalent job is 2,080 hours of compensable work as defined by law. Phase II Subdeveloper shall provide written evidence of such job creation in a form reasonably satisfactory to the Authority,

prior to and as a condition of issuance of the Certificate of Completion for Phase II (notwithstanding anything to the contrary in Section 4.4 of the Contract.).

5. If the Phase II Subdeveloper either (a) fails to commence construction of Phase II by July 1, 2011, or (b) fails to timely create the required number of jobs under Section 4 hereof, then the Phase II Subdeveloper shall repay to the Authority, within ten days after receipt of a written demand therefore, the amount credited on the Phase II Subdeveloper's behalf under Section 1 hereof. The Authority shall be entitled to recover from Phase II Subdeveloper its reasonable costs and expenses, including attorney fees, incurred to enforce the Phase II Subdeveloper's obligations under this Section. The parties further agree and understand that such repayment is the Authority's sole remedy for failure by the Phase II Subdeveloper to commence construction by July 1, 2011, or create the required number of jobs, and that for the purposes of Section 9.5 of the Contract, the required commencement date remains August 31, 2012.

6. The parties agree and understand that the assistance under this Agreement is for housing, and is therefore not a "business subsidy" within the meaning of Minnesota Statutes, Section 116J.993 to 116J.995 (the "Business Subsidy Act"). Such exemption from the Business Subsidy Act does not affect the Phase II Subdeveloper's obligations regarding job creation, which are imposed under the Temporary TIF Authority Act and are incorporated in Section 4 of this Agreement.

7. This agreement supplements and amends the Contract as partially assigned to the Phase II Subdeveloper. In the event of any inconsistencies between those agreements and this Agreement, this Agreement controls.

(Remainder of this page intentionally left blank.)

GLEN LAKE SENIOR HOUSING, LLC

By: _____
Its _____

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

By _____
Its President

By _____
Its Executive Director

RESOLUTION NO. 2010-xx

**RESOLUTION APPROVING A TEMPORARY TIF AUTHORITY ASSISTANCE
AGREEMENT BETWEEN THE ECONOMIC DEVELOPMENT
AUTHORITY IN AND FOR THE CITY OF MINNETONKA AND GLEN
LAKE SENIOR HOUSING, LLC**

BE IT RESOLVED by the board of commissioners (the "Board") of the Economic Development Authority in and for the City of Minnetonka, Minnesota as follows:

Section 1. Background.

- 1.0.1 The City of Minnetonka (the "City"), the Authority and the Glen Lake Redevelopment, LLC (the "Redeveloper") entered into a Second Amended and Restated Contract for Private Development, dated January 4, 2010 (the "Contract"), which among other things provides for the construction of an approximately 150-unit senior rental housing facility defined in the Contract as "Phase II."
- 1.02. Obligations of the Redeveloper regarding Phase II were assigned to, and assumed by, Glen Lake Senior Housing, LLC (the "Phase II Subdeveloper") pursuant to an Assignment and Assumption between Redeveloper and Phase II Subdeveloper dated as of September 1, 2010 (the "Assignment"). Under the Contract as partially assigned to the Phase II Subdeveloper, the Phase II Subdeveloper is required to commence construction of Phase II by August 31, 2012.
- 1.03. The Authority and Phase II Subdeveloper now desire to accelerate commencement of construction of the Phase II, and to address the financial impact of certain City utility charges that impair the financial feasibility of Phase II.
- 1.04. This Board has approved a Spending Plan for Redevelopment Tax Increment Financing District No. 2 (the "Spending Plan") pursuant to 2010 Minnesota Law, Chapter 216, Section 32 (codified as Minnesota Statutes, Section 469.176 Subd. 4m, and referred to as the "Temporary TIF Authority Act"); and on this date the City Council will hold a public hearing on and will consider approval of the Spending Plan.
- 1.05. Under the Spending Plan, the Authority may provide certain tax increment assistance to the Phase II Subdeveloper in order to facilitate timely construction of Phase II and stimulate creation of jobs in the State.
- 1.06. The Board has caused to be prepared and reviewed a Temporary TIF Authority Assistance Agreement (the "TIF Assistance Agreement") between the Authority and the Phase II Subdeveloper, providing for certain assistance under the Spending Plan, and finds that the execution thereof by the Authority and performance of the Authority's obligations thereunder are in the best interest of the

City and its residents.

Section 2. TIF Assistance Agreement Approved.

- 2.01. The TIF Assistance Agreement is approved in substantially the form on file in City Hall, subject to modifications that do not alter the substance of the transaction and are approved by the President and Executive Director; provided that execution of the document will be conclusive evidence of their approval.
- 2.02. The President and Executive Director are authorized and directed to execute the TIF Assistance Agreement and any other documents or certificates necessary to carry out the transactions described in the TIF Assistance Agreement, including but not limited to other documents or agreements described in the TIF Assistance Agreement.
- 2.03. The approvals in this resolution are contingent upon approval of the Spending Plan by the City Council after public hearing, all in accordance with the Temporary TIF Authority Act.

Adopted by the board of commissioners of the Economic Development Authority in and for the City of Minnetonka this 13th day of September, 2010.

Terry Schnieder, President

ATTEST:

Secretary

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the board of commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held September 13, 2010.

Secretary

**EDA Agenda Item #5C
Meeting of September 13, 2010**

Brief Description 2011 Preliminary HRA Levy

Recommendation Adopt the resolution

HRA Levy

An HRA levy is a mechanism commonly used by many cities to fund economic development activities. In Minnetonka, the EDA acts as the city's HRA, and is authorized to adopt an HRA levy to be approved by the city council. State law limits such levies, and the maximum rate is 0.0185 percent of a city's taxable market value. This represents about \$1.45 million in Minnetonka.

The first levy for housing and redevelopment began in 2009. The chart below shows the history of the amounts and the proposed uses of the HRA levy, as well as the 2011 proposed budget.

2009	\$100,000	Partial payment to Homes Within Reach (total funding commitment of \$250,000) for affordable housing efforts
2010	\$175,000	\$100,000 for housing programs (rehab/first time homebuyer) \$75,000 for village center master planning (Hwy 7/CR 101 and Shady Oak Rd/Excelsior Blvd)
2011	\$175,000	\$90,000 for housing programs (rehab/first time homebuyer) \$85,000 for village center master planning

The details of the housing program(s) funded in 2010, either as a housing rehabilitation program or a down payment assistance program for first time homebuyers will be proposed to the EDAC prior to implementation in 2011. If the 2011 HRA levy is adopted at the same level and in the amounts as proposed above, there will be \$190,000 available to implement the housing program(s) in 2011.

The budgetary impacts of various levy amounts, the table, below, describes the various dollar amounts and the effect on taxation (payable) in 2011.

2011 HRA Levy Program Amount	\$175,000
Percent Levied for 2011	.00212%
Cost to a \$290,000 home	\$6.21 per year

Recommendation

Staff recommends adoption of the resolution approving a preliminary 2011 HRA levy and budget of \$175,000. Similar to the city's regular annual levy, the final HRA levy cannot be higher than, but may be lower than the preliminary levy.

Through:
John Gunyou, City Manager

Originated by:
Julie Wischnack, AICP, Community Development Director

EDA RESOLUTION NO. 2010-

RESOLUTION SETTING A PRELIMINARY 2011 H.R.A. TAX LEVY AND BUDGET

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

Section 1. Background.

- 1.01. On May 2, 1988 by Resolution 88-8637 and amended on May 9, 1994 by Resolution 94-9715, the city council established the Economic Development Authority (EDA) of the City of Minnetonka, and effective June 15, 1988, transferred to the EDA the control, authority and operation of all projects and programs of the city's Housing and Redevelopment Authority (HRA). On March 8, 2010, the city council became the appointed EDA.
- 1.02. Minnesota Statutes 469.033, Subdivision 6 authorizes housing and redevelopment authorities the power to levy a tax upon all taxable property within its district to finance housing and redevelopment programs subject to the consent of the city council.
- 1.03. The law and council resolutions further require the EDA to file a budget in accordance with the budget procedure of the city in the same manner as required of executive departments of the city and all actions of the authority to be approved by the city council.
- 1.04. State law requires the city to certify to the county a preliminary HRA tax levy by September 15, 2010, and a final HRA budget and levy to be adopted, approved and certified to the county by December 24, 2010.

Section 2. Findings.

- 2.01. The EDA finds that an annual budget and tax levy of \$175,000 for levy in 2010, collectible in 2011, will fund housing and redevelopment activities of the authority in 2011.

Section 3. Authorization.

- 3.01. The preliminary 2011 HRA budget and tax levy is hereby approved.
- 3.02. The City Clerk is hereby directed and ordered to transmit a certified copy of this resolution to the Hennepin County Director of Property Tax and Public Records.

Adopted by the Economic Development Authority of the City of Minnetonka, Minnesota,
on this 13th day of September 2010.

Terry Schneider, President

ATTEST:

Julie Wischnack, Secretary

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.