



**REGULAR HOUSING AND REDEVELOPMENT AUTHORITY MEETING
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS
AUGUST 16, 2021
7:00 PM**

Call to Order

Open Forum: To participate live in the open forum to address the HRA on items not on the current agenda dial 612-861-0651

Approval of the minutes of the regular Housing and Redevelopment Authority meeting of July 19, 2021.

PRESENTATIONS

1. 2022 HRA and EDA budget presentations

AGENDA APPROVAL

2. Approval of the Agenda
3. **Consent Calendar contains several separate items which are acted upon by the HRA in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further HRA action on these items is necessary. However, any HRA Commissioner may request that an item be removed from the Consent Calendar and placed on the regular agenda for HRA discussion and action. All items listed on the Consent Calendar are recommended for approval.**
 - A. Consider a resolution of support for the expansion of the Minnesota Independence College and Community in the City of Richfield.

Staff Report No. 22
 - B. Consideration of the adoption of a resolution approving the issuance of, and providing the form, terms, covenants, and directions for the issuance of its Tax Increment Financing Limited Revenue Note, Series 2021 (Phase I) in an aggregate principal amount not to exceed \$900,000.

Staff Report No. 23
4. Consideration of items, if any, removed from Consent Calendar

RESOLUTIONS

5. Consideration of a resolution approving a Contract for Private Development with Benefactor Brewing.

Staff Report No. 24
6. Consider the adoption of a resolution approving an amendment to the Amended and Restated Contract for Private Development with Lyndale Gardens, LLC to adjust the interest rate on the Master Developer Tax Increment Financing Note.

Staff Report No. 25

7. Consider a resolution approving a loan to Lynk 65, LLC for \$500,000 to help finance a mixed use project at 65th Street and Lyndale Avenue South.

Staff Report No. 26

8. Consider resolutions approving proposed 2022 Proposed Housing and Redevelopment Authority Budget and Tax Levy and 2021 Revised Housing and Redevelopment Authority Budget.

Staff Report No. 27

HRA DISCUSSION ITEMS

9. HRA Discussion Items

EXECUTIVE DIRECTOR REPORT

10. Executive Director's Report

CLAIMS

11. Claims
12. Adjournment

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



HOUSING AND REDEVELOPMENT AUTHORITY MEETING MINUTES

Richfield, Minnesota

Regular Meeting

July 19, 2021

CALL TO ORDER

The meeting was called to order by Chair Supple at 7:00 p.m. in the Council Chambers.

HRA Members Present: Mary Supple, Chair; Maria Regan Gonzalez, Sue Sandahl, Lee Ohnesorge and Erin Vrieze Daniels

HRA Members Absent: None

Staff Present: John Stark, Community Development Director/Executive Director; Julie Urban, Housing Manager and LaTonia DuBois, Administrative Assistant.

Others Present: None

Item #1	APPROVAL OF THE AGENDA
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M/Sandahl, S/Regan Gonzalez to approve the agenda.

Motion carried 5-0

OPEN FORUM

There was nobody present at the meeting for the open forum and there were no callers.

APPROVAL OF THE MINUTES

M/Regan Gonzalez, S/Sandahl to approve the minutes of the regular Housing and Redevelopment meeting of June 19, 2021.

Motion carried 5-0

Item #2	CONSENT CALENDAR
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Executive Director Stark presented the Consent Calendar:

- A. Consider an adjustment to the payment standard for the Section 8 Housing Choice Voucher Program. (Staff Report No. 20)

M/Regan Gonzalez, S/Sandahl to approve the Consent Calendar.

Motion Carried 5-0

Item #3	CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR
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None.

Item #4	CONSIDERATION OF A RESOLUTION APPROVING THE AMENDMENT, ASSIGNMENT AND ASSUMPTION OF THE PRELIMINARY DEVELOPMENT AGREEMENT WITH PENN INVESTMENTS LLC AND PENN INVESTMENTS LIMITED PARTNERSHIP FOR A PROPOSED MULTI-FAMILY HOUSING DEVELOPMENT AT 6501 PENN AVENUE SOUTH. (S.R. NO. 21)
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Housing Manager Urban presented Staff Report No. 21.

M/Vrieze Daniels, S/Sandahl to approve a resolution authorizing the execution and delivery of an amendment, assignment and assumption of a Preliminary Redevelopment Agreement with Penn Investments LLC and Penn Investments Limited Partnership for a proposed multi-family housing development at 6501 Penn Avenue South.

Motion carried 5-0

HRA RESOLUTION NO. 1398
 RESOLUTION APPROVING THE EXECUTION AND DELIVERY OF AN AMENDMENT,
 ASSIGNMENT AND ASSUMPTION OF THE AMENDED AND RESTATED PRELIMINARY
 REDEVELOPMENT AGREEMENT WITH PENN INVESTMENTS LLC AND PENN
 INVESTMENTS LIMITED PARTNERSHIP

Item #5	HRA DISCUSSION ITEMS
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Chair Supple spoke of resident inquiries regarding the off ramp of the eviction moratorium and asked staff to provide an update.

Housing Manager Urban explained that the timeline for the off ramp of the moratorium has been shared with property owners and information that will be put on the City of Richfield website.

Housing Manager Urban also shared information about how people can get rent and other assistance through the state and VEAP.

Item #6	EXECUTIVE DIRECTOR'S REPORT
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Executive Director Stark reported that state legislation regarding pooled tax increment funding was approved and shared how the funds could now be used.

Executive Director Stark also reported that the budget presentation would be shared at the next Housing and Redevelopment Authority meeting.

Commissioner Regan Gonzalez shared her excitement regarding the new legislation and ability to use the funds for the community.

Commissioner Sandahl inquired if any other cities joined Richfield in seeking the legislation.

Executive Director Stark reported that they worked with staff from Minnetonka and St. Louis Park.

Item #7	CLAIMS
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M/Regan Gonzalez, S/Sandahl that the following claims be approved:

U.S. BANK	7/19/2021
Section 8 Checks: 132937 - 133018	\$175,587.12
HRA Checks: 34041 - 34057	\$115,427.71
TOTAL	\$291,014.83

Motion carried 5-0

Item #8	ADJOURNMENT
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The meeting was adjourned by unanimous consent at 7:17 p.m.

Date Approved: August 16, 2021

Mary B. Supple
HRA Chair

LaTonia DuBois
Administrative Assistant

John Stark
Executive Director



2021-2022 HRA BUDGET



HRA Staffing

The HRA pays more than 40% of the salary of ten employees

HRA Staffing (and the percentage of their time covered by the HRA)

- ✓ Executive Director, John Stark (65%)
- ✓ Housing & Redevelopment Manager, Julie Urban (86.5%)
- ✓ Assistant CD Director, Melissa Poehlman (52.5%)
- ✓ Housing Specialists, Kate Aitchison & Celeste McDermott – Job Share (90%)
- ✓ Accountant, Myrt Link (82%)
- ✓ Administrative Assistant, LaTonia DuBois (74.5%)
- ✓ Multifamily Housing Administrator, Lynnette Chambers (66%*)
- ✓ Section 8 Tech's, Cindy Veldey and Talisa Parson – Job share (100%*)

**primarily funded by the Federal government*

HRA Budget History

- ✓ 2022 Proposed: \$3,775,460
- ✓ 2021 Revised: \$5,101,840
- ✓ 2020 Approved: \$3,717,800 Expended \$2,921,437 (79%)
- ✓ 2019 Approved: \$5,083,610 Expended: \$4,895,982 (97%)
- ✓ 2018 Approved : \$3,969,610 Expended: \$4,681,228 (118%)
- ✓ 2017 Approved : \$4,062,410 Expended: \$4,374,928 (108%)
- ✓ 2016 Approved : \$5,328,050 Expended: \$3,709,231 (70%)
- ✓ 2015 Approved : \$4,976,220 Expended: \$3,353,267 (67%)
- ✓ 2014 Approved : \$5,378,030 Expended: \$2,374,136 (44%)
- ✓ 2013 Approved : \$5,636,870 Expended: \$3,202,189 (57%)

Community Development/HRA

- We “underspent” by over \$700,000 in 2020, due to:
 - Reduction of acquisition (for RR, etc.) due to high home values
 - Elimination of several events
 - Reimbursement by CARE\$ Act
 - Other “normal” services scaled back to provide additions Care\$ funded services

- The overall HRA budgets are as follows:
 - ✓ 2021 Approved: \$3,532,650
 - ✓ 2021 Revised: \$5,101,840
 - ✓ 2022 Proposed: \$3,775,460

- The 2021 Revised Budget includes an \$1,569,190 increase over the 2021 Approved Budget
 - This increase is due primarily to \$1 million in additional assistance being considered for the Lyndale Gardens site and the Lynk65 development, and;
 - \$296,000 in underpass funds from prior sales proceeds
 - Additional Rental Housing support & rehab

- The 2022 Proposed Budget is:
 - \$81,770 more than the 2021 Approved Budget (6.9% increase)

Community Development/HRA

Type	No.		2021 Approved	2021 Revised	% increase	2022 Proposed	% increase
HRA	90100	HRA Admin	522,100	529,510	1.4%	550,630	5.5%
HRA	90300	Marketing	10,650	10,650	0.0%	10,650	0.0%
HRA	90400	Rental Housing Support	21,000	51,000	142.9%	65,500	211.9%
HRA	90700	RR/HF*	7,100	11,030	55.4%	4,630	-34.8%
HRA	91001	Capital Improvement Fund	126,960	179,580	41.4%	113,250	0.0%
HRA	91010	New Home	3,250	15,780	385.5%	1,780	-45.2%
HRA	91300	Rehab Loans	62,880	32,900	-47.7%	32,900	-47.7%
HRA	91530	Affordable Housing Trust Fund	235,000	375,000	59.6%	190,000	-19.1%
HRA	92100	Dev Opps	32,440	28,700	-11.5%	31,260	-3.6%
HRA	92900	Lakes at Lyndale	41,250	16,750	-59.4%	41,250	0.0%
HRA	93300	Lyndale Garden Ctr	4,600	4,600	0.0%	4,600	0.0%
HRA	93600	Cedar Point Commons	1,000	1,000	0.0%	1,000	0.0%
HRA	93650	Cedar Corridor	149,040	474,190	218.2%	12,700	-91.5%
HRA	93750	Penn Corridor	32,820	64,920	97.8%	32,820	0.0%
HRA	98500	Housing & Redevelopment Fund	523,000	1,603,000	206.5%	953,000	82.2%
Non-Section 8 HRA			\$ 1,773,090	\$ 3,398,610	91.7%	\$ 2,045,970	15.4%
Section 8	91500	Section 8 -HAP	1,500,000	1,390,000	-7.3%	1,460,000	-2.7%
Section 8	91501	Section 8 -ADMIN	259,560	313,230	20.7%	269,490	3.8%
Section 8 Total			\$ 1,759,560	\$ 1,703,230	-3.2%	\$ 1,729,490	-1.7%
Total HRA w/ Section 8			\$ 3,532,650	\$ 5,101,840	44.4%	\$ 3,775,460	6.9%

2021/22 Budget Highlights

- COVID-19 Impacts
 - HRA Employees transitioning back to the office
 - 80% of HRA employees able to do up to 40% of their work remotely
 - \$125,000 in special COVID-19 Rent Assistance provided through VEAP thus far; more is being planned (\$25,000 covered by City)
 - Many events (such as Realtor Workshop and Home Tour) done virtually
 - Section 8 income qualification became more complex with frequent changes in employment
 - Section 8 housing inspections also became a challenge
 - Additional admin money received from HUD being used for “catch up” work in 2021 (e.g., new voucher issuance, inspections)
 - Reduced in-person visits (e.g., Remodeling Advisor)
 - Getting back to “normal”

2021/22 Budget Highlights

- Redevelopment Construction Progress:
 - The Riley (formerly Henley II) – 90 new apartment units and 22 rehabbed units (20% affordable at 50% of AMI)
 - RF64 Townhomes – 24 townhomes completed, construction underway on 8 additional units (100/115% AMI). Awarded 2 Minnesota Housing second mortgages to expand affordability (80/100% AMI).
 - Rya Apartment construction underway (237 market-rate units).
- Market Rate Apartments without HRA Assistance
- Lunds – 133 new market-rate apartments
 - The Novo – 183 new market-rate apartments

2021/22 Budget Highlights

- Redevelopment Plans in the Works:
 - 6501 Penn: Developer applied for tax credits to provide 63 units affordable at 30%, 50% and 60% of the AMI, including 15 supportive units for people with a disability. Funding decision in December 2021.
 - The Emi (66th & Stevens): HRA approved preliminary development agreement to explore reconfiguring of the approved mixed use project to add affordable units and reduce commercial space.
 - The Enclave (65th & Lyndale): HRA approved Development Agreement for construction of approximately 130 new apartments; reevaluating inclusion of 8,000 square feet of ground floor commercial space.
 - \$40,000 for Lakes at Lyndale public improvements
 - Woodlawn Terrace - Anticipate \$350,000 HRA contribution toward utility improvements at Woodlawn Terrace (53-unit affordable manufactured home community)

2021/22 Budget Highlights

- Housing Programs

- Awarded six loans to-date under the Down payment Assistance Program (70% to BIPOC households) in 2021 to-date. High activity in spite of high home prices.
- 1 Richfield Rediscovered home planned for 2021 and 1 for 2022 (66th Street remnant lot). Anticipate continued slow-down of program due to high home prices.
- Additional funding budgeted for affordable New Home Program in 2021 and 2022 (1 new construction; 2 purchase/rehabs with land trust).
- “Apartment Liaison” funding increased for 2022 to provide match for grant application submitted by Bloomington Public Health for a Community Health Worker to focus on Richfield apartment residents.

2021/22 Budget

Other Considerations

- Future TIF Decertification's will have big budget impacts
 - Urban Village (2025)
 - Interchange West (Best Buy) (2025)
 - City Bella (2030)
- Things to be Excited About
 - 2021 TIF Legislation will allow more flexible use of up to \$9.6 million in pooled increment (current and future funds)
 - Richfield is still an extremely desirable market
 - Development opportunities at new underpass
 - HUB will *eventually* redevelop
- Trying to view the levies holistically (City, HRA & EDA)

Community Development/HRA

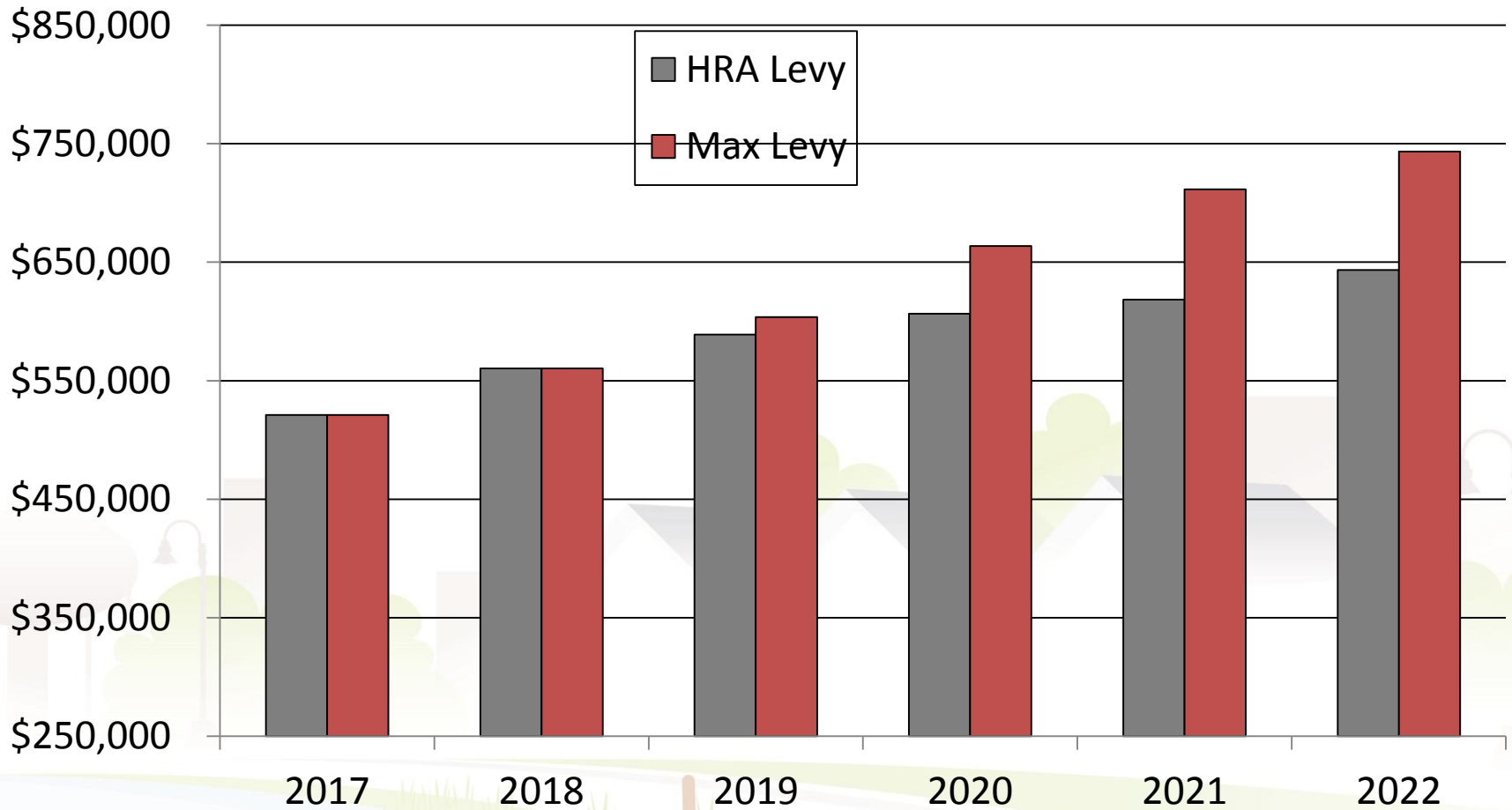
Funding Sources from the HRA Budget

	<u>2021A</u>	<u>2021R</u>	<u>2022P</u>
Taxes	\$ 618,400	\$ 618,400	\$ 643,460
Intergovernmental Rev.	\$ 1,904,340	\$ 2,084,340	\$ 1,820,000
Miscellaneous Revenues	\$ 240,020	\$ 249,010	\$ 118,120
Transfers	\$ 859,210	\$ 797,860	\$ 729,290
Total	\$ 3,621,970	\$ 3,749,610	\$ 3,310,870

Expenditures from the HRA Budget

	<u>2021A</u>	<u>2021R</u>	<u>2022P</u>
Personnel	\$ 498,270	\$ 543,730	\$ 563,240
Other Services & Charges	\$ 2,239,880	\$ 3,362,190	\$ 2,050,440
Capital Outlay	\$ 581,500	\$ 655,500	\$ 986,500
Transfers	\$ 213,000	\$ 540,420	\$ 175,280
Total	\$ 3,532,650	\$ 5,101,840	\$ 3,775,460

HRA Levy History



Questions & Discussion



Economic Development Authority

- ❑ 2021 Levy: \$529,790
- ❑ 2022 Proposed Levy: \$551,250
- ❑ Max Levy Permitted by Law: \$728,474

	2021 Approved	2021 Revised	2022 Proposed
Salaries & Benefits	\$ 65,910	\$ 68,910	\$ 71,020
Kids @ Home	11,150	\$ 136,170	\$ 136,470
Transformation Home Loans	\$ 131,000	\$ 131,000	\$ 131,000
Apartment Rehab Loan/Grant	\$ 100,000	\$ 140,000	\$ 100,000
Business Development	\$ 75,000	\$ 73,420	\$ 96,500
Open to Business	\$ 6,250	\$ 6,250	\$ 6,440
Professional Services	\$ 7,500	\$ 7,000	\$ 7,210
Misc.	\$ 1,440	\$ 1,990	\$ 2,020
Total Expenditures	\$ 398,250	\$ 564,740	\$ 550,660
Taxes	\$ 529,790	\$ 529,790	\$ 551,250
Misc.	\$ 2,350	\$ 2,350	\$ 12,350
Total Revenue	\$ 532,140	\$ 532,140	\$ 563,600

EDA Budget Highlights

- High Demand for:
 - Energy Efficient Business Grant
 - Transformation Home Loan Program
- Very few (two) Displaced Business Grants awarded
- Kids@Home shifted back to EDA from Housing Trust Fund
- Thus far in 2021, awarded one loan under the Apartment Remodeling Program (\$42,500 for Cedar Ave complex windows)
- Very little staffing for business programs
 - (John & LaTonia – 4 hours/week)

AGENDA SECTION: Consent Calendar

AGENDA ITEM # 3.A.



STAFF REPORT NO. 22
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
8/16/2021

REPORT PREPARED BY: Melissa Poehlman, Asst. Community Development Director

OTHER DEPARTMENT REVIEW:

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
8/11/2021

ITEM FOR COUNCIL CONSIDERATION:

Consider a resolution of support for the expansion of the Minnesota Independence College and Community in the City of Richfield.

EXECUTIVE SUMMARY:

Minnesota Independence College and Community (MICC) has been operating within the Colony Apartments complex (7501 Logan Avenue South) since the program first began in 1996. Over the past 25 years, MICC has grown into a nationally recognized model for serving individuals on the autism spectrum and with learning differences. The City of Richfield has proved integral to this success, through its policies related to redevelopment and its multi-modal transportation initiatives. MICC participants come from across Minnesota and the country to live, work, volunteer, and thrive in Richfield, not just for their time enrolled in MICC, but for the long term.

As MICC works to respond to a demand for wrap-around services for graduates, they have purchased 1.2 acres of land along 76th Street West between Newton and Morgan Avenues. This land is guided for Medium-Density Residential housing in the City's 2040 Comprehensive Plan.

On Monday, June 21, at a joint work session of the City Council, Housing & Redevelopment Authority (HRA), and Planning Commission, MICC and partners from Bumpy Lane, LLC (Developers) presented conceptual plans for the development of a mixed use building including services and affordable/accessible apartments. The Developers also acknowledged that a project like this will require funding support from a variety of sources, and indicated that they will be requesting assistance from the HRA in the form of Tax Increment in the future. The Developers are now requesting a resolution from the HRA, confirming their support for the concept of affordable/accessible housing at this location. This letter of support does not guarantee or obligate the approval of any specific financial assistance requests, but rather will indicate that the HRA is supportive the conceptual development of the land in this manner. This resolution will aid MICC and partners in securing project financing and support at other levels of government.

The HRA has a long history of partnering with organizations that best serve its residents, including MICC. Supporting sustainable independence for all Richfield residents is a way to further the community's commitment to equitable opportunities for all.

RECOMMENDED ACTION:

By motion: Approve the attached resolution supporting the development of affordable, accessible multi-family housing by the Minnesota Independence College and Community in the area of 2000, 2006, and 2018 76th Street West.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- Minnesota Independence College and Community is a 501 (c)3 nonprofit vocational and life skills training program for young adults with learning differences and autism spectrum disorder. Since its founding in 1996, MICC has remained dedicated to helping participants make successful transitions towards independent living and financial self-sufficiency.
- MICC has operated from the Colony Apartments in Richfield since its inception in 1996.
- The Richfield City Council adopted a similar Resolution at their August 10, 2021 meeting.

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

- The 2040 Comprehensive Plan calls for a full range of housing choices that meet residents' needs at every stage of their lives, and ensure a healthy balance of housing types that meet the needs of a diverse population with diverse needs.
- The neighborhood immediately north of the Best Buy Corporate Campus has been guided for increased density since the adoption of the 2030 Comprehensive Plan in 2008.

C. CRITICAL TIMING ISSUES:

None

D. FINANCIAL IMPACT:

None

E. LEGAL CONSIDERATION:

- The attached resolution of support indicates that the HRA is supportive of an affordable, accessible housing development in the area of 2000, 2006, and 2018 76th Street West. It does not obligate the HRA to approve any requests for funding assistance.

ALTERNATIVE RECOMMENDATION(S):

Do not approve a resolution of support.

PRINCIPAL PARTIES EXPECTED AT MEETING:

Representative(s) of MICC and/or Bumpy Lane, LLC

ATTACHMENTS:

	Description	Type
□	Resolution	Resolution Letter
□	Map	Exhibit

RESOLUTION NO. _____

**RESOLUTION SUPPORTING THE DEVELOPMENT OF AFFORDABLE, ACCESSIBLE
MULTIFAMILY HOUSING IN THE VICINITY OF
2000, 2006, AND 2018 - 76TH STREET WEST**

WHEREAS, the Richfield Housing and Redevelopment Authority is committed to providing a full range of housing choices that meet residents' needs at every stage of their lives, and ensuring a healthy balance of housing types that meets the needs of a diverse population with diverse needs; and

WHEREAS, the Richfield Housing and Redevelopment Authority is committed to partnering with organizations that best serve the residents of the City of Richfield; and

WHEREAS, Minnesota Independence College and Community (MICC) is a 501 (c)3 nonprofit vocational and life skills training program for young adults with learning differences and autism spectrum disorder that, since its founding in 1996, has operated from the Colony Apartments in the City of Richfield; and

WHEREAS, the Richfield Housing and Redevelopment Authority is supportive of the continued success and growth of the MICC program in the City of Richfield and wishes to support their efforts to provide sustainable independence for their graduates; and

WHEREAS, the City of Richfield has designated land in the vicinity of 2000, 2006, and 2018 – 76th Street West for future multifamily housing development; and

WHEREAS, MICC and partner Bumpy Lane LLC, a Minnesota limited liability company, or any of its affiliates (collectively, the “Redeveloper”), has proposed to construct an affordable, accessible multifamily project to be located at or about 2000, 2006, and 2018 – 76th Street West, Richfield, Minnesota (the “Redevelopment”); and

WHEREAS, the Redeveloper has presented a conceptual Redevelopment to the Richfield Housing and Redevelopment Authority and has received support to move forward in the exploration of a specific Redevelopment plan and application; and

NOW, THEREFORE, BE IT RESOLVED, that the Richfield Housing and Redevelopment Authority supports the development of affordable, accessible multifamily housing by the Redeveloper in the vicinity of 2000, 2006, and 2018 – 76th Street West.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 16th day of August, 2021.

Mary B. Supple, Chair

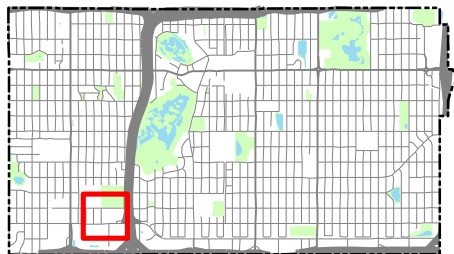
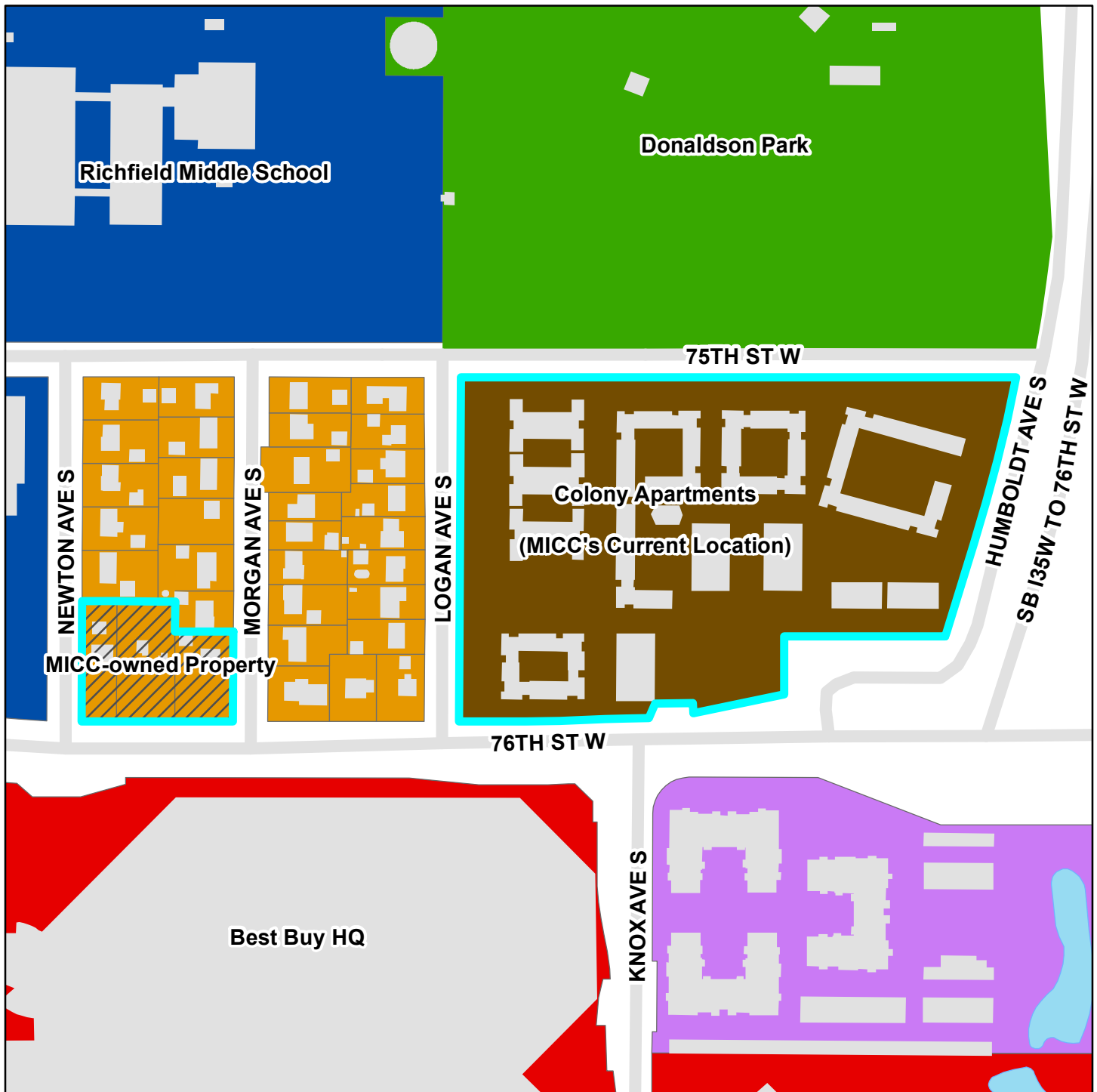
ATTEST:

Maria Regan Gonzalez, Secretary













Minnesota Independence College and Community

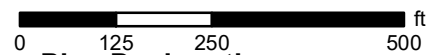
2040 Comprehensive Plan Designations



-  MICC Current Location
-  MICC Owned Properties

2040 Comprehensive Plan Designations

- | | |
|--|--|
|  Mixed Use |  Medium Density Residential |
|  Regional Commercial |  Low Density Residential |
|  Community Commercial |  Park |
|  Neighborhood Commercial |  Quasi-Public |
|  High Density Residential |  Right-of-Way (ROW) |





STAFF REPORT NO. 23
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
8/16/2021

REPORT PREPARED BY: Myrt Link, Community Development Accountant
OTHER DEPARTMENT REVIEW:

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
8/11/2021

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the adoption of a resolution approving the issuance of, and providing the form, terms, covenants, and directions for the issuance of its Tax Increment Financing Limited Revenue Note, Series 2021 (Phase I) in an aggregate principal amount not to exceed \$900,000.

EXECUTIVE SUMMARY:

The Housing and Redevelopment Authority (HRA) approved the establishment of the 2018-1 Tax Increment Financing (TIF) District and adoption of a Tax Increment Financing Plan on August 20, 2018. On September 17, 2018, the HRA entered into a Contract for Private Development (Contract) with Cedar Point Investments, LLC (Developer) to construct owner-occupied townhomes.

The HRA is authorized to issue and sell its bonds for the purpose of financing a portion of the public development costs (qualified costs) of the TIF District. The HRA finds and determines that it is in the best interest of the Authority that it issue and sell its Tax Increment Limited Revenue Note, Series 2021 (Phase I) in the amount of up to \$900,000 with an annual interest rate of 5% for the purpose of reimbursing the Developer for qualified costs identified in the Tax Increment Plan for the 2018-1 Tax Increment District.

RECOMMENDED ACTION:

By motion: Adopt a resolution approving the issuance of, and providing the form, terms, covenants and directions for the issuance of its Tax Increment Finance Limited Revenue Note, Series 2021 (Phase I) in an aggregate principal amount not to exceed \$900,000.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- On August 20, 2018 the HRA established the 2018-1 TIF District and adopted a Tax Increment Financing Plan.
- The HRA entered into a Contract for Private Development with Cedar Point Investments, LLC on September 17, 2018.
- Construction started in 2019.
- Qualified costs were received in June 2021.

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

- Per Minnesota Statutes, Section 469.178, the HRA is authorized to issue and sell its bonds for the purpose of financing a portion of the public development costs of the TIF District.
- Pursuant to the Contract for Private Development (approved by the HRA on September 17, 2018), the HRA committed itself to issue this TIF Note if all contract provisions were met by the

Developer.

C. CRITICAL TIMING ISSUES:

- N/A

D. FINANCIAL IMPACT:

- The payments on Tax Increment Limited Revenue Note, Series 2021 (Phase I) will be made from available tax increment and will only be made subject to sufficient increment being generated on the property to meet the payment obligations.
- As this is a "Pay-As-You-Go" Note, the Developer will only receive Tax Increment payments to the extent that the property taxes support the payment; the HRA is under no obligation to make the TIF Note payments in the event that the property taxes collected are insufficient.

E. LEGAL CONSIDERATION:

- The resolution and Tax Increment Limited Revenue Note, Series 2021 (Phase I) were drafted by HRA legal counsel.

ALTERNATIVE RECOMMENDATION(S):

N/A

PRINCIPAL PARTIES EXPECTED AT MEETING:

None

ATTACHMENTS:

Description	Type
□ Resolution	Resolution Letter

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

RESOLUTION NO. _____

**RESOLUTION APPROVING THE ISSUANCE OF, AND PROVIDING THE FORM, TERMS,
COVENANTS AND DIRECTIONS FOR THE ISSUANCE OF ITS TAX INCREMENT LIMITED
REVENUE NOTE, SERIES 2021 (PHASE I), IN AN AGGREGATE PRINCIPAL AMOUNT NOT
TO EXCEED \$900,000**

BE IT RESOLVED BY the Board of Commissioners (the “Board”) of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) as follows:

Section 1. Authorization; Award of Sale.

1.01. Authorization. The Authority has heretofore approved the establishment of the Tax Increment Financing District No. 2018-1 (a housing district) (the “TIF District”) within the Richfield Redevelopment Project (the “Redevelopment Project”), and has adopted a tax increment financing plan (the “TIF Plan”) for the purpose of financing certain improvements within the Redevelopment Project.

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 TIF District. 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 Tax Increment Limited Revenue Note, Series 2021 (Phase I) (the “TIF Note”), in the aggregate principal amount of up to \$900,000, to Cedar Point Investments LLC, a Minnesota limited liability company (the “Owner”), for the purpose of financing certain public redevelopment costs of the TIF Plan for the TIF District.

1.02. Issuance, Sale and Terms of the TIF Note. The Authority and the Owner have entered into a Contract for Private Development, dated September 17, 2018 (the “Agreement”). Pursuant to the Agreement, the TIF Note shall be sold to the Owner. The TIF Note shall be dated as of the date of delivery and shall bear interest at the rate of 5% per annum to the earlier of maturity or prepayment. In exchange for the Authority’s issuance of the TIF Note to the Owner, the Owner shall pay certain public redevelopment costs related to Phase I of the Minimum Improvements (as defined in the Agreement) pursuant to Section 3.6 of the Agreement. The TIF Note will be delivered in the principal amount of up to \$900,000 for reimbursement of public redevelopment costs associated with Phase I of the Minimum Improvements in accordance with the terms of Section 3.6 of the Agreement.

Section 2. Form of TIF Note. The TIF Note shall be in substantially the form set forth in Exhibit B of the Agreement, with the blanks to be properly filled in and the principal amount and payment schedule adjusted as of the date of issue.

Section 3. Terms, Execution and Delivery.

3.01. Denomination, Payment. The TIF Note shall be issued as a single typewritten note numbered R-1. The TIF Note shall be issuable only in fully registered form. Principal of and interest on the TIF Note shall be payable by check or draft issued by the Registrar described herein.

3.02. Dates; Interest Payment Dates. Principal of and interest on the TIF 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 Authority's Executive Director to perform the functions of registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the Authority and the Registrar with respect thereto 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 TIF Note and the registration of transfers and exchanges of the TIF Note.

(b) Transfer of TIF Note. Upon surrender for transfer of the TIF Note, including any assignment or exchange thereof, 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, and the payment by the Owner of any tax, fee, or governmental charge required to be paid by or to the Authority with respect to such transfer or exchange, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same dates.

The TIF Note shall not be transferred to any person other than an affiliate, or other related entity, of the Owner unless the Authority has been provided with an investment letter in a form substantially similar to the investment letter in set forth in Exhibit C of the Agreement or a certificate of the transferor, in a form satisfactory to the Executive Director of 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.

The Owner may assign the TIF Note to a lender that provides all or part of the financing for the acquisition of the Development Property or the construction of the Minimum Improvements. The Authority hereby consents to such assignment, conditioned upon receipt of an investment letter from such lender in substantially the form attached in the Agreement as Exhibit C, or other form reasonably acceptable to the Executive Director of the Authority. The Authority also agrees that future assignments of the TIF Note may be approved by the Executive Director of the Authority without action of the Board, upon the receipt of an investment letter in substantially the form of Exhibit C of the Agreement or other investment letter reasonably acceptable to the Authority from such assignees.

(c) Cancellation. The TIF 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 a 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 a Note is at any time registered in the bond register as the absolute owner of the TIF Note, whether the TIF Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on 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 a 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 TIF 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 obligees. The TIF 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 TIF Note shall be prepared under the direction of the Executive Director of the Authority and shall be executed on behalf of the Authority by the signatures of its Chair and its Executive Director. In case any officer whose signature shall appear on the TIF Note shall cease to be such officer before the delivery of the TIF 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 TIF Note has been so executed, the TIF Note shall be delivered by the Authority to the Owner following the delivery of the necessary items delineated in Section 3.6 of the Agreement.

Section 4. Security Provisions.

4.01. Pledge. The Authority hereby pledges to the payment of the principal of and interest on the TIF Note Available Tax Increment as defined in the TIF Note. Available Tax Increment shall be applied to payment of the principal of and interest on the TIF Note in accordance with the terms of the form of TIF Note attached as Exhibit B to the Agreement.

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

Section 5. Certification of Proceedings. The officers of the Authority are hereby authorized and directed to prepare and furnish to the Owner of the TIF 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 TIF 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 approval.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota
this 16th day of August, 2021.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary



STAFF REPORT NO. 24
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
8/16/2021

REPORT PREPARED BY: John Stark, Executive Director

OTHER DEPARTMENT REVIEW:

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
8/10/2021

ITEM FOR COUNCIL CONSIDERATION:

Consideration of a resolution approving a Contract for Private Development with Benefactor Brewing.

EXECUTIVE SUMMARY:

At the June 21, 2021 Housing and Redevelopment Authority (HRA) meeting the HRA unanimously approved a Memorandum of Understanding (MOU) with Benefactor Brewing related to the potential redevelopment of the property adjoining Lakewinds Cooperative grocery store on its north side. The terms of this MOU (attached) included the following points of agreement:

- Benefactor would purchase the property;
- An existing mortgage (principal of approximately \$500,000) with Hennepin County would be removed from the title (as it would be paid off from the sales proceeds to the existing owner);
- Benefactor would seek land use approvals for a restaurant with an on-site brewery and would construct such a facility as approved;
- The HRA would provide a \$500,000 mortgage to Benefactor Brewing to replace the existing mortgage between the current property owner and the Hennepin County HRA;
- The HRA's mortgage would be interest-free and 20% of that mortgage would be forgiven every year that the restaurant/brewery is open to the public;
- If the property ceases to operate as a restaurant/brewery or if it is sold to another party or any other form of default were to occur, any remaining balance on the mortgage would be due and payable to the HRA.

Since the June HRA meeting, Benefactor Brewing has entered into a purchase agreement with the current property owner and hopes to close on the purchase this fall. As a result, staff directed HRA Attorney Julie Eddington to draft a Contract for Private Development (Contract) to reflect the terms of the approved MOU. In this Contract Ms. Eddington also included provisions for contractual protections for the HRA's interests.

While the MOU contemplated the possible need to draft and approve a "Business Subsidy Agreement," further evaluation determined that this particular public assistance does not meet the statutory criteria that would otherwise trigger the need for such an Agreement. A Public Hearing was advertised for the consideration of a Business Subsidy Agreement at this meeting; that hearing, however, was cancelled as a result of the determination that the Agreement was not necessary.

One of the Contract provisions is for Benefactor to provide the City and/or HRA with the ability to use the adjoining amphitheater up to six times per year. As the City would be party to this particular provision, the City Council will consider approval of only those parts of the Contract related to the amphitheater next month.

RECOMMENDED ACTION:

By motion:

- **Cancel a Public Hearing specific to the Business Subsidy Agreement contained within the Contract for Private Development, and;**
- **Approve a resolution to enter into a Contract for Private Development with Benefactor Brewing LLC (contingent on City Council approval of the Business Subsidy Agreement and/or Plan).**

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- Staff has been in discussions with Benefactor Brewing since October 2019 regarding their desire to open a restaurant/brewery on the site. This is a use that most frequently arises in community discussions of desired businesses in the community.
- On June 21, 2021, the HRA unanimously approved a Memorandum of Understanding (MOU) that was used as the basis for the Contract language.

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

- The HRA unanimously approved a MOU with Benefactor Brewing at the June 21, 2021 meeting. The proposed Contract reflects the points of agreement enumerated in that MOU.
- Providing acquisition assistance in this manner from the HRA's Housing and Redevelopment fund meets state statute guidelines for expenditure in a Redevelopment Tax Increment Financing (TIF) District.

C. CRITICAL TIMING ISSUES:

- Benefactor Brewing hopes to begin their "due diligence" on the property (including seeking land use approvals) in the hopes of closing on the property purchase by the end of the year.

D. FINANCIAL IMPACT:

- The source of proposed funding is the HRA's Housing and Redevelopment Fund, the balance of which was \$4.3 million as of January 1, 2021;
- Providing acquisition assistance in this manner from the HRA's Housing and Redevelopment fund meets state statute guidelines for expenditure in a Redevelopment TIF District.

E. LEGAL CONSIDERATION:

- The attached Contract for Private Development was drafted by HRA Legal Counsel Julie Eddington of Kennedy and Graven.

ALTERNATIVE RECOMMENDATION(S):

- Defer consideration of this item in order to gather further relevant information;
- Approval with revisions to either the resolution or the proposed Contract;
- Deny approval.

PRINCIPAL PARTIES EXPECTED AT MEETING:

Sam Nelson, Benefactor Brewing LLC

ATTACHMENTS:

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

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

RESOLUTION NO. _____

**RESOLUTION APPROVING A LOAN IN THE AMOUNT OF APPROXIMATELY \$500,000
TO BENEFACOR BREWING LLC AND THE CORRESPONDING CONTRACT
FOR PRIVATE DEVELOPMENT**

WHEREAS, the City of Richfield, Minnesota (the “City”) has established the Housing and Redevelopment Authority in and for the City (the “Authority”), a public body corporate and politic under the laws of the State of Minnesota, pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the “HRA Act”), and the Authority is authorized to transact business and exercise its powers by a resolution of the City Council of the City (the “City Council”); and

WHEREAS, the Authority has undertaken a program to promote redevelopment and development of land that is underused or underutilized within the City, and in this connection the Authority administers a redevelopment project known as the Richfield Redevelopment Project (the “Redevelopment Project”) pursuant to the HRA Act; and

WHEREAS, pursuant to the HRA Act, the Authority is authorized to acquire real property, or interests therein, and to undertake certain activities to facilitate the redevelopment of real property by private enterprise and promote the redevelopment within the City; and

WHEREAS, Benefactor Brewing, LLC, a Minnesota limited liability company or a related entity (the “Developer”) proposes to acquire certain property (the “Development Property”) within the Redevelopment Project and construct thereon a building which will include a restaurant and brewery and site improvements (the “Minimum Improvements”); and

WHEREAS, in order to achieve the objectives of the redevelopment plan for the Redevelopment Project and make the Minimum Improvements economically feasible for the Developer to construct, the Authority is prepared to reimburse the Developer for a portion of the costs to acquire the Development Property with pooled tax increment, in the maximum aggregate amount of \$500,000, in the form of a forgivable loan (the “Loan”) which will be secured by a promissory note and a mortgage from the Developer; and

WHEREAS, pursuant to Section 3.5 of the Contract for Private Development (the “Agreement”), the Loan may be forgiven over a period of five (5) years if the Developer completes the Minimum Improvements, receives a Certificate of Completion, allows the City or the Authority to use the amphitheater adjacent to the Minimum Improvements as described in Section 3.6 of the Agreement, and there are no Events of Default that have not been cured under the Agreement; and

WHEREAS, the Authority believes that the redevelopment to be performed pursuant to the Agreement and fulfillment generally of the Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State of Minnesota and local laws and requirements under which the Redevelopment Project has been undertaken and is being assisted.

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

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

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

3. This resolution shall be in full force and effect as of the date hereof.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 16th day of August 2021.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary

**Second Draft
August 6, 2021**

**CONTRACT
FOR
PRIVATE DEVELOPMENT**

between

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

and

BENEFACTOR BREWING LLC

Dated _____, 2021

This document was drafted by:
Kennedy & Graven, Chartered (JAE)
150 South Fifth Street, Suite 700
Minneapolis, Minnesota 55402-1299
Telephone: 612-337-9300

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CONTRACT FOR PRIVATE DEVELOPMENT

THIS CONTRACT FOR PRIVATE DEVELOPMENT, made as of the ___ day of _____, 2021 (the “Agreement”), is between the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), and BENEFACOR BREWING LLC, a Minnesota limited liability company (the “Developer”).

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the “HRA Act”), and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Richfield, Minnesota (the “City”); and

WHEREAS, the Authority has undertaken a program to promote redevelopment and development of land that is underused or underutilized within the City, and in this connection the Authority administers a redevelopment project known as the Richfield Redevelopment Project (the “Redevelopment Project”) pursuant to the HRA Act; and

WHEREAS, pursuant to the HRA Act, the Authority is authorized to acquire real property, or interests therein, and to undertake certain activities to facilitate the redevelopment of real property by private enterprise and promote the redevelopment within the City; and

WHEREAS, the Developer proposes to acquire certain property (the “Development Property”) within the Redevelopment Project and construct thereon an approximately _____ square foot building which will include a restaurant and brewery and site improvements (the “Minimum Improvements”); and

WHEREAS, in order to achieve the objectives of the redevelopment plan for the Redevelopment Project and make the Minimum Improvements economically feasible for the Developer to construct, the Authority is prepared to reimburse the Developer for a portion of the costs of acquiring the Development Property with pooled tax increment; and

WHEREAS, the Authority believes that the redevelopment to be performed pursuant to this Agreement, and fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State of Minnesota and local laws and requirements under which the Redevelopment Project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context, the following terms have the following meanings:

“Agreement” means this Contract for Private Development, as the same may be from time to time modified, amended, or supplemented.

“Authority” means the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota.

“Authority Representative” means the Executive Director of the Authority.

“Board” means the Board of Commissioners of the Authority.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“Certificate of Completion” means the certification provided to the Developer pursuant to Section 4.4 hereof and set forth in EXHIBIT D.

“City” means the City of Richfield, Minnesota.

“City Council” means the City Council of the City.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Developer on the Development Property, including the Minimum Improvements, which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City; and (b) shall include at least the following: (1) site plan, (2) foundation plan, (3) floor plan for each floor, (4) cross-sections of each (length and width), (5) elevations (all sides, including a building materials schedule), (6) landscape and grading plan, and (7) such other plans or supplements to the foregoing plans as the City may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means Hennepin County, Minnesota.

“Developer” means Benefactor Brewing LLC, a Minnesota limited liability company, or its permitted successors and assigns.

“Development Property” means the real property described in EXHIBIT A.

“Event of Default” means an action by the Developer listed in Article XIII hereof.

“HRA Act” means Minnesota Statutes, Sections 469.001 through 469.047, as amended.

“Loan” the loan provided by the Authority to the Developer in the amount of \$500,000.

“Maturity Date” means the date the Loan is paid in full.

“Minimum Improvements” means an approximately _____ square foot building with a restaurant and brewery and other improvements to be constructed on the Development Property.

“Mortgage” means the form of mortgage set forth in EXHIBIT C.

“Promissory Note” means the form of promissory note set forth in EXHIBIT B.

“Redevelopment Plan” means the Redevelopment Plan for the Redevelopment Project approved and adopted by the Board and the City Council.

“Redevelopment Project” means the Richfield Redevelopment Project.

“State” means the State of Minnesota.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather or acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the Authority in exercising its rights under this Agreement) which directly result in delays.

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

ARTICLE II

Representations and Warranties

Section 2.1. Representations by the Authority. The Authority makes the following representations as the basis for the undertaking on its part herein contained:

(a) The Authority is a housing and redevelopment authority organized and existing under the laws of the State. Under the provisions of the HRA Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder, and execution of this Agreement has been duly, properly and validly authorized by the Authority.

(b) The Authority proposes to assist in financing certain land acquisition costs and site improvement costs necessary to facilitate the construction of the Minimum Improvements in accordance with the terms of this Agreement to further the objectives of the Redevelopment Plan.

(c) The Authority finds that the Minimum Improvements are necessary to promote redevelopment of blighted properties in the City.

(d) The execution, delivery and performance of this Agreement and of any other documents or instruments required pursuant to this Agreement by the Authority, and consummation of the transactions contemplated therein and the fulfillment of the terms thereof, do not and will not conflict with or constitute a breach of or default under any existing (i) indenture, mortgage, deed of trust or other agreement or instrument to which the Authority is a party or by which the Authority or any of its property is or may be bound; or (ii) legislative act, constitution or other proceedings establishing or relating to the establishment of the Authority or its officers or its resolutions.

(e) There is not pending, nor to the best of the Authority's knowledge is there threatened, any suit, action or proceeding against the Authority before any court, arbitrator, administrative agency or other governmental authority that materially and adversely affects the validity of any of the transactions contemplated hereby, the ability of the Authority to perform its obligations hereunder, or the validity or enforcement of this Agreement.

(f) No commissioner of the Board or officer of the Authority has either a direct or indirect financial interest in this Agreement, nor will any commissioner or officer benefit financially from this Agreement within the meaning of Section 469.009 of the HRA Act.

Section 2.2. Representations by the Developer. The Developer represents and warrants that:

(a) The Developer is a limited liability company duly organized and in good standing under the laws of the State of Minnesota, is duly authorized to transact business within the State, and has the power to enter into this Agreement.

(b) The Developer will construct, operate and maintain the Minimum Improvements in accordance with the terms of this Agreement, the Redevelopment Plan, and all local, State, and federal laws and regulations (including, but not limited to, environmental, zoning, building code, labor, and public health laws and regulations).

(c) The Developer has received no notice or communication from any local, State or federal official that the activities of the Developer or the Authority in or on the Development Property may be or will

be in violation of any environmental law or regulation (other than those notices or communications of which the Authority is aware). The Developer is aware of no facts the existence of which would cause it to be in violation of or give any person a valid claim under any local, State, or federal environmental law, regulation, or review procedure.

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

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) The proposed development by the Developer hereunder would not occur but for the tax increment financing assistance being provided by the Authority hereunder.

(g) The Developer shall promptly advise the Authority in writing of all litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially affecting the Minimum Improvements or materially affecting Developer or its business which may delay or require changes in construction of the Minimum Improvements.

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

ARTICLE III

Property Acquisition; Financing

Section 3.1. Status of Development Property. The Developer has entered into a purchase agreement to purchase the Development Property. The Authority has no obligation to purchase the Development Property.

Section 3.2. Environmental Conditions.

(a) The Developer acknowledges that the Authority makes no representations or warranties as to the condition of the soils on the Development Property or the fitness of the Development Property for construction of the Minimum Improvements or any other purpose for which the Developer may make use of such property, and that the assistance provided to the Developer under this Agreement neither implies any responsibility by the Authority for any contamination of the Development Property nor imposes any obligation on such parties to participate in any cleanup of the Development Property.

(b) Without limiting its obligations under Section 7.3 hereof, the Developer further agrees that it will indemnify, defend, and hold harmless the Authority and its governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants existing on or in the Development Property, unless and to the extent that such hazardous wastes or pollutants are present as a result of the actions or omissions of the indemnitees. Nothing in this Section will be construed to limit or affect any limitations on liability of the Authority under State or federal law, including without limitation Minnesota Statutes, Sections 466.04 and 604.02, as amended.

Section 3.3. Loan. To reimburse the Developer for the cost of purchasing the Development Property, the Authority shall provide the Developer with an interest free Loan in the amount of \$500,000. The Loan shall be secured by the Promissory Note and the Mortgage. The Loan shall be forgiven in whole or in part if the covenants set forth in Sections 3.5 and 3.6 hereof are satisfied.

Section 3.4. Loan Disbursement. The proceeds of the Loan will be provided to the Developer upon the Developer providing the Authority with the following: (i) evidence that the Developer has purchased the Development Property; (ii) evidence that the Developer has sufficient financing to construct the Minimum Improvements; (iii) an executed Promissory Note; (iv) an executed Mortgage; and (v) evidence that the Hennepin County mortgage in the amount of \$500,000 recorded against the Development Property is satisfied.

Section 3.5. Loan Forgiveness.

(a) The Loan may be forgiven over a period of five (5) years if the Developer completes the Minimum Improvements, receives a Certificate of Completion, is in compliance with Section 3.6 hereof, and there are no Events of Default that have not been cured under this Agreement.

(b) If the Developer does not complete the Minimum Improvements by the deadlines set forth in Section 4.3 hereof and does not receive a Certificate of Completion from the Authority, the Developer must commence making monthly payments on the Loan to the Authority on or before March 1, 2024. The Executive Director has the authority to extend the date that monthly payments on the Loan will commence. The monthly payments shall be equal to the remaining amount of the Loan divided by the number of months from the first Loan payment to _____ 1, 2041 [insert month and day of closing in 2021].

(c) If the conditions for Loan forgiveness set forth in Section 3.5(a) hereof are satisfied and the Minimum Improvements are open to the public for at least twelve (12) months, twenty percent (20%) of the principal of the Loan will be forgiven in such year on the first anniversary of the Developer receiving a certificate of occupancy for the Minimum Improvements. For each of the next four years, if the Minimum Improvements are open to the public for at least twelve (12) months each year and the Developer continues to own and operate the Minimum Improvements, twenty percent (20%) of the principal of the Loan will be forgiven each year on the anniversary of the Developer receiving a certificate of occupancy for the Minimum Improvements.

(d) If an Event of Default occurs prior to the Loan being forgiven in full, upon the Authority providing notice of the Event of Default to the Developer pursuant to Section 8.1 hereof, the Developer shall commence making monthly payments on the Loan to the Authority within two months of receipt of the Event of Default. The monthly payments shall be equal to the remaining amount of the Loan divided by the number of months from the first Loan payment to _____ 1, 2041 [insert month and day of closing in 2021].

(e) If the Loan is not forgiven, the principal of the Loan must be paid in full to the Authority no later than _____, 2041 [insert month and day of closing in 2021].

(f) If the Developer sells the Development Property and/or the Minimum Improvements to an unaffiliated entity prior to the Loan being fully forgiven, the Developer shall pay the Authority the remaining amount of the Loan on the date of the sale of the Development Property and/or the Minimum Improvements.

(g) Notwithstanding the forgoing, if the Minimum Improvements are damaged or destroyed and must be closed to rebuild or restore the Minimum Improvements or the Minimum Improvements are required to be closed by law or emergency order (for example, an emergency order from the Governor of the State requiring businesses to close due to a pandemic), such closures will not be considered an Event of Default and Section 3.5(d) hereof shall not apply during such closures.

Section 3.6. Use of Amphitheater.

(a) For as long as the Loan remains outstanding, the Developer agrees to allow the City or the Authority to use the amphitheater adjacent to the Minimum Improvements for up to six (6) twenty-four hour periods per year to hold community events. The City or the Authority must request the use of the amphitheater at least 45 days in advance. The Authority understands and acknowledges that the use of the amphitheater is granted on a first come, first serve basis and their request to use the amphitheater may not be granted if the amphitheater is already reserved. The Developer also has the right to restrict the use of the amphitheater to certain hours of the day.

(b) Except for any willful misrepresentation, gross negligence (including a failure to maintain the amphitheater) or any willful misconduct of the Developer, the Authority agrees to defend and indemnify the Developer and its employees, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding directly arising from the Authority or the City's use of the amphitheater pursuant to the provisions of Section 3.6(a). As to any claims, demands, suits, actions, or other proceedings arising out of the willful misrepresentation, gross negligence or any willful misconduct of the Developer or its employees, the Developer agrees to defend, indemnify, and hold harmless the Authority, its officers, agents, servants and employees.

(c) Notwithstanding the foregoing, nothing in this Agreement shall be deemed a waiver by the City or the Authority of any governmental immunity defenses, statutory or otherwise, including without limitation those set forth in Minnesota Statutes, Chapter 466.

Section 3.7. Payment of Administrative Costs. The Developer will pay half of the Authority’s Administrative Costs. “Administrative Costs” are defined as out-of-pocket costs incurred by the Authority, together with staff and consultant costs of the Authority, all attributable to or incurred in connection with the negotiation and preparation of the Memorandum of Understanding, this Agreement, and other documents and agreements necessary to provide the Loan.

Section 3.8. Exception to Business Subsidy Act. Minn. Stat. Section 116J.993, subd. 3(17) provides an exception from the Business Subsidy Act for redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value. In order to use this exception, the developer should warrant and represent that its investment in the purchase of the development property and the site preparation on such development property (net of any portion of such costs to be reimbursed with pooled tax increment) will equal at least 70% of the County assessor’s estimated market value for the development property for the 2021 assessment year, calculated as follows:

Development property cost	\$850,000
<i>Plus</i> Estimated cost of site preparation	\$420,000
<i>Equals</i> land cost and site preparation	\$1,270,000
2021 Assessor's Estimated Fair Market Value of development property	\$862,000

\$1,270,000 (acquisition and site preparation cost) less \$500,000 (amount of financial assistance provided by the Authority for land acquisition), equals \$770,000 which is more than 70% of \$862,000 (assessor's current estimated fair market value).

Section 3.9. Records. The Authority and its representatives shall have the right at all reasonable times after reasonable notice to inspect, examine and copy all books and records of Developer relating to the Minimum Improvements and the costs for which the Developer has been reimbursed.

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ARTICLE IV

Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. Following the conveyance of the Development Property to the Developer, the Developer agrees that it will construct the Minimum Improvements on the Development Property substantially in accordance with the Construction Plans as approved pursuant to Section 4.2 hereof, and at all times prior to the Maturity Date, the Developer will operate and maintain, preserve, and keep the Minimum Improvements or cause such improvements to be maintained, preserved, and kept with the appurtenances and every part and parcel thereof, in good repair and condition. The Authority shall have no obligation to operate or maintain the Minimum Improvements.

Section 4.2. Construction Plans. Before commencement of construction of the Minimum Improvements, the Developer shall obtain all the necessary planning approvals from the City's Planning Division.

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Developer will commence the construction of the Minimum Improvements by June 30, 2022, and substantially complete construction of the Minimum Improvements by December 31, 2023. Construction is considered to be commenced upon the beginning of physical improvements beyond grading. All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in substantial conformity with the Construction Plans as submitted by the Developer and approved by the Authority. The Executive Director of the Authority is authorized to extend the dates of commencement of construction and completion of construction set forth in this Section 4.3.

The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Minimum Improvements.

Section 4.4. Certificate of Completion.

(a) Promptly after completion of the Minimum Improvements in accordance with those provisions of this Agreement relating solely to the obligations of the Developer to construct the Minimum Improvements (including the dates for beginning and completion thereof), the Authority Representative will furnish the Developer with a Certificate of Completion shown in EXHIBIT D hereof; provided, however, that prior to the issuance of the Certificate of Completion, the Developer must provide the Authority with evidence satisfactory to the Authority Representative that all contractors, subcontractors, and project laborers have been paid.

(b) If the Authority Representative shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4, the Authority Representative shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the Authority, for the Developer to take or perform in order to obtain such certification.

(c) Regardless of whether a Certificate of Completion is issued by the Authority, the construction of the Minimum Improvements shall be deemed to be complete upon issuance of a certificate of occupancy by the City.

ARTICLE V

Insurance

Section 5.1. Insurance.

(a) The Developer will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the Authority, furnish the Authority with proof of payment of premiums on policies covering the following:

(i) builder's risk insurance, written on the so-called "Builder's Risk – Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy; the interest of the Authority shall be protected in accordance with a clause in form and content satisfactory to the Authority;

(ii) comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with a Protective Liability Policy with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); the Authority shall be listed as an additional insured on the policy; and

(iii) workers' compensation insurance, with statutory coverage.

(b) Upon completion of construction of the Minimum Improvements and prior to the Maturity Date, the Developer shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority shall furnish proof of the payment of premiums on, insurance as follows:

(i) insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses;

(ii) comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$2,000,000, and shall be endorsed to show the Authority as an additional insured; and

(iii) such other insurance, including workers' compensation insurance respecting all employees, if any, of the Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that the Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

(c) All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Developer will deposit annually with the Authority policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V each policy shall contain a provision that the insurer shall not cancel nor modify it in such a way as to reduce the coverage provided below the amounts required herein without giving written notice to the Developer and the Authority at least thirty (30) days before the cancellation or modification becomes effective. In lieu of separate policies, the

Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Developer agrees to notify the Authority immediately in the case of damage exceeding \$200,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In such event the Developer will forthwith repair, reconstruct and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Developer will apply the net proceeds of any insurance relating to such damage received by the Developer to the payment or reimbursement of the costs thereof.

The Developer shall complete the repair, reconstruction, and restoration of the Minimum Improvements, whether or not the net proceeds of insurance received by the Developer for such purposes are sufficient to pay for the same. Any net proceeds remaining after completion of such repairs, construction, and restoration shall be the property of the Developer.

(e) The Developer and the Authority agree that all of the insurance provisions set forth in this Article V shall terminate upon the Maturity Date.

Section 5.2. Subordination. Notwithstanding anything to the contrary contained in this Article V, the rights of the Authority with respect to the receipt and application of any proceeds of insurance shall, in all respects, be subject and subordinate to the rights of any lender under a Mortgage approved pursuant to Article VI hereof.

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ARTICLE VI

Financing

Section 6.1. Mortgage Financing.

(a) Before commencement of construction of the Minimum Improvements, the Developer shall submit to the Authority evidence of one or more commitments for financing which, together with committed equity for such construction, is sufficient for payment of the Minimum Improvements. Such commitments may be submitted as short-term financing, long-term mortgage financing, a bridge loan with a long-term take-out financing commitment, or any combination of the foregoing.

(b) If the Authority finds that the financing is sufficiently committed and adequate in amount to pay the costs specified in subsection (a) above, then the Authority shall notify the Developer in writing of its approval. Such approval shall not be unreasonably withheld and either approval or rejection shall be given within thirty (30) days from the date when the Authority is provided the evidence of financing. A failure by the Authority to respond to such evidence of financing shall be deemed to constitute an approval hereunder. If the Authority rejects the evidence of financing as inadequate, it shall do so in writing specifying the basis for the rejection. In any event the Developer shall submit adequate evidence of financing within thirty (30) days after such rejection.

Section 6.2. Modification; Subordination. In order to facilitate the Developer obtaining financing for the development of the Minimum Improvements, the Authority agrees to subordinate its rights under this Agreement to the holder of any Mortgage securing construction or permanent financing, under terms and conditions reasonably acceptable to the Authority. The Authority hereby approves the subordination of its Loan to the bank financing from _____ to be provided to the Developer and the Small Business Loan to be provided to the Developer. If a separate agreement to subordinate this Agreement is required by any lender, the agreement must be approved by the Board.

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ARTICLE VII

Prohibitions Against Assignment and Transfer; Indemnification

Section 7.1. Representation as to Development. The Developer represents and agrees that its purchase of the Development Property, and its other undertakings pursuant to this Agreement, are, and will be used, for the purpose of development of the Development Property and not for speculation in land holding.

Section 7.2. Prohibition Against Developer's Transfer of Property and Assignment of Agreement. The Developer represents and agrees that prior to issuance of the Certificate of Completion for the Minimum Improvements:

(a) Except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations with respect to making the Minimum Improvements under this Agreement, and any other purpose authorized by this Agreement, the Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the Authority unless the Developer remains liable and bound by this Agreement in which event the Authority's approval is not required. Any such transfer shall be subject to the provisions of this Agreement.

(b) Prior to the issuance of the Certificate of Completion, in the event the Developer, upon transfer or assignment of the Development Property seeks to be released from its obligations under this Agreement, the Authority shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such release that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Development Property or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the Authority of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Minimum Improvements that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval

by the Authority thereof shall be deemed to relieve the Developer or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII, shall be in a form reasonably satisfactory to the Authority.

In the event the foregoing conditions are satisfied then the Developer shall be released from its obligation under this Agreement.

After issuance of the Certificate of Completion for the Minimum Improvements, the Developer may transfer or assign the Development Property or the Developer's interest in this Agreement if it obtains the prior written consent of the Authority (which consent will not be unreasonably withheld) and the transferee or assignee is bound by all the Developer's obligations hereunder. The Developer shall submit to the Authority written evidence of any such transfer or assignment, including the transferee or assignee's express assumption of the Developer's obligations under this Agreement. If the Developer fails to provide such evidence of transfer and assumption, the Developer shall remain bound by all its obligations under this Agreement.

Section 7.3. Release and Indemnification Covenants.

(a) The Developer releases from and covenants and agrees that the Authority and its governing body members, officers, agents, servants and employees thereof shall not be liable for and agrees to indemnify and hold harmless the Authority and its respective governing body members, officers, agents, servants and employees thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements.

(b) Except for any willful misrepresentation, gross negligence or any willful or wanton misconduct of the Authority, or its governing body members, officers, agents or employees, the Developer agrees to protect and defend the Authority and its governing body members, officers, agents, servants and employees thereof, now or forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance and operation of the Minimum Improvements. As to any willful misrepresentation, gross negligence or any willful or wanton misconduct of the Authority, or its governing body members, officers, agents or employees, the Authority agrees to protect and defend the Developer, its officers, agents, servants and employees and hold the same harmless from any such proceedings.

(c) The Authority and its governing body members, officers, agents, servants and employees thereof shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Development Property or Minimum Improvements due to any act of negligence of any person.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any governing body member, officer, agent, servant or employee of the Authority in the individual capacity thereof.

(e) Notwithstanding the foregoing, the provisions of this Section are not applicable to the City and Authority's use of the amphitheater as described in Section 3.6.

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ARTICLE XIII

Events of Default

Section 8.1. Events of Default. The following will be “Events of Default” under this Agreement and the term “Event of Default” means, whenever it is used in this Agreement, any one or more of the following events, after the non-defaulting party provides thirty (30) days’ written notice to the defaulting party of the event, but only if the event has not been cured within said thirty (30) days or, if the event is by its nature incurable within thirty (30) days, the defaulting party does not, within the thirty (30) day period, provide assurances reasonably satisfactory to the party providing notice of default that the event will be cured and will be cured as soon as reasonably possible:

(a) failure by the Developer or the Authority to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement; or

(b) if the Developer:

(i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law;

(ii) makes an assignment for benefit of its creditors;

(iii) fails to pay real estate taxes on the Development Property or the Minimum Improvements as they become due;

(iv) admits in writing its inability to pay its debts generally as they become due;

(v) is adjudicated a bankrupt or insolvent; or

(vi) fails to comply with labor laws.

Section 8.2. Remedies on Default. Whenever any Event of Default referred to in Section 8.1 hereof occurs, the non-defaulting party may exercise its rights under this Section 8.2 after providing thirty (30) days’ written notice to the defaulting party of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days or, if the Event of Default is by its nature incurable within thirty (30) days, the defaulting party does not provide assurances reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible:

(a) suspend its performance under this Agreement until it receives assurances that the defaulting party will cure its default and continue its performance under this Agreement;

(b) cancel and rescind or terminate this Agreement;

(c) upon a default by the Developer resulting from the Developer’s noncompliance with labor laws, the Authority may demand the outstanding principal amount of the Loan be repaid in full pursuant to the provisions of Section 3.5(d) hereof;

(d) take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

Section 8.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or the Developer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it, it shall not be necessary to give notice, other than the notices already required in Section 8.2 hereof.

Section 8.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 8.5. Attorneys' Fees and Costs. Whenever any Event of Default occurs and if the Authority employs attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, and the Authority prevails in the action, the Developer agrees that it will, within ten (10) days of written demand by the Authority, pay to the Authority the reasonable fees of the attorneys and the other expenses so incurred by the Authority.

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

ARTICLE IX

Additional Provisions

Section 9.1. Conflict of Interests; Authority Representatives Not Individually Liable. The Authority and the Developer, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the Authority shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Authority or County or for any amount which may become due to the Developer or successor or on any obligations under the terms of this Agreement.

Section 9.2. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in this Agreement it will comply with all applicable federal, State, and local equal employment and non-discrimination laws and regulations.

Section 9.3. Restrictions on Use. The Developer agrees that, prior to the Maturity Date, the Developer, and such successors and assigns, shall use the Development Property solely for the development of the Minimum Improvements and shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon, or any part thereof.

Section 9.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 9.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 9.6. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) in the case of the Developer, is addressed to or delivered personally to the Developer at 4847 East Lake Harriet Parkway, Minneapolis, MN 55419 Attn: Sally Simpson; and

(b) in the case of the Authority, is addressed to or delivered personally to the Authority at 6700 Portland Avenue South, Richfield, MN 55423, Attn: Community Development Director;

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

Section 9.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 9.8. Recording. The Authority may record a memorandum of this Agreement and any amendments thereto with the County Recorder and/or Registrar of Titles of the County, as the case may be. The Developer shall pay all costs for recording.

Section 9.9. Amendment. This Agreement may be amended only by written agreement executed by the Authority and the Developer.

Section 9.10. Memorandum of Understanding. On the date of this Agreement, the Memorandum of Understanding shall terminate.

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

IN WITNESS WHEREOF, the Authority has caused this Contract for Private Development to be duly executed in its name and behalf and the Developer has caused this Contract for Private Development to be duly executed in its name and behalf as of the date and year first written above.

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

By _____
Its Chair

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2021, by Mary B. Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2021, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

Execution page of the Developer to the Contract for Private Development, dated the date and year first written above.

BENEFACTOR BREWING LLC

By _____
Its _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of _____, 2021, by _____, the _____ of Benefactor Brewing LLC, a Minnesota limited liability company, on behalf of the Developer.

Notary Public

The City of Richfield acknowledges and confirms its responsibilities with respect to the use of the amphitheater as set forth in Section 3.6 hereof.

CITY OF RICHFIELD, MINNESOTA

By _____
Its Mayor

By _____
Its City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2021, by Maria Regan Gonzalez, the Mayor of the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the City.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2021, by Katie Rodriguez, the City Manager of the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the City.

Notary Public

EXHIBIT A

DEVELOPMENT PROPERTY

[Insert legal description of Development Property]

EXHIBIT B

FORM OF PROMISSORY NOTE

\$500,000

_____, 2021

Benefactor Brewing LLC, a Minnesota limited liability company, its successors and assigns (the “Borrower” or “Maker”), for value received, hereby promises to pay to the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota or its assigns (the “Authority” or “Holder”), at its designated principal office or such other place as the Authority may designate in writing, the principal sum of Five Hundred Thousand Dollars (\$500,000) or so much thereof as may be advanced under this Promissory Note (the “Note”), with interest as hereinafter provided, in any coin or currency that at the time or times of payment is legal tender for the payment of private debts in the United States of America. The principal of and interest on this Note is payable in installments due as follows:

1. On the date hereof, the Authority has loaned the Borrower \$500,000 (the “Loan”). The Loan shall not bear interest.

2. Pursuant to Section 3.5 of the Agreement for Private Development, dated _____, 2021 (the “Agreement”), between the Borrower and the Authority, the Loan may be forgiven over a period of five (5) years if the Borrower completes the Minimum Improvements (as defined in the Agreement), receives a Certificate of Completion, is in compliance with Section 3.6 of the Agreement, and there are no Events of Default that have not been cured under the Agreement.

3. Forgiveness of the Loan is subject to the following:

(a) The Loan may be forgiven over a period of five (5) years if the Borrower completes the Minimum Improvements, receives a Certificate of Completion, is in compliance with Section 3.6 hereof, and there are no Events of Default that have not been cured under this Agreement.

(b) If the Borrower does not complete the Minimum Improvements by the deadlines set forth in Section 4.3 hereof and does not receive a Certificate of Completion from the Authority, the Borrower must commence making monthly payments on the Loan to the Authority on March 1, 2024. The Executive Director has the authority to extend the date that monthly payments on the Loan will commence. The monthly payments shall be equal to the remaining amount of the Loan divided by the number of months from the first Loan payment to _____ 1, 2041 [insert month and day of closing in 2021].

(c) If the conditions for Loan forgiveness set forth in Section 3.5(a) of the Agreement are satisfied and the Minimum Improvements are open to the public for at least twelve (12) months, twenty percent (20%) of the principal of the Loan will be forgiven in such year on the first anniversary of the Borrower receiving a certificate of occupancy for the Minimum Improvements. For each of the next four years, if the Minimum Improvements are open to the public for at least twelve (12) months each year and the Borrower continues to own and operate the Minimum Improvements, twenty percent (20%) of the principal of the Loan will be forgiven each year on the anniversary of the Borrower receiving a certificate of occupancy for the Minimum Improvements.

(d) If an Event of Default occurs prior to the Loan being forgiven in full, upon the Authority providing notice of the Event of Default to the Borrower pursuant to Section 8.1 of the Agreement, the Borrower shall commence making monthly payments on the Loan to the Authority within two months of

receipt of the Event of Default. The monthly payments shall be equal to the remaining amount of the Loan divided by the number of months from the first Loan payment to _____ 1, 2041 [insert month and day of closing in 2021].

(e) If the Loan is not forgiven, the principal of the Loan must be paid in full to the Authority no later than _____, 2041 [insert month and day of closing in 2021].

(f) If the Borrower sells the Development Property and/or the Minimum Improvements to an unaffiliated entity prior to the Loan being fully forgiven, the Borrower shall pay the Authority the remaining amount of the Loan on the date of the sale of the Development Property and/or the Minimum Improvements.

(g) Notwithstanding the forgoing, if the Minimum Improvements are damaged or destroyed and must be closed to rebuild or restore the Minimum Improvements or the Minimum Improvements are required to be closed by law or emergency order (for example, an emergency order from the Governor of the State requiring businesses to close due to a pandemic), such closures will not be considered an Event of Default and Section 3.5(d) of the Agreement shall not apply during such closures.

4. All of the agreements, conditions, covenants, provisions, and stipulations contained in the Agreement and the Mortgage of even date herewith (the "Mortgage") granted by the Borrower to the Authority, or any other instrument securing this Note are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. It is agreed that time is of the essence of this Note. If an Event of Default occurs under the Agreement or the Mortgage, then the Holder of this Note may provide notice to the Borrower as described in Section 3(d) hereof and require monthly payments on the Loan. The Maker of this Note agrees that the Holder of this Note may, without notice to and without affecting the liability of the Borrower, accept additional or substitute security for this Note, or release any security or any party liable for this Note or extend or renew this Note.

5. The remedies of the Holder of this Note as provided herein, and in the Loan Agreement shall be cumulative and concurrent and may be pursued singly, successively, or together, and, at the sole discretion of the Holder of this Note, may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

The Holder of this Note shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Authority and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. This Note may not be amended, modified, or changed except only by an instrument in writing signed by the party against whom enforcement of any such amendment, modifications, or change is sought.

6. If any term of this Note, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term to persons or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby, and each term of this Note shall be valid and enforceable to the fullest extent permitted by law.

7. It is intended that this Note is made with reference to and shall be construed as a Minnesota Agreement and is governed by the laws thereof. Any disputes, controversies, or claims arising out of this Note shall be heard in the state or federal courts of Minnesota, and all parties to this Note waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

8. The performance or observance of any promise or condition set forth in this Note may be waived, amended, or modified only by a writing signed by the Borrower and the Authority. No delay in the

exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.

9. IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, and things required to exist, happen, and be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due form as required by law.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed as of the date and year first written above.

BENEFACTOR BREWING LLC

By _____
Its _____

EXHIBIT C

FORM OF MORTGAGE

THIS MORTGAGE (the "Mortgage") is given on _____, 2021, by Benefactor Brewing LLC, a Minnesota limited liability company, its successors and assigns (the "Borrower"), for the benefit the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (the "Authority"). The Borrower owes the Authority the principal sum of \$500,000 (or so much thereof as may be advanced to the Borrower), which debt is evidenced by a Promissory Note from the Borrower of even date herewith (the "Note"). This Mortgage secures to the Authority: (a) the repayment of the debt evidenced by the Note and all renewals, extensions, and modifications of the Note; (b) the payment of all other sums, advanced to protect the security of this Mortgage; and (c) the performance of the Borrower's covenants and agreements under this Mortgage and the Note. For this purpose, the Borrower does hereby mortgage, grant, and convey to the Authority, with power of sale, the property located in Hennepin County, Minnesota, and fully described in the attached Exhibit A, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing is referred to in this Mortgage as the "Property."

THE OWNER COVENANTS that the Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, and convey the Property and that the Property is unencumbered. The Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

The Borrower and the Authority agree as follows:

1. PAYMENT OF PRINCIPAL; LATE CHARGES. The Borrower shall promptly pay when due the principal on the debt evidenced by the Note and any late charges due under the Note. The Note shall not bear interest.
2. CHARGES; LIENS. The Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which may attain priority over this Mortgage, and leasehold payments or ground rents, if any. The Borrower shall pay these obligations on time directly to the person owed payment.

The Borrower shall promptly discharge any lien which has priority over this Mortgage unless the Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner reasonably acceptable to the Authority; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Authority's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to the Authority subordinating the lien to this Mortgage. If the Authority determines that any part of the Property is subject to a lien which may attain priority over this Mortgage, the Authority may give the Borrower a notice identifying the lien. The Borrower shall satisfy the lien or take one or more of the actions set forth above within thirty (30) days of the giving of notice.

3. HAZARD OR PROPERTY INSURANCE. The Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire and any other hazards for which the Authority requires insurance for full replacement value of the improvements. This insurance shall be maintained in the amounts and for the periods that the Authority reasonably requires. The insurance carrier providing the insurance shall be chosen by the Borrower, which shall not be unreasonably withheld or

delayed. If the Borrower fails to maintain coverage described above, the Authority may, at the Authority's option, obtain coverage to protect the Authority's rights in the Property in accordance with paragraph 5.

All insurance policies and renewals shall be reasonably acceptable to the Authority and shall include a standard mortgage clause. If the Authority requires, the Borrower shall promptly give to the Authority all receipts of paid premiums and renewal notices. In the event of loss, the Borrower shall give prompt notice to the insurance carrier and the Authority. The Authority may make proof of loss if not made promptly by the Borrower.

If under paragraph 14 the Property is acquired by the Authority, the Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to the Authority to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

4. PROTECTION OF THE PROPERTY. The Borrower shall not destroy or damage the Property or commit waste on the Property. The Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in the Authority's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Mortgage or the Authority's security interest. The Borrower may cure such a default and reinstate, as provided in paragraph 13, by causing the action or proceeding to be dismissed with a ruling that, in the Authority's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Mortgage or the Authority's security interest. The Borrower shall also be in default if the Borrower gave materially false or inaccurate information or statements to the Authority in connection with the loan evidenced by the Note.

5. PROTECTION OF THE AUTHORITY'S RIGHTS IN THE PROPERTY. If the Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect the Authority's rights in the Property (such as a proceeding in bankruptcy, condemnation or forfeiture), the Authority may do and pay for whatever is necessary to protect the value of the Property and the Authority's rights in the Property. The Authority's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although the Authority may take action under this paragraph 5, the Authority is not required to do so.

Any amounts disbursed by Authority under this paragraph 5 shall become additional debt of Borrower secured by this Mortgage. Unless the Borrower and the Authority agree to other terms of payment, these amounts shall bear interest from the date of disbursement at a rate equal to the interest rate on the Note and shall be payable, with interest, upon notice from the Authority to Borrower requesting payment.

6. CONDEMNATION. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to the Authority.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to the Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Mortgage immediately before the taking, unless the Borrower and the Authority otherwise agree in writing, if any, the sums secured by this Mortgage shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to the Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the

sums secured immediately before the taking, unless the Borrower and the Authority otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Mortgage whether or not the sums are then due.

The Authority acknowledges this Mortgage is subordinate to the liens specifically referred to in paragraph 16 hereof.

7. FORBEARANCE BY THE AUTHORITY NOT A WAIVER. Any forbearance by the Authority in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

8. SUCCESSORS AND ASSIGNS BOUND. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of the Authority and the Borrower.

9. LOAN CHARGES. If the loan secured by this Mortgage is or becomes subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to the Borrower. The Authority may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to the Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment under the Note.

10. NOTICES. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, first class mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To the Authority: Housing and Redevelopment Authority in and for the
 City of Richfield, Minnesota
 6700 Portland Avenue South
 Richfield, MN 55423
 Attn: Community Development Director

To the Borrower: Benefactor Brewing LLC
 4847 East Lake Harriet Parkway
 Minneapolis, MN 55419

Any notice provided for in this Mortgage shall be deemed to have been given to the Borrower or the Authority when given as provided in this paragraph.

11. GOVERNING LAW; SEVERABILITY. This Mortgage shall be governed by the law of the State of Minnesota. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision. To this end, the provisions of this Mortgage and the Note are declared to be severable.

12. BORROWER'S RIGHT TO REINSTATE. If the Borrower meets certain conditions, the Borrower shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earlier of: (a) five days before sale of the Property pursuant to any power of sale contained in this Mortgage; or (b) entry of a judgment enforcing this Mortgage. Those conditions are that the Borrower: (a) pays the Authority all sums which then would be due under this Mortgage and the Note as if no acceleration had

occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Mortgage, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as the Authority may reasonably require to assure that the lien of this Mortgage, the Authority's rights in the Property and the Borrower's obligation to pay the sums secured by this Mortgage shall continue unchanged. Upon reinstatement by the Borrower, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred.

13. HAZARDOUS SUBSTANCES. The Borrower shall not cause or permit the presence, use, disposal, storage, or release of any hazardous substances on or in the Property, except those solvents, oils, cleaning materials, and other substances as are used in the ordinary course of the Borrower's business. The Borrower shall not do, and will use its best efforts not to allow anyone else to do, anything affecting the Property that is in violation of any environmental law.

The Borrower shall promptly give the Authority written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any hazardous substance or environmental law of which the Borrower has actual knowledge. If the Borrower learns, or is notified by any governmental or regulatory Authority, that any removal or other remediation of any hazardous substance affecting the Property is necessary, the Borrower shall promptly take all necessary remedial actions in accordance with that environmental law.

As used in this paragraph 13, "hazardous substances" are those substances defined as toxic or hazardous substances by environmental law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 13, "environmental law" means federal or state laws that relate to environmental protection.

14. ACCELERATION; REMEDIES. The Authority shall give notice to the Borrower prior to acceleration following the Borrower's breach of any covenant or agreement in this Mortgage. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to the Borrower by which the default must be cured, provided, however, if the Borrower is diligently pursuing a cure, the Borrower shall have such additional time as is reasonably necessary to complete the cure; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform the Borrower of the right to reinstate after acceleration and sale. If the default is not cured on or before the date specified in the notice, the Authority at its option may require immediate payment in full of any sums secured by this Mortgage without further demand and may invoke the power of sale and any other remedies permitted by law. The Authority shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 14, including, but not limited to, reasonable attorneys' fees.

If the Authority invokes the power of sale, the Authority shall cause a copy of a notice of sale to be served upon any person in possession of the Property. The Authority shall publish a notice of sale, and the Property shall be sold at public auction in the manner prescribed by law. The Authority or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Mortgage; and (c) any excess to the person or persons legally entitled to it.

15. RELEASE OF MORTGAGE. The Loan shall be forgiven by the Authority if there are no events of default under the Contract for Private Development, dated _____, 2021 (the "Contract"), between the Borrower and the Authority [ADD RECORDING INFORMATION], and if the Borrower has completed the construction of the Minimum Improvements pursuant to the provisions of Section 4.3 of the Contract and received a Certificate of Completion executed by the Authority. If the Loan

is not forgiven or is partially forgiven, the remaining portion of the Loan secured by this Mortgage shall be due and payable to the Authority pursuant to the terms of the Note. Upon forgiveness of the Loan or the full payment of the Loan, the Authority shall provide a discharge of this Mortgage to the Borrower in recordable form. The Borrower shall pay any recording costs.

16. SUBORDINATION OF MORTGAGE. The Authority agrees that this Mortgage shall be subordinate to any mortgages provided by the Mortgagor to the Senior Lenders in connection with the Project, including the following:

[LIST PRIMARY MORTGAGE; SBA MORTGAGE]

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

EXHIBIT A TO MORTGAGE

LEGAL DESCRIPTION

[INSERT LEGAL DESCRIPTION]



STAFF REPORT NO. 25
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
8/16/2021

REPORT PREPARED BY: Melissa Poehlman, Asst. Community Development Director
OTHER DEPARTMENT REVIEW:

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
8/10/2021

ITEM FOR COUNCIL CONSIDERATION:

Consider the adoption of a resolution approving an amendment to the Amended and Restated Contract for Private Development with Lyndale Gardens, LLC to adjust the interest rate on the Master Developer Tax Increment Financing Note.

EXECUTIVE SUMMARY:

On July 16, 2018, the Housing and Redevelopment Authority (HRA) approved an Amended and Restated Contract for Private Development (Agreement) with Lyndale Gardens, LLC (Developer) to aid in the redevelopment of the north half of the former Lyndale Garden Center site. The Agreement pledged \$2.74 million in Tax Increment to the Developer per a Master Developer Tax Increment Financing (TIF) Note (Note).

Construction of the required Minimum Improvements is now complete and the Developer has turned their attention to the development of the site's final, central retail parcel; working with Benefactor Brewing to come to an agreement on terms. Unanticipated soil correction costs due to improperly disposed of construction debris and Benefactor's inability to pay market rate for the vacant land have made this deal a challenge.

Knowing that a brewery has been a priority for policymakers and residents for many years, HRA staff have worked with financial consultants from Ehlers to review and evaluate ways in which the HRA might assist. After review, Ehlers has recommended an adjustment to the interest rate paid on the Master Developer TIF Note from 5.0% to 5.79%. Over the life of the TIF District, this adjustment will generate approximately \$135,000 (present value) for the Developer. The Developer has agreed that this additional increment will make a deal with Benefactor Brewing possible.

In order to memorialize this change, a minor amendment to the Agreement is needed.

RECOMMENDED ACTION:

By motion: Adopt a resolution approving an amendment to the Amended and Restated Contract for Private Development with Lyndale Gardens, LLC to adjust the interest rate on the Master developer Tax Increment Financing Note.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- The Lyndale Garden Center closed in 2006 and this site suffered frequent vandalism and occasional criminal activity for many years.

- The Cornerstone Group purchased the property in 2011 and has been working steadily toward redevelopment since that time.
- Lakewinds Coop opened in 2014; the quasi-public shoreline improvements in 2018; and the Lakeside at Lyndale condominiums and Henley Apartments and Townhomes in 2020.

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

- An amendment to the Agreement approved by the HRA in 2018 is necessary to change the interest rate on the Note. The first payment in which this would be reflected would be the February 2022 payment to the Developer.

C. CRITICAL TIMING ISSUES:

- Lyndale Gardens, LLC is hoping to close on the sale of the affected property to Benefactor Brewing in the fall of 2021.

D. FINANCIAL IMPACT:

- The interest rate on a TIF Note is typically set to match the interest rate of the Developer's financing, in this case that was 5%.
- After a review of the receipts for work completed on the Lyndale Gardens development site, it is clear that the TIF-eligible expenses far exceed the \$2.74 million that has been pledged to the project. While this fact is not unusual in and of itself, the extraordinary soil correction necessary at this site was unusual and unexpected.
- The HRA's financial consultants have recommended an adjustment to the interest rate of the Master Developer Note, increasing the rate to 5.79%.
- An increase in the interest paid is expected to extend the term of the TIF District by 2.5 years (this does not factor in the actual value of the proposed Benefactor Brewery development). Currently, with higher than expected market values, the District is expected to pay out as many as five years earlier than projected. Final payment would now be expected in August 2039.
- The extended term of the TIF District allows the HRA to continue to collect both the 10% fee for Administration and the 10% for pooling for this longer duration.

E. LEGAL CONSIDERATION:

- The attached resolution and amendment were drafted by HRA Attorney Julie Eddington.

ALTERNATIVE RECOMMENDATION(S):

- Reject the attached resolution and request for an interest rate adjustment.

PRINCIPAL PARTIES EXPECTED AT MEETING:

ATTACHMENTS:

Description	Type
□ Resolution	Resolution Letter

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

RESOLUTION NO. _____

RESOLUTION APPROVING AMENDED TAX INCREMENT LIMITED REVENUE NOTE

WHEREAS, on November 16, 2018, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) and Lyndale Gardens, LLC, a Minnesota limited liability company (the “Master Developer”) entered into an Amended and Restated Contract for Private Development, relating to the development of certain land located within the Richfield Redevelopment Project (the “Project”) and in the City of Richfield, Minnesota (the “City”); and

WHEREAS, the Authority has established the Lyndale Gardens Tax Increment Financing District (the “TIF District”) within the Project pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended, in order to facilitate redevelopment of certain property in the Project; and

WHEREAS, on June 4, 2019, the Authority issued its Tax Increment Limited Revenue Note, Series 2019 (the “TIF Note”) to the Master Developer; and

WHEREAS, the Developer has requested that the interest rate on the TIF Note be increased from 5.0% to 5.79% in order to assist with reimbursing the redevelopment costs related to the Project; and

WHEREAS, the Authority has determined that the increase of the interest rate on the TIF Note is appropriate to reimburse the Master Developer for a portion of certain site improvements and site preparation costs related to the Project; and

WHEREAS, the Authority has been provided the form of amended TIF Note.

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

1. The Authority hereby approves and authorizes the Chair and Executive Director to execute the amended TIF Note.
2. This resolution shall be effective upon full execution of the Development Contract.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 16th day of August, 2021.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary



STAFF REPORT NO. 26
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
8/16/2021

REPORT PREPARED BY: Melissa Poehlman, Asst. Community Development Director
OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
8/9/2021

ITEM FOR COUNCIL CONSIDERATION:

Consider a resolution approving a loan to Lynk 65, LLC for \$500,000 to help finance a mixed use project at 65th Street and Lyndale Avenue South.

EXECUTIVE SUMMARY:

On November 24, 2020, the Housing and Redevelopment Authority (HRA) approved a Contract for Private Development with Lynk 65, LLC (Developer) agreeing to provide up to \$5.7 million in Tax Increment Financing (TIF) to aid in the construction of a mixed use building at 65th Street and Lyndale Avenue South. The project is to include 157 units of housing, with 10 affordable two-bedroom units, and approximately 8,000 square feet of commercial space. The mixed use project was found to meet several of the community's goals and has subsequently received all land use approvals.

The Developer is now preparing construction documents, updating pricing, and seeking to finalize financing of the project. Significant disruptions in material supply chains and to the commercial market, due to the Covid-19 pandemic, have greatly increased costs of the project and made the construction of retail/restaurant space more difficult to finance. The Developer has submitted revised financial information and the HRA's financial consultants at Ehlers & Associates (Ehlers) have confirmed these increases.

HRA staff and the Developer have continued to discuss how the project might still be able to move forward. The Developer initially suggested removing all of the commercial space and replacing it with additional housing units, since the commercial market is especially difficult right now. Knowing that the commercial component of this project is especially important in this area of the community, staff has worked with Ehlers to evaluate the possibility of an up-front infusion of pooled redevelopment funds. The Developer is requesting \$500,000, to be issued as a forgivable loan, to help secure the financing needed to begin construction this year. HRA and Ehlers staff, together with the HRA Attorney, have concluded that there is a need for this assistance and that the issuance of a forgivable loan to aid the redevelopment of this site is an eligible use of pooled redevelopment funds.

If approved, the Developer is planning to submit for permits in late September and begin construction before the end of the year. The \$500,000 loan would be forgiven upon the issuance of a Certificate of Completion for the project.

If, however, the HRA does not feel that the additional assistance is warranted (and rejects this proposal), the

developer will reevaluate the project with the exclusion of any commercial space and reassess the feasibility of the project

RECOMMENDED ACTION:

By motion: Approve a resolution approving a \$500,000 loan to Lynk 65, LLC and the execution and delivery of documents in connection therewith

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- In 1997-1998, a large scale visioning process for the area bounded by 62nd and 67th Streets and Pleasant Avenue South and 35W took place. The resulting Lakes at Lyndale Master Plan (Plan) envisioned a thriving urban downtown area made up of a variety of multi-family housing types, commercial uses, and natural elements. The evolution of this area has continued since the adoption of that Plan.
- In 2011, the north half of this block was redeveloped into what is now Lyndale Plaza. Investment and revitalization in this area has continued with the Lyndale Station commercial development to the south and the former Lyndale Garden Center to the west.
- On September 24, 2019 representatives of Lynk 65, LLC presented conceptual plans for a mixed use development to the City Council, HRA, and Planning Commission.
- The HRA approved a Preliminary Development Agreement with the Developer on February 18, 2020.
- Revised conceptual plans were presented to the City Council, HRA and Planning Commission on July 20, 2020.
- The HRA approved a Contract for Private Development with the Developer on November 24, 2020

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

"Pooled" TIF is TIF that is generated in one TIF District, but permitted to be spent outside of that District boundary. There are limitations to the amount of TIF that can be pooled as well as limitations on how that money can be spent. Pooled TIF from Redevelopment Districts is to be spent on qualified redevelopment expenses, such as the redevelopment of blighted sites.

C. CRITICAL TIMING ISSUES:

The Developer is looking to complete the construction financing of the project in order to be under construction in 2021

D. FINANCIAL IMPACT:

- The HRA has adequate pooled Redevelopment TIF funds to support a \$500,000 forgivable loan to be used to purchase and redevelop the blighted commercial sites at 65th Street and Lyndale Avenue South.
- The loan would be forgiven upon completion of the project, signified by the issuance of a Certificate of Completion by the Building Official.
- If the Developer fails to complete the project, the loan must be repaid within three years. An annual interest rate of 4.0% will apply.
- HRA and Ehlers staff also explored the possibility of extending the TIF District (beyond the currently approved 17 years) in order to aid the project. As was the case in the initial pro forma review, the most-urgent need for additional funds is in the initial construction and lease-up phases rather than the latter years.

E. LEGAL CONSIDERATION:

HRA Attorney Julie Eddington prepared the attached Agreement.

ALTERNATIVE RECOMMENDATION(S):

1. Do not approve the Agreement.
2. Approve the Agreement with modifications

PRINCIPAL PARTIES EXPECTED AT MEETING:

Brian Bochman - Enclave Development / Lynk 65, LLC

ATTACHMENTS:

Description	Type
☐ Resolution	Resolution Letter
☐ Loan Agreement	Contract/Agreement

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

RESOLUTION NO. _____

**RESOLUTION APPROVING A LOAN TO LYNK 65 LLC AND THE EXECUTION AND
DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH**

WHEREAS, on November 24, 2020, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) entered into a Contract for Private Development (the “Contract”) with Lynk 65 LLC, a Minnesota limited liability company (the “Developer”), pursuant to which the Developer plans to acquire property in the City of Richfield and construct 157 units of housing, with 10 affordable two-bedroom units, and approximately 8,000 square feet of retail space (the “Minimum Improvements”); and

WHEREAS, due to increases in construction costs and the impact that the Covid-19 pandemic has had on the commercial market, the Developer’s construction and financing costs are significantly higher than expected; and

WHEREAS, the Developer has requested additional funding for the Minimum Improvements in the form of a deferred loan in the principal amount of \$500,000 (the “Loan”) that would be forgiven if the Developer completes construction of the Minimum Improvements pursuant to the provisions of Section 4.3 of the Contract and receives a Certificate of Completion from the Authority; and

WHEREAS, in exchange for the Loan, the Borrower will execute and deliver to the Authority a Promissory Note (the “Note”) and a Loan Agreement (the “Loan Agreement”) to secure its repayment obligations to the Authority; and

WHEREAS, there has been presented before this Board forms of the Note and the Loan Agreement; and

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

1. The Loan is hereby approved and shall be a deferred loan, the repayment of which shall be forgiven if the Borrower completes construction of the Minimum Improvements pursuant to the provisions of Section 4.3 of the Contract and the Borrower receives a Certificate of Completion from the Authority.
2. The Note and Loan Agreement are hereby in all respects authorized and approved.
3. The Chair and the Executive Director are hereby authorized to execute and deliver any and all documents deemed necessary to carry out the intentions of this resolution.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota
this 16th day of August 2021.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary

LOAN AGREEMENT

This Loan Agreement (the "Agreement") is made this ___ day of August, 2021, between the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the "Authority"), and LYNK 65 LLC, a Minnesota limited liability company, its successors and assigns (the "Borrower").

RECITALS

A. In consideration for the loan contemplated by this Agreement, the Borrower is executing and delivering to the Authority a promissory note of even date herewith (the "Note") as described below.

B. The Authority agrees to loan to the Borrower the maximum amount of \$500,000 to finance a portion of the costs associated with the construction of a mixed-use development on the real property legally described in EXHIBIT A attached hereto (the "Development Property") and located in the City of Richfield, Minnesota (the "City").

C. The Authority has provided the Loan (as defined herein) to the Borrower to assist the Borrower in financing approximately 157 units of housing, including ten (10) affordable two-bedroom units, and approximately 8,000 square feet of retail space (collectively, the "Minimum Improvements").

D. In exchange for the Loan, the Borrower has agreed to complete the Minimum Improvements.

ACCORDINGLY, to induce the Authority to make the Loan to the Borrower, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Loan Amount. Subject to and upon the terms and conditions of this Agreement, the Authority agrees to loan the Borrower the sum of Five Hundred Thousand Dollars (\$500,000), or so much thereof as is disbursed to the Borrower in accordance with this Agreement (the "Loan"). The Loan shall be evidenced by the Note. Proceeds of the Loan shall be disbursed in accordance with Section 2 hereof.

2. Disbursement of Loan Proceeds. The proceeds of the Loan shall be provided to the Borrower upon the Authority's receipt of: (i) evidence that the Developer has purchased the Development Property; and (ii) an executed Promissory Note.

3. Forgiveness of Loan.

(a) The Loan shall be forgiven by the Authority if the Borrower completes the Minimum Improvements pursuant to the provisions of Section 4.3 of the Contract for Private Development between the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota and Lynk 65, LLC, dated November 24, 2020 (the "Contract"), and the Borrower receives a Certificate of Completion from the Authority pursuant to Section 4.4 of the Contract.

(b) If the Borrower fails to complete the Minimum Improvements pursuant to the provisions of Section 4.3 of the Contract, the Loan will not be forgiven and the Loan that must be repaid. If the Loan is not forgiven, the Loan shall bear interest at a rate of four percent (4.0%) per annum and interest shall commence to accrue as of the first day of the first month following a default occurring under Sections 4.3

and 4.4 of the Contract. The Loan shall be repaid within three years of the date of the default occurring under Sections 4.3 and 4.4 and shall be paid in equal installments on the first day of each month until paid in full.

4. Representations and Warranties. The Borrower represents and warrants to the Authority that:

(a) The Borrower is a Minnesota limited liability company.

(b) The execution and delivery of this Agreement and the Note and the performance by the Borrower of its obligations hereunder do not and will not violate or conflict with any provision of law and do not and will not violate or conflict with, or cause any default or event of default to occur under, any agreement binding upon the Borrower.

(c) This Agreement has in fact been duly executed and delivered by the Borrower and constitutes its lawful and binding obligation, legally enforceable against it.

(d) The Borrower warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Loan proceeds and that any duly authorized representative of the Authority shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of the Borrower pertaining to the Loan until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Loan.

(e) The Borrower warrants that it has fully complied with all applicable state and federal laws pertaining to its business and will continue to comply throughout the terms of this Agreement. If at any time Borrower receives notice of noncompliance from any governmental entity, the Borrower agrees to take any necessary action to comply with the state or federal law in question.

(f) The Borrower warrants that it will use the proceeds of the Loan made by the Authority solely for the costs of financing the housing portion of the Minimum Improvements.

(g) The Borrower warrants that it will not create, permit to be created, or allow to exist any liens, charges, or encumbrances prior to the obligation created by this Agreement, except as otherwise authorized in writing by the Authority.

5. Event of Default by the Borrower. The following shall be Events of Default under this Agreement:

(a) any representation or warranty made by the Borrower herein or in any document, instrument, or certificate given in connection with this Agreement or the Note is false when made;

(b) the Borrower fails to pay its debts as they become due, makes an assignment for the benefit of its creditors, admits in writing its inability to pay its debts as they become due, files a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, becomes "insolvent" as that term is generally defined under the Federal Bankruptcy Code, files an answer admitting insolvency or inability to pay its debts as they become due in any involuntary bankruptcy case commenced against it, or fails to obtain a dismissal of such case within sixty (60) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged as bankrupt or insolvent, or has a custodian, trustee, or receiver appointed for, or has any court take jurisdiction of its property, or any part

thereof, in any proceeding for the purpose of reorganization, arrangement, dissolution, or liquidation, and such custodian, trustee, or receiver is not discharged, or such jurisdiction is not relinquished, vacated, or stayed within sixty (60) days of the appointment;

(b) a garnishment summons or writ of attachment is issued against or served upon the Authority for the attachment of any property of the Borrower in the Authority's possession or any indebtedness owing to the Borrower, unless appropriate papers are filed by the Borrower contesting the same within thirty (30) days after the date of such service or such shorter period of time as may be reasonable in the circumstances;

(c) any breach or failure of the Borrower to perform any other term or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after the Authority has given written notice to the Borrower specifying such default or breach, unless the Authority agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and is being diligently pursued until the Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder); and

(d) any breach by the Borrower of the Contract or any other agreement between the Borrower and the Authority or the City.

6. Not a Business Subsidy. The proceeds of the Loan shall be allocated to the housing portion of the Minimum Improvements. The parties agree and understand that the purpose of the Authority's financial assistance to the Borrower is to facilitate development of housing, and is not a "business subsidy" within the meaning of Minnesota Statutes, Sections 116J.993 to 116J.995.

7. The Authority's Remedies upon the Borrower's Default. Upon an Event of Default by the Borrower and after provision by the Authority of written notice, the Authority shall have the right to exercise any or all of the following remedies (and any other rights and remedies available to it):

(a) Provide written notice to the Developer that the Loan is in default and require repayment pursuant to the provisions of Section 3(b);

(b) suspend its performance under this Agreement; and

(c) take any action provided for at law to enforce compliance by the Borrower with the terms of this Agreement and the Note.

8. The Authority's Costs of Enforcement of Agreement. If an Event of Default has occurred as provided herein, then upon demand by the Authority, the Borrower shall pay or reimburse the Authority for all expenses, including all attorneys' fees and expenses incurred by the Authority in connection with the enforcement of this Agreement and the Note, or in connection with the protection or enforcement of the interests and collateral security of the Authority in any litigation or bankruptcy or insolvency proceeding or in any action or proceeding relating in any way to the transactions contemplated by this Agreement.

9. Indemnification.

(a) The Borrower shall and does hereby agree to protect, defend, indemnify, and hold the Authority, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage

that it may incur under or by reason of this Agreement, and of and from any and all claims and demands whatsoever that may be asserted against the Authority by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.

(b) Should the Authority, or its officers, agents, or employees, incur any such liability or be required to defend against any claims or demands pursuant to Section 4, or should a judgment be entered against the Authority, the amount thereof, including costs, expenses, and attorneys fees, shall bear interest thereon at the rate then in effect on the Note, shall be secured hereby, shall be added to the Loan, and the Borrower shall reimburse the Authority for the same immediately upon demand, and upon the failure of the Borrower to do so, the Authority may declare the Loan immediately due and payable.

(c) This indemnification and hold harmless provision shall survive the execution, delivery, and performance of this Agreement and the creation and payment of any indebtedness to the Authority. The Borrower waives notice of the acceptance of this Agreement by the Authority.

(d) Nothing in this Agreement shall constitute a waiver of or limitation on any immunity from or limitation on liability to which the Borrower is entitled under law.

10. Subordination. The Loan shall be subordinate to the other financing provided to the Borrower for the Minimum Improvements.

11. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived, amended, or modified only by a writing signed by the Borrower and the Authority. No delay in the exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.

(b) Assignment. This Agreement shall be binding upon the Borrower and its successors and assigns and shall inure to the benefit of the Authority and its successors and assigns. All rights and powers specifically conferred upon the Authority may be transferred or delegated by the Authority to any of its successors and assigns. The Borrower's rights and obligations under this Agreement may be assigned only when such assignment is approved in writing by the Authority.

(c) Governing Law. This Agreement is made and shall be governed in all respects by the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

(d) Severability. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby.

(e) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, first class mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To the Authority: Housing and Redevelopment Authority in and for the
City of Richfield, Minnesota
6700 Portland Avenue South
Richfield, MN 55423
Attn: Community Development Director

To the Borrower: Lynk 65 LLC
1 Second Street North, Suite 102
Fargo, ND 58102
Attn: Austin Morris

(f) Termination. If the Loan is not disbursed pursuant to this Agreement by December 31, 2022, this Agreement shall terminate and neither party shall have any further obligation to the other.

(g) Entire Agreement. This Agreement, together with the Exhibit hereto, which is incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Loan.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

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

IN WITNESS WHEREOF, this Loan Agreement has been duly executed and delivered by the proper officers of the Authority thereunto duly authorized on the day and year first written above.

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

By _____
Its Chair

By _____
Its Executive Director

This Loan Agreement has been duly executed and delivered by the Borrower on the day and year first written above.

LYNK 65 LLC

By _____
Its _____

EXHIBIT A

DEVELOPMENT PROPERTY

Lot 2, Block 2 of J N Hausers Addition, according to the plan thereof, Hennepin County, Minnesota

Lots 4, 5, 19, 20, and Lot 18 except the Northwesterly 25 feet of said Lot 18, Block 6, Lyndale Oaks Addition, plus vacated alley between Lots 18 and 19, plus one-half of vacated alley North of Lot 5 and Northeast of Lot 18, Hennepin County, Minnesota, subject to landscaping easements for sidewalk and for other utility uses

Lot 3, Block 6 of Lyndale Oaks Addition, according to the plat thereof, Hennepin County, Minnesota

Lots 2, 4, 5, 18, except the Northwesterly 23 feet thereof, Lots 19 and 20, Block 2, J.N. Hauser's Addition and vacated alley between Lots 18 and 19, Hennepin County, Minnesota, subject to landscaping easement for sidewalk.

[Confirm legal description]



STAFF REPORT NO. 27
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
8/16/2021

REPORT PREPARED BY: Chris Regis, Finance Director
OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
8/10/2021

ITEM FOR COUNCIL CONSIDERATION:

Consider resolutions approving proposed 2022 Proposed Housing and Redevelopment Authority Budget and Tax Levy and 2021 Revised Housing and Redevelopment Authority Budget.

EXECUTIVE SUMMARY:

The bylaws of the Richfield Housing and Redevelopment Authority (HRA) require that an annual budget be submitted to the HRA Commissioners for approval. Accordingly, the 2022 Proposed Budget and Tax Levy and 2021 Revised Budget are presented for approval.

In addition, Minnesota State Statutes require adoption of a preliminary tax levy from each taxing authority. The proposed tax levy must be certified to the Hennepin County Auditor by September 30, 2021. Any amendments to the proposed budget, which would increase the property tax levy, must be made prior to September 30, 2021. No increases in the tax levy are permissible after that date, only reductions. Final certification of the HRA tax levy is part of the City's budget process.

The recommended tax levy as proposed represents a 3.00% increase from the previous year's levy.

RECOMMENDED ACTION:

By motion: Adopt the attached resolutions approving the 2022 Proposed Housing and Redevelopment Authority Budget and Tax Levy and 2021 Revised Housing and Redevelopment Authority Budget.

BASIS OF RECOMMENDATION:

A. **HISTORICAL CONTEXT**

N/A

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

- Minnesota Statutes require adoption of a preliminary levy from each taxing authority.
- The budget and accompanying proposed levy for 2022 are ready for consideration.
- Even though a public hearing for the HRA tax levy is not required by State Statute, this does not preclude the HRA from opening this item up for public discussion if the HRA desires to do so.

C. **CRITICAL TIMING ISSUES:**

- As required by State Statutes, each taxing authority must certify its proposed tax levy for the payable year 2022 to the County Auditor on or before September 30, 2021.

D. **FINANCIAL IMPACT:**

- The Proposed 2022 HRA levy represents a 3.00% increase from the previous year's levy. This equates to an \$18,930 increase.

- The levy is approximately \$93,381 less than the maximum HRA levy established by law of the .0185% of the City's total estimated taxable market value.

E. LEGAL CONSIDERATION:

N/A

ALTERNATIVE RECOMMENDATION(S):

- The HRA could adopt a preliminary levy less than the one proposed herein. However, that would not provide for programs that are recommended in the 2022 Proposed/2021 Revised budget.
- The HRA could also consider adoption of a greater levy (up to \$742,341), but that would exceed the expressed needs of staff and may result in a burdensome property tax bill for residents.

PRINCIPAL PARTIES EXPECTED AT MEETING:

N/A

ATTACHMENTS:

	Description	Type
□	2022 HRA Proposed Budget and Tax Levy Resolution	Resolution Letter
□	2021 Revised HRA Budget	Resolution Letter

HRA RESOLUTION NO.

**RESOLUTION APPROVING PROPOSED 2022 HOUSING AND REDEVELOPMENT
AUTHORITY BUDGET AND CERTIFYING THE 2022 TAX LEVY**

BE IT RESOLVED by the Housing and Redevelopment Authority of the City of Richfield, Minnesota as follows:

Section 1. The budget for the Housing and Redevelopment Authority General Fund of Richfield for the year 2022 in the amount of \$631,410 is hereby ratified.

Section 2. The estimated gross revenue of the Housing and Redevelopment Authority General Fund of Richfield from all sources, including general ad valorem tax levies as hereinafter set forth for the year 2022, and as the same are more fully detailed in the Executive Director's official copy of the budget for the year 2022, in the amount of \$653,060 is hereby approved.

Section 3. There is hereby levied upon all taxable property in the City of Richfield an ad valorem tax in 2021, payable in 2022 for the following purposes:

Housing and Redevelopment Authority	\$649,960
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Section 4. A certified copy of this resolution shall be transmitted to the County Auditor.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 16th day of August, 2021.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary

RESOLUTION NO.

RESOLUTION AUTHORIZING REVISION OF THE 2021 BUDGET OF THE HOUSING AND REDEVELOPMENT AUTHORITY OF RICHFIELD

WHEREAS, Resolution No. 1366 appropriated funds for personal services and other expenses and capital outlay for the Housing and Redevelopment Authority for the year 2020, and

WHEREAS, The Executive Director has requested a revision of the 2021 budget as detailed in the 2022 budget document.

NOW, THEREFORE, BE IT RESOLVED by the Housing and Redevelopment Authority of Richfield, Minnesota as follows:

Section 1. That the 2021 appropriation for the Housing and Redevelopment Authority General Fund is revised as follows:

\$41,340 increase

Section 2. Estimated 2021 gross revenue of the Housing and Redevelopment Authority General Fund from all sources, as the same is more fully detailed in the Executive Director's official copy of the 2022 budget document, are hereby revised as follows:

\$58,380 increase

Section 3. That the Executive Director bring into effect the provisions of this resolution.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 16th day of August, 2021.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary