

**MEETING OF THE  
DULUTH ECONOMIC DEVELOPMENT AUTHORITY  
WEDNESDAY, MAY 26, 2021 – 5:15 P.M.  
VIA ELECTRONIC MEANS PURSUANT TO MINNESOTA STATUTES  
SECTION 13D.021  
AGENDA**

Please take notice that the Duluth Economic Development Authority will hold a public hearing by other electronic means pursuant to Minnesota Statutes Section 13D.021 on Wednesday, May 26, 2021, at 5:15 p.m. All persons interested may monitor and participate in the hearing by visiting: <http://dulutheda.org/live-meeting> promptly at 5:15 p.m. on Wednesday, May 26, 2021, and written comments may be submitted to DEDA in advance of the meeting via the DEDA's web site at <http://dulutheda.org/contact-us/> or via email at [cfleege@duluthmn.gov](mailto:cfleege@duluthmn.gov), and DEDA will decide if the conveyance is advisable.

The regular meeting place of DEDA is the Duluth City Council Chambers at City Hall, 411 West First Street, in Duluth, Minnesota. At this time board members of DEDA do not intend to attend the meeting in person; due to continually evolving restrictions and guidance from state and federal officials and agencies, the board members of DEDA will attend the meeting remotely via telephone or other electronic means pursuant to Minnesota Statutes Section 13D.021.

**1. CALL TO ORDER**

**2. PUBLIC TO ADDRESS THE COMMISSION**

**3. PUBLIC HEARINGS**

**RESOLUTION 21D-17: RESOLUTION APPROVING THE ISSUANCE AND SALE OF REVENUE BONDS (BENEDICTINE HEALTH SYSTEM), SERIES 2021**

**RESOLUTION 21D-20: RESOLUTION ADOPTING A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 17, ESTABLISHING TAX INCREMENT FINANCING DISTRICT NO. 34: REDEVELOPMENT DISTRICT THEREIN AND ADOPTING A TAX INCREMENT FINANCING PLAN THEREFOR**

**4. APPROVAL OF MINUTES**

**-MEETING MINUTES FROM APRIL 28, 2021**

**5. APPROVAL OF CASH TRANSACTIONS**

**APRIL 1, 2021 TO APRIL 30, 2021**

**NEW BUSINESS**

**RESOLUTIONS FOR APPROVAL**

**RESOLUTION 21D-17:** RESOLUTION APPROVING THE ISSUANCE AND SALE OF REVENUE BONDS (BENEDICTINE HEALTH SYSTEMS), SERIES 2021

**RESOLUTION 21D-18:** RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY IN THE LAKESIDE NEIGHBORHOOD FROM THE CITY OF DULUTH RELATED OT THE REBUILD DULUTH PROGRAM

**RESOLUTION 21D-19:** RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY IN THE CENTRAL HILLSIDE NEIGHBORHOOD FROM THE CITY OF DULUTH

**RESOLUTION 21D-20:** RESOLUTION ADOPTING A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 17, ESTABLISHING TAX INCREMENT FINANCING DISTRICT NO. 34: REDEVELOPMENT DISTRICT THEREIN AND ADOPTING A TAX INCREMENT FINANCING PLAN THEREFOR

**RESOLUTION 21D-21:** RESOLUTION APPROVING A DEVELOPMENT AGREEMENT WITH SATURDAY ZENITH, LLC FOR THE DEVELOPMENT OF THE ZENITH HISTORIC OLD CENTRAL HIGH SCHOOL PROJECT

## **8. DISCUSSION**

### **DIRECTORS REPORT**

## **9. ADJORN**

## RESOLUTION NO. 21D-17

### RESOLUTION APPROVING THE ISSUANCE AND SALE OF REVENUE BONDS (BENEDICTINE HEALTH SYSTEM), SERIES 2021

BE IT RESOLVED, by the Board of Commissioners of the Duluth Economic Development Authority, as follows:

- Section 1. Definitions. The terms used in this resolution (1) have the meanings assigned below or (2) the meanings assigned to them in the Bond Indentures or the Loan Agreements, unless the context, use or the rules of grammar indicate another or differing meaning or intent:
- a. 2021 Projects: constructing, improving, renovating, furnishing and equipping health care and senior housing facilities in the approximate principal amounts and at the locations described on Attachment B.
  - b. Act: the Housing Act, the Joint Powers Act and the Municipal Industrial Development Act.
  - c. Authorized Officers: the President and Secretary of DEDA, or the deputy or acting designee of either of them.
  - d. Benedictine: Benedictine Health System, d/b/a Benedictine.
  - e. Board: the Board of Commissioners of DEDA, DEDA's governing body.
  - f. Bond Counsel: the law firm of Fryberger, Buchanan, Smith & Frederick, P.A.
  - g. Bond Indentures: the Series A Bond Indenture, the Series B Bond Indenture and the Series C Bond Indenture.
  - h. Bond Purchase Agreement: the Bond Purchase Agreement relating to the Series A Bonds to be entered into among the Underwriter, DEDA and the Obligors.
  - i. Bond Trustee: U.S. Bank National Association, a national banking association with an office located in St. Paul, Minnesota, its successors and assigns.
  - j. Bonds: the Series A Bonds, the Series B Bonds and the Series C Bonds.
  - k. Bremer: Bremer Bank, N.A., the purchaser of the Series B Bond.
  - l. City: the City of Duluth, Minnesota.
  - m. Code: the Internal Revenue Code of 1986.

- n. Continuing Disclosure Agreement: the Continuing Disclosure Agreement to be executed by the Obligated Group Agent on behalf of the Obligated Group.
- o. Cooperation Agreements: the Cooperation Agreements between DEDA and each of the Housing Bonds Issuers.
- p. DEDA: the Duluth Economic Development Authority.
- q. DEDA Documents: the DEED Application, the Bond Purchase Agreement, the Cooperation Agreements, the Loan Agreements and the Bond Indentures, including any separations, divisions or combinations thereof.
- r. DEDA Refunded Bonds: the outstanding principal amount of DEDA's Health Care Facilities Revenue Note, Series 2013 (Benedictine Health Center Project) dated October 22, 2013, and Health Care Facilities Revenue Note, Series 2014 (Benedictine Health Center Project) dated September 17, 2014.
- s. DEED: the Minnesota Department of Employment and Economic Development.
- t. DEED Application: the application submitted to DEED on behalf of DEDA, requesting approval of the proposal for the 2021 Projects and the issuance of the portion of the Bonds financing the 2021 Projects.
- u. Documents: the DEDA Documents, the Obligors' Documents and any other documents required for the issuance of the Bonds.
- v. Executive Director: the Executive Director of DEDA.
- w. Final Official Statement: the Preliminary Official Statement completed to show the final terms of the Series A Bonds.
- x. Financing Purposes: making a loan to the Obligors for the purposes of financing the 2021 Projects, refunding the Refunded Bonds and refinancing the Refinanced Projects, financing issuance costs of the Bonds and funding debt service reserves for the Bonds.
- y. First Supplement: Supplemental Master Trust Indenture No. 1 to be entered into between the Obligated Group Agent on behalf of the Obligated Group and the Master Trustee authorizing the issuance of the Series A Note.
- z. Host Municipalities: the Cities of Ada, Byron, Crookston, Hastings, Minneapolis, New Brighton, Osseo, Owatonna, Red Wing, Rochester and Shakopee, Minnesota, and the Port Authority of Winona, Minnesota, on behalf of the City of Winona, Minnesota, which are the municipalities in which any portion of the Projects is located, i.e. a "host." The City is also

host to a portion of the Projects, but is not included in the definition of “Host Municipalities” since related approvals are given by DEDA and the Mayor of the City on behalf of the City.

- aa. Housing Act: Minnesota Statutes, Chapter 462C, as amended.
- bb. Housing Bonds Issuers: the Cities of Ada, Byron, Crookston, Osseo and Shakopee, Minnesota, the Housing and Redevelopment Authority of Duluth, Minnesota, and the Port Authority of Winona.
- cc. Housing Programs: those housing program or programs adopted by each of the Housing Bonds Issuers for the Housing Project described therein and attached to each of the Cooperation Agreements, as applicable.
- dd. Housing Projects: the constructing, improving, renovating, furnishing and equipping senior housing facilities, as described in the Housing Programs at the locations listed on Attachment A.
- ee. Joint Powers Act: Minnesota Statutes, Section 471.59, as amended.
- ff. Lenders: Bremer and NBC.
- gg. Loan Agreements: the Series A Loan Agreement, the Series B Loan Agreement and the Series C Loan Agreement.
- hh. MAEDB: the Minnesota Agricultural and Economic Development Board.
- ii. Master Indenture: the Master Trust Indenture to be entered into among the Obligated Group Agent, the Obligated Group and the Master Trustee, as amended and supplemented, including as supplemented by the Supplements.
- jj. Master Trustee: U.S. Bank National Association, as master trustee under the Master Indenture.
- kk. Municipal Industrial Development Act: Minnesota Statutes, Sections 469.152 through 469.165, as amended.
- ll. NBC: National Bank of Commerce, the purchaser of the Series C Bond.
- mm. Obligated Group: as of the date of issuance of the Bonds, a group composed of the following affiliates of Benedictine: Benedictine Care Centers, Benedictine Health Center, Benedictine Living Communities, Inc., Benedictine Living Community of Wahpeton, Benedictine Living Community of Wahpeton, LLC, Bridges Care Center, City of Lakes Care Center, Ellendale Evergreen Place, Inc., Koda Living Community, Madonna Meadows of Rochester, Madonna Summit of Byron, LLC, Madonna Towers of Rochester, Inc., Regina Senior Living, Saint Anne of Winona, St.

Gertrude's Health Center, Steeple Pointe Senior Living Community and Villa St. Vincent.

- nn. Obligated Group Agent: Benedictine, as obligated group agent under the Master Indenture.
- oo. Obligated Group Notes: the Series A Note, the Series B Note and the Series C Note.
- pp. Obligors: affiliates of Benedictine, including without limitation, Benedictine Care Centers; Bridges Care Center; Benedictine Health Center; City of Lakes Care Center; Koda Living Community; Madonna Meadows of Rochester; Madonna Summit of Byron, LLC; Madonna Towers of Rochester, Inc.; Regina Senior Living; Saint Anne of Winona; St. Gertrude's Health Center; Steeple Pointe Senior Living Community; and Villa St. Vincent, and their successors and assigns.
- qq. Obligors' Documents: the Master Indenture, the Supplements, the Obligated Group Notes, the Continuing Disclosure Agreement and the draft Preliminary Official Statement.
- rr. Preliminary Official Statement: the preliminary official statement for the Series A Bonds.
- ss. Projects: the Refinanced Projects (including the Housing Projects) and the 2021 Projects.
- tt. Qualified Services and Activities: health care facilities and services or revenue-producing facilities and services or senior housing facilities and services of organizations described in Section 501(c)(3) of the Code.
- uu. Refinanced Projects: the construction, improvement, renovation, furnishing and equipping of senior housing and health care facilities at the locations listed on Attachment B.
- vv. Refunded Bonds: the outstanding principal amount of the obligations designated as such on Attachment B.
- ww. Refunded Bonds Issuers: the Cities of Ada, Byron, Crookston, Lauderdale, Owatonna, Preston, St. Paul Park, Shakopee and Spring Valley, Minnesota; the Counties of Goodhue and Steele, Minnesota, the Housing and Redevelopment Authority of Duluth, Minnesota, and the Port Authority of Winona, Minnesota.
- xx. Registrar: the bond registrar, paying agent, authenticating agent and transfer agent for the Bonds.

- yy. Second Supplement: Supplemental Master Trust Indenture No. 2 to be entered into between the Obligated Group Agent on behalf of the Obligated Group and the Master Trustee authorizing the issuance of the Series B Note.
- zz. Series A Bond Indenture: the Bond Trust Indenture to be entered into between DEDA and the Bond Trustee authorizing the issuance of the Series A Bonds.
- aaa. Series A Bonds: that portion of DEDA's Revenue Bonds (Benedictine Health System), Series 2021, authorized under the Series A Bond Indenture.
- bbb. Series A Loan Agreement: the Loan Agreement to be entered into between DEDA and the Obligors relating to the Series A Bonds.
- ccc. Series A Note: the Master Indenture Note issued by the Obligated Group Agent pursuant to the Master Indenture and the First Supplement securing payment of the Series A Bonds.
- ddd. Series B Bond Indenture: the Bond Trust Indenture to be entered into between DEDA and the Bond Trustee authorizing the issuance of the Series B Bonds.
- eee. Series B Bonds: that portion of DEDA's Revenue Bonds (Benedictine Health System), Series 2021, authorized under the Series B Bond Indenture.
- fff. Series B Loan Agreement: the Loan Agreement to be entered into between DEDA and the Obligors relating to the Series B Bonds.
- ggg. Series B Note: the Master Indenture Note issued by the Obligated Group Agent pursuant to the Master Indenture and the Second Supplement securing payment of the Series B Bonds.
- hhh. Series C Bond Indenture: the Bond Trust Indenture to be entered into between DEDA and the Bond Trustee authorizing the issuance of the Series C Bonds.
- iii. Series C Bonds: that portion of DEDA's Revenue Bonds (Benedictine Health System), Series 2021, authorized under the Series C Bond Indenture.
- jjj. Series C Loan Agreement: the Loan Agreement to be entered into between DEDA and the Obligors relating to the Series C Bonds.

- kkk. Series C Note: the Master Indenture Note issued by the Obligated Group Agent pursuant to the Master Indenture and the Third Supplement securing payment of the Series C Bonds.
- lll. Special Tax Counsel: the law firm of Gilmore & Bell, P.C.
- mmm. State: the State of Minnesota.
- nnn. Supplements: the First Supplement, the Second Supplement and the Third Supplement.
- ooo. Tax Certificate: the certificate of the Obligors, in customary form prepared by Special Tax Counsel and approved as to form by Bond Counsel to demonstrate compliance with the conditions of the Code, which allow for interest on the Bonds to be excludable from the gross income of the owners of the Bonds for federal income tax purposes (including any other bonds making up a single issue for federal income tax purposes).
- ppp. Third Supplement: Supplemental Master Trust Indenture No. 3 to be entered into between the Obligated Group Agent on behalf of the Obligated Group and the Master Trustee authorizing the issuance of the Series C Note.
- qqq. Underwriter: Herbert J. Sims & Company, Inc.

Section 2. Summary of the Documents. Bond Counsel has provided the following information relating to the Documents:

- a. In the *Bond Indentures*, DEDA pledges and grants a security interest to the Bond Trustee in all of its right, title, and interest in the Loan Agreements (except for certain rights of DEDA to payment, indemnification and enforcement) and all moneys on deposit with the Bond Trustee under the Bond Indentures, for the benefit of the owners of the Bonds authorized to be issued under such Bond Indenture. The Bond Indentures set forth the terms and conditions, covenants, rights, obligations, duties and agreements of the owners of the Bonds, DEDA and the Bond Trustee.
- b. In the *Loan Agreements*, DEDA loans the proceeds of the Bonds referenced therein to the Obligors and the Obligors agree to repay the loans in the amounts and at the times required to pay the principal of, premium, if any, and interest on the related Bonds in full when due. In addition, the Loan Agreements contain provisions requiring the Obligors to pay the administrative and legal costs incurred by DEDA in connection with the Bonds (including post-issuance expenses, if any) and DEDA's administrative fee required by DEDA as a condition to issue the Bonds. In addition, the Obligors agree and are obligated to indemnify, provide reports, and permit enforcement by DEDA of its rights under the Loan Agreements.



- c. The Obligors' payment obligations under the Loan Agreements are proposed to be secured by the *Obligated Group Notes*, issued by the Obligated Group Agent under and according to the terms of the *Master Indenture* and payable and secured under the Master Indenture on the same basis as all other obligated group notes. One Obligated Group Note will be issued in a stated principal amount equal to the stated principal amount of each series of the Bonds and will bear interest at the rate or rates payable from time to time on such series of the Bonds. Each member of the Obligated Group is jointly and severally liable for payment of the Obligated Group Notes. The Obligated Group Notes are payable to the Bond Trustee. Initially, each member of the Obligated Group will also grant or join in a mortgage on its real property and equipment, as applicable, to secure payment of the Obligated Group Notes.
- d. The *Supplements* are required under the Master Indenture to authorize issuance of the Obligated Group Notes and to establish the terms of the Obligated Group Notes.
- e. As required by the Code, DEDA will execute an endorsement to the *Tax Certificate*, in customary form prepared by Special Tax Counsel and approved as to form by Bond Counsel to demonstrate compliance with the conditions required for interest on the Bonds to be excludable from the gross income of the owners of the Bonds for federal income tax purposes.
- f. The *Cooperation Agreements* are entered into pursuant to the Joint Powers Act. In the Cooperation Agreements, each of the Housing Bonds Issuers consents to the use by DEDA of its Housing Program and authorizes DEDA to rely on its Housing Program in connection with the issuance of the portion of the Bonds refinancing such Housing Program.
- g. In the *Continuing Disclosure Agreement*, the Obligated Group Agent agrees to make information on the financial condition and operations of the Obligated Group publicly available through the Municipal Securities Rulemaking Board.
- h. The *Preliminary Official Statement*, when final, must contain all the facts an investor would need to make the decision whether or not to purchase one of the Series A Bonds. Information which may be omitted includes the offering price(s) of the Series A Bonds, interest rate(s) on the Series A Bonds, Underwriter's compensation, aggregate principal amount of the Series A Bonds, principal amount per maturity of the Series A Bonds, closing date and the identity of the Underwriter(s). The Official Statement is substantially similar to the Preliminary Official Statement, but includes the omitted information.

Section 3. Recitals Regarding Proceedings. The Board makes the following recitals of fact:

- a. Bond Counsel has informed the Board that:
  - i. a notice of public hearing by DEDA on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance and refinance the Projects was published in the *Duluth News Tribune*, DEDA's official newspaper and a newspaper of general circulation; and
  - ii. a notice of public hearings by MAEDB and DEDA on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance and refinance the Projects was published in the official newspaper of and newspaper of general circulation in each of the Host Municipalities, including DEDA, provided that if the official newspaper was a newspaper of general circulation, the notice was published only once; and
  - iii. MAEDB, through its designated hearing officer, held a public hearing by telephone and other electronic means on the Projects and the financing and refinancing thereof on April 29, 2021, and all persons in attendance wishing to speak on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance and refinance the Projects, if any, were given an opportunity to do so.
- b. DEDA held a public hearing by telephone and other electronic means on the Projects and the financing and refinancing thereof on May 26, 2021, and all persons in attendance wishing to speak on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance refinance the Projects, if any, were given an opportunity to do so.
- c. Drafts of the forms of the Documents have been made available to this Board and are on file in the office of the Executive Director.

Section 4. Recitals Relating to the Joint Exercise of Powers.

- a. Portions of the Projects are located within the jurisdiction of DEDA and each of the Host Municipalities.
- b. Based on information provided by Bond Counsel:
  - i. each of the Refunded Bonds Issuers (including the Housing Bonds Issuers) have consented to the refunding of its portion of the Refunded Bonds; and
  - ii. each of the Host Municipalities has consented to the issuance of the Bonds by DEDA to finance and refinance the portion of the Projects located within its jurisdiction; and

- iii. each of the Housing Bonds Issuers has agreed to enter into a Cooperation Agreement with DEDA to permit its Housing Program to be refinanced through the issuance of a portion of the Bonds by DEDA under the Housing Act.

Section 5. Recitals Regarding the Obligors and the Projects. The Board makes the following recitals of fact:

- a. Bond Counsel has advised DEDA that:
  - i. the purpose of the Municipal Industrial Development Act, as found and determined by the legislature, is to promote the welfare of the State by the active promotion, attraction, encouragement and development of economically sound industry and commerce through governmental action to prevent, so far as possible, the emergence of blighted and marginal lands and areas of chronic unemployment;
  - ii. the purpose of the Housing Act, as found and determined by the legislature, is to permit municipalities to finance multifamily housing developments or the rehabilitation of multifamily housing developments under a housing program.
  - iii. under the Act, DEDA is authorized and empowered to issue revenue obligations such as the Bonds for the Financing Purposes.
- b. Factors necessitating the active promotion and development of economically sound industry and commerce are the increasing concentration of population in the metropolitan areas and the rapidly rising increase in the amount and cost of governmental services required to meet the needs of the increased population and the need for development of land uses which will provide an adequate tax base to finance these increased costs and access to employment opportunities for the area population.
- c. DEDA has been advised by representatives of the Obligors that: (i) each Obligor is a Minnesota nonprofit corporation or Delaware Limited Liability Company; (ii) each Obligor and each other member of the Obligated Group is an organization described in Section 501(c)(3) of the Code or treated as such under applicable federal law; (iii) each Obligor and its affiliates benefitted by the Bonds are each engaged in Qualified Services and Activities; (iv) financing the capital cost of the 2021 Projects and refunding the Refunded Bonds on a tax exempt basis will benefit their operations; (v) on the basis of information submitted to the Obligors and their discussions with representatives of area financial institutions and potential buyers of tax-exempt bonds, the Bonds could be issued and sold upon favorable rates and terms to finance and refinance the Projects; (vi) the Projects would not be undertaken, or refinanced, as applicable, in their present form but for the availability of financing and refinancing under the Act; and (vii) no public

official of DEDA has either a direct or indirect financial interest in the Projects nor will any public official either directly or indirectly benefit financially from the Projects.

- d. The Obligors have agreed to pay any and all costs incurred by DEDA in connection with the issuance of the Bonds, whether or not the issuance is carried to completion.
- e. The Board has relied without independent investigation on written representations and opinions of the Obligors, its consultants, and Bond Counsel that each of the Projects qualifies either as a “project” as defined in Section 469.153, subdivision 2(d) of the Municipal Industrial Development Act or as a “program” as defined in Section 462C.02, subdivision 3 of the Housing Act.

Section 6. Findings. The Board finds, determines and declares as follows:

- a. The welfare of the State requires the provision of necessary health care and senior housing facilities so that adequate health care and senior housing services are available to residents of the State at reasonable cost.
- b. DEDA desires to facilitate the selective development of the State, retain and improve the tax base and help provide the range of services and employment opportunities required by the population. The Projects will assist DEDA in achieving those objectives; and enhance the image and reputation of the State.
- c. On the basis of information made available to DEDA by the Obligors, it appears, and DEDA finds, that: (i) the Projects constitute properties, used or useful in connection with a revenue producing enterprise providing health care or housing services; (ii) the Projects further the purposes stated in the Act; (iii) the Projects would not be undertaken but for the availability of financing and refinancing under the Act and the willingness of DEDA to furnish financing and refinancing; and (iv) the effect of the Projects, if undertaken, will be to: (A) encourage the development of economically sound industry and commerce, (B) assist in the prevention of the emergence of blighted and marginal land, (C) help prevent chronic unemployment, (D) provide the range of service and employment opportunities required by the population, (E) help prevent the movement of talented and educated persons out of the State where their services may not be as effectively used, (F) promote more intensive development and appropriate use of land within the State, eventually to increase the tax base of the State; and (G) provide adequate health care services to residents of the State at a reasonable cost.

Section 7. Approval of the Projects and the Bonds. The Projects are approved. Issuance of the Bonds for the Financing Purposes in an aggregate principal

amount of not to exceed \$150,000,000 (excluding original issue discount or premium with respect to any series of Bonds) is approved and authorized, subject to the following:

- a. The Series A Bonds shall be sold to the Underwriter, subject to satisfaction of the terms of the Bond Purchase Agreement.
- b. The Series B Bonds shall be sold to Bremer, subject to satisfaction by the Obligors of the terms and conditions imposed by Bremer as conditions precedent to the purchase of the Series B Bonds, the payment of the purchase price of the Series B Bonds by Bremer to be conclusive proof of such satisfaction.
- c. The Series C Bonds shall be sold to NBC, subject to satisfaction by the Obligors of the terms and conditions imposed by NBC as conditions precedent to the purchase of the Series C Bonds, the payment of the purchase price of the Series C Bonds by NBC to be conclusive proof of such satisfaction.
- d. The Bonds are to be issued pursuant to the Act and the Bond Indentures. The Obligors are authorized to approve the final interest rate or rates on the Bonds, subject to such adjustment as may be provided for in the Bond Indentures and the Bonds, and upon the terms and conditions specified in this resolution, the Bond Indentures and the Bonds. The Obligors are further authorized to approve the issue and delivery dates of the Bonds. The Bonds shall contain a recital that they are issued pursuant to the Industrial Development Act and the Housing Act as conclusive evidence of their validity and of the regularity of their issuance. Subject to clause e., below, the Bonds (i) are to be designated (which designation or designations shall supersede any designation or designations contained in Section 1), be dated, be in substantially the form, be signed, be in the denominations, have maturities and be subject to redemption as provided in the Bond Indentures and (ii) will bear interest at rates approved by the Obligors and be described and have such other details and provisions as specified in the Bond Indentures. The Bonds will bear the designations set forth in the Bond Indentures.
- e. The purchase price of the Bonds shall be at a price expressed as a percentage of their par value, less any portion of the stated principal amount of the Bonds which represents original issue discount (as defined in the Code). The maturity date of any of the Bonds cannot exceed 40 years from the date of closing and delivery of the Bonds.
- f. The Bonds must be in substantially the form attached to the Bond Indentures, with appropriate variations, omissions and insertions permitted or required by this resolution, and as may be necessary

and appropriate and approved by Bond Counsel and the Obligors. The Bonds are incorporated by reference.

- g. The Authorized Officers, with advice of Bond Counsel, are authorized and directed to execute, acknowledge and deliver the Bonds. The seal of DEDA may be omitted as allowed by law. The execution of the Bonds by the Authorized Officers is conclusive evidence of approval of the Bonds in accordance with the terms of this resolution.

Section 8. Approval and Execution of Documents and Certificates.

- a. The DEDA Documents, the endorsement to the Tax Certificate, and the Bonds are made a part of this resolution and are approved in substantially the forms on file with DEDA.
- b. The Authorized Officers (individually or with one or more other officers and members of DEDA) are authorized and directed:
  - i. to execute, acknowledge and deliver the DEDA Documents, the endorsement to the Tax Certificate, and the Bonds on behalf of DEDA with such changes, insertions and omissions therein as DEDA's attorney or Bond Counsel may hereafter approve; provided that the seal of DEDA may be omitted as allowed by law;
  - ii. to execute and deliver all other documents which may be required under the terms of the DEDA Documents or the Bonds or by Bond Counsel;
  - iii. to take any other action required or deemed appropriate on the advice of Bond Counsel for the performance of DEDA's duties necessary to carry out the purposes of the Bonds and the DEDA Documents;
  - iv. furnish certified copies of this resolution, all proceedings and records of DEDA relating to the Bonds, and any other affidavits and certificates required, in the opinion of Bond Counsel, to show the facts relating to DEDA respecting the Bonds, as the facts appear from the books and records in DEDA's custody and control or as otherwise known to them; and
  - v. upon the advice of Bond Counsel, to take such further action, including without limitation holding any additional hearings and coordinating additional approvals, and to execute such additional instruments, as may be required or deemed appropriate at any time in the future in connection with the Bonds and the Projects, including further actions in connection with any refinancing or reissuance in whole or in part thereof, and in connection with any federal tax law

remedial actions related to sales, leases or other dispositions or uses of all or any part of the Projects and related changes to uses and allocations of proceeds of tax-exempt obligations.

- c. The execution by the Authorized Officers of the DEDA Documents is conclusive evidence of their approval in accordance with the terms of this resolution.
- d. The Obligors' Documents are accepted in substantially the forms on file with DEDA.

Section 9. Absent or Disabled Officers. If any of the Authorized Officers or any other officer, employee or agent of DEDA authorized to execute certificates, instruments, or other written documents on behalf of DEDA:

- a. ceases to be an officer, employee or agent of DEDA after he or she has executed any certificate, instrument or other written document, the validity or enforceability of the certificate, instrument or other written document signed by them is not affected; or
- b. is unavailable to execute certificates, instruments or other written documents, the certificates, instruments or other written documents may be executed by a deputy or assistant to the unavailable officer, or any other officer of DEDA who is, in the opinion of Bond Counsel, authorized to sign the certificates, instruments or other written documents, with full force and effect.

Section 10. Future Amendments.

- a. After the adoption of this resolution, but prior to the issuance and delivery of the Bonds, the original aggregate principal amount of the Bonds, the maturity date of the Bonds, the principal amount of the Bonds due on each payment date, the date of the documents referenced in this resolution and the Bonds, and the terms of redemption of the Bonds may be established or modified by the Obligors with the approval of the Authorized Officers; provided that the aggregate principal amount of the Bonds may not be increased from the amounts set forth in this resolution.
- b. The authority to approve, execute and deliver, on behalf of DEDA, future amendments to the Loan Agreements are delegated to the Authorized Officers, subject to the conditions established in the applicable Bond Indenture and Loan Agreement; provided that the Board must approve any changes which, in the opinion of Bond Counsel affect the Unassigned Issuer Rights, as defined in the Bond Indentures.
- c. The authorization given above is an authorization for the execution and delivery of any certificates and related items required to demonstrate compliance with the agreements being amended and the terms of this

resolution. The execution of any instrument by one or more of the Authorized Officers is conclusive evidence of the approval in accordance with the terms of this resolution.

Section 11. Registered Form. The Bonds must be issued only in fully registered form, numbered and in such denominations as provided for each series of the Bonds in the Bond Indentures.

Section 12. Bond Trustee; Bond Registrar; Paying Agent. DEDA appoints the Bond Trustee as trustee, registrar and paying agent for the Bonds.

Section 13. Limitations.

- a. *Limitation on Payment and Nature of Security*. The revenues and proceeds derived from the DEDA Documents are specifically pledged to the payment of the principal of and interest on the Bonds in the manner and to the extent specified in this resolution, the Bonds and the Documents; and nothing in this resolution, the Bonds and the Documents assigns, pledges or otherwise encumbers any other funds or assets of DEDA. The Bonds do not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of DEDA, except the portion of the Projects mortgaged or otherwise encumbered under the provisions and for the purposes of the Act. Notwithstanding anything contained in the resolution, the Bonds or the Documents or any other document referred to in the resolution, the Bonds or the Documents to the contrary, under the provisions of the Act, the Bonds may not be payable from nor charged upon any funds other than the revenue pledged to its payment under the DEDA Documents. No holder of the Bonds will ever have the right to compel any exercise of the taxing power of DEDA to pay the Bonds or the interest thereon, or to enforce payment of the Bonds against any property of DEDA except the portion of the Projects mortgaged or otherwise encumbered under the provisions and for the purpose of the Act. The Bonds are not a debt of DEDA within the meaning of any constitutional or statutory limitation. However, nothing impairs the rights of the holder of the Bonds to enforce covenants made for the security of the Bonds.
- b. *Limitation of Liability*. DEDA is not subject to any liability on the Bonds. No agreement, covenant or obligation contained in this resolution or in the Documents is an agreement, covenant or obligation of any member of the Board, or of any officer, employee or agent of DEDA in that person's individual capacity. Neither the members of the Board, nor any officer executing the Bonds or the Documents, is liable personally on the Bonds or subject to any personal liability or accountability by reason of the issuance of the Bonds or execution of the Documents.
- c. *Limitation on Rights Conferred*. Nothing in this resolution or in the Documents will or is intended to be construed to confer upon any person



(other than as provided in the Bonds, the DEDA Documents, and the other agreements, instruments and documents by approved in this resolution) any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provision of this resolution.

Section 14. Offering and Disclosure Materials. DEDA has not participated in the preparation of the Final Official Statement, and has made no independent investigation with respect to the information contained therein, including the appendices thereto, other than the information therein relating solely to DEDA under the captions “THE AUTHORITY” and “LITIGATION – THE AUTHORITY” (solely as it pertains to DEDA), a draft of which is attached hereto as Attachment C and such information is approved in substantially the form attached, and DEDA assumes no responsibility for the sufficiency, accuracy or completeness of such information. Subject to the foregoing, DEDA consents to the distribution and the use by the Underwriter in connection with the sale of the Series A Bonds of the Final Official Statement in the form of the draft Preliminary Official Statement (with such changes and additions thereto as are approved by the Obligated Group Agent) now on file with DEDA.

Section 15. DEED Approval; Conditions Precedent.

- a. The Authorized Officers are authorized and directed to work with Bond Counsel to facilitate submission of the DEED Application to DEED, and other officers, employees and agents of DEDA are authorized to provide DEED with any information it requires. Bond Counsel is authorized and directed to submit the DEED Application to DEED requesting approval.
- b. Notwithstanding anything in this resolution to the contrary, delivery of the Bonds is subject to and contingent upon the following:
  - i. the 2021 Projects and the issuance of a portion of the Bonds therefor are approved by DEED;
  - ii. the Projects and the issuance of the Bonds are approved by the Mayor of the City, in a separate writing;
  - iii. each of the Host Municipalities has consented to the issuance by DEDA of the Bonds financing or refinancing the portion of the Projects located in its jurisdiction;
  - iv. MAEDB has provided its approval relating to the 2021 Projects and the issuance of the Bonds by DEDA; and
  - v. the Obligors have agreed in writing to pay DEDA its administrative fee in the amount equal to 0.25% of the final stated principal amount of the Bonds.

Section 16. Refunding. DEDA consents to the refunding of the DEDA Refunded Bonds, waives any notice of redemption required to be provided to DEDA, agrees that all documents for the refunding of the DEDA Refunded Bonds, including any notices and termination documents, may be given and executed without further consent, action or execution by DEDA and authorizes Benedictine and its officers and agents to take all actions and execute all documents for the refunding and redemption of the DEDA Refunded Bonds, including any required notices and termination documents.

Section 17. Severability. If any provision of this resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this resolution contained shall not affect the remaining portions of this resolution or any part thereof.

Section 18. Effective Date. This resolution shall take effect immediately.

Section 19. Attachments. The following are attached to this resolution:

Attachment A – Housing Projects

Attachment B – Refunded Bonds and Refinanced Projects and 2021 Projects

Attachment C – Offering and Disclosure

Approved by the Duluth Economic Development Authority this 26<sup>th</sup> day of May, 2021.

ATTEST:

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Executive Director

STATEMENT OF PURPOSE: This resolution authorizes the issuance of tax-exempt bonds by DEDA (the “Bonds”) (i) to finance improvements to health care facilities owned and operated by Benedictine Health System, d/b/a Benedictine or one or more of its affiliates located in Duluth and the Cities of Ada, Byron, Crookston, Hastings, Lauderdale, Minneapolis, New Brighton, Osseo, Owatonna, Preston, Red Wing, Rochester, St. Paul Park, Shakopee, Spring Valley and Winona, Minnesota, and (ii) to refinance outstanding tax-exempt indebtedness of the foregoing.

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**ATTACHMENT A**  
**HOUSING PROJECTS**

Benedictine Living Community – Ada located at 201 Ninth Street West, Ada, Minnesota;

Benedictine Living Community Winona located at 1347 West Broadway, Winona, Minnesota;

Benedictine Living Community – St. Gertrude's located at 1850 Sarazin Street, Shakopee, Minnesota;

Benedictine Living Community – Duluth located at 925 Kenwood Avenue, Duluth, Minnesota;

Benedictine Living Community – Osseo located at 625 Central Avenue, Osseo, Minnesota;

Benedictine Living Community – Crookston located at 516 Walsh Street, Crookston, Minnesota; and

Benedictine Living Community – Byron located at 551 Byron Main Court NE, Byron, Minnesota.

## ATTACHMENT B

### REFUNDED BONDS AND REFINANCED PROJECTS AND 2021 PROJECTS

#### Refunded Bonds and Refinanced Projects

Proceeds of the Bonds are expected to be used to refinance the following tax-exempt debt obligations (collectively, the “*Refunded Bonds*”) in the approximate outstanding principal amounts shown below, issued for the benefit of Benedictine, the proceeds of which were used to finance, refinance and reimburse the costs of constructing, improving, renovating, furnishing and equipping senior housing and health care facilities, at the locations indicated below (the “*Refinanced Projects*”):

- (1) \$2,500,000 Port Authority of Winona, Minnesota Housing Revenue Refunding Note, Series 2004 (Saint Anne of Winona Project), for facilities of Benedictine Living Community Winona located at 1347 West Broadway, Winona, Minnesota (“BLC-Winona”);
- (2) \$1,800,000 Port Authority of Winona, Minnesota Housing Facility Revenue Note, Series 2010 (Saint Anne of Winona Project), for facilities at BLC-Winona;
- (3) \$2,300,000 City of Ada, Minnesota Multifamily Housing Development Revenue Note, Series 2012A (Bridges Care Center Project), for facilities at Benedictine Living Community – Ada located at 201 Ninth Street West, Ada, Minnesota;
- (4) \$11,600,000 City of Shakopee, Minnesota Health Care and Housing Facilities Revenue Refunding Notes (Benedictine Health System Obligated Group) Series 2013A and Series 2013B, for facilities of: (A) Benedictine Living Community – Osseo located at 625 Central Avenue, Osseo, Minnesota (“BLC-Osseo”); (B) Benedictine Living Community – St. Gertrude’s located at 1850 Sarazin Street, Shakopee, Minnesota (“BLC-St. Gertrude”) (C) Benedictine Living Community – Minneapolis located at 618 East 17<sup>th</sup> Street, Minneapolis, Minnesota (“BLC-Minneapolis”);
- (5) \$4,200,000 DEDA Health Care Facilities Revenue Note, Series 2013 (Benedictine Health Center Project), for facilities at Benedictine Living Community – Duluth located at 925 Kenwood Avenue, Duluth, Minnesota (“BLC-Duluth”);
- (6) \$3,450,000 DEDA Health Care Facilities Revenue Note, Series 2014 (Benedictine Health Center Project), for facilities at BLC-Duluth;
- (7) \$4,200,000 Housing and Redevelopment Authority of Duluth, Minnesota (“HRA-Duluth”) Health Care Facilities Revenue Note, Series 2013 (Benedictine Health Center Project), for facilities at BLC-Duluth;

- (8) \$3,450,000 HRA-Duluth Health Care Facilities Revenue Note, Series 2014 (Benedictine Health Center Project), for facilities at BLC-Duluth;
- (9) \$6,000,000 HRA-Duluth Health Care Facilities Revenue Refunding Note, Series 2017 (Benedictine Health Center Project), for facilities at BLC-Duluth;
- (10) \$3,850,000 City of St. Paul Park, Minnesota Healthcare Facilities Revenue Bonds (Regina Senior Living Project) Series 2013, for facilities at Benedictine Living Community – Regina located at 1175 Nininger Road, Hastings, Minnesota (“BLC-Regina”);
- (11) \$4,500,000 City of Crookston, Minnesota Health Care Revenue Refunding Note, Series 2013A (Villa St. Vincent Project), for facilities at Benedictine Living Community – Crookston located at 516 Walsh Street, Crookston, Minnesota (“BLC-Crookston”);
- (12) \$7,200,000 City of Byron, Minnesota Amended and Restated Senior Housing Facility Revenue Notes (Living Services Foundation/Byron Project) Series 2014A, for facilities at Benedictine Living Community – Byron located at 551 Byron Main Court NE, Byron, Minnesota (“BLC-Byron”);
- (13) \$1,600,000 City of Byron, Minnesota Amended and Restated Subordinate Senior Housing Facility Revenue Bonds (Living Services Foundation/Byron Project) Series 2014B, for facilities at BLC-Byron;
- (14) \$6,500,000 City of Preston, Minnesota Healthcare Facilities Revenue Note, Series 2015 (Madonna Living Community of Rochester), for facilities of: (A) Benedictine Madonna Meadows located at 3035 Salem Meadows Drive SW, Rochester, Minnesota (“Madonna Meadows”); and (B) Benedictine Madonna Towers located at 4001 19<sup>th</sup> Avenue NW, Rochester, Minnesota (“Madonna Towers”);
- (15) \$6,500,000 City of Spring Valley, Minnesota Healthcare Facilities Revenue Note, Series 2015 (Madonna Living Community of Rochester), for facilities of: (A) Madonna Meadows; and (B) Madonna Towers;
- (16) \$8,600,000 City of Lauderdale, Minnesota Health Care Facilities Revenue Refunding Note (Benedictine Health System Obligated Group) Series 2016A, for facilities of: (A) Benedictine Living Community – Red Wing located at 135 – 213 Pioneer Road, Red Wing, Minnesota (“BLC–Red Wing”); and (B) Benedictine Living Community – New Brighton located at 1101 Black Oak Drive, New Brighton, Minnesota (“BLC-New Brighton”);
- (17) \$9,000,000 Goodhue County, Minnesota Health Care Facilities Revenue Note (Benedictine Health System Obligated Group) Series 2016B, for facilities at BLC–Red Wing;

- (18) \$4,300,000 City of Owatonna, Minnesota Nursing Facility Revenue Refunding Note (Steele County Communities for a Lifetime Koda Living Community Project), Series 2017, for facilities of Benedictine Living Community – Owatonna located at 2255 30<sup>th</sup> Street NW, Owatonna, Minnesota (“BLC-Owatonna”); and
- (19) \$8,600,000 Steele County, Minnesota Nursing Facility Revenue Refunding Note Steele County Communities for a Lifetime Koda Living Community Project), Series 2017, for facilities at BLC–Owatonna.

### 2021 Projects

Approximately \$12,400,000 of the proceeds of the Bonds are expected to be used to finance, refinance and reimburse all or a portion of the costs for the constructing, improving, renovating, furnishing and equipping senior housing, other than independent living facilities, and related health care facilities in the approximate principal amounts at the locations indicated below (the “2021 Projects”): \$5,500,000 at BLC-New Brighton; \$300,000 at BLC-Red Wing; \$600,000 at BLC-Duluth; \$1,000,000 at BLC-Minneapolis; \$300,000 at BLC-Owatonna; \$200,000 at Madonna Meadows; \$600,000 at Madonna Towers; \$200,000 at BLC-Byron; \$1,000,000 at BLC-Regina; \$600,000 at BLC-Winona; \$800,000 at BLC-St. Gertrude; \$300,000 at BLC-Osseo; and \$1,000,000 at BLC-Crookston. Benedictine, at its discretion, may allocate proceeds of the Bonds to any of the above described projects to finance, refinance or reimburse all, a part, or none of the improvements at each location.

**ATTACHMENT C**  
**OFFERING AND DISCLOSURE**

**THE AUTHORITY**

The Authority is a public body, corporate and politic, and political subdivision organized and existing under the Constitution and the laws of the State of Minnesota and exercises economic development and redevelopment powers on behalf of the City of Duluth, Minnesota.

By Resolution No. 89-0323, adopted on April 24, 1989, the City Council established the Authority pursuant to Minnesota Statutes, Sections 469.090 through 469.108. The Act, as hereinafter defined, authorizes the Authority to issue revenue bonds to finance, among other activities, the cost of projects suitable or used in connection with hospital, healthcare or nursing home facilities and to refund bonds previously issued under the Act.

The Authority is governed by a seven person Board of Commissioners. The Commissioners are appointed by the Mayor of the City of Duluth subject to confirmation by the City of Duluth City Council. The current composition of the Board of Commissioners is as follows:

Matt Cartier, President	Derek Medved
Tim McShane, Vice President	ChaQuana McEntyre
Zach Filipovich, Secretary	Ellie Just
Roz Randorf, Treasurer	

The stated purpose of the Authority as articulated by the City Council is to preserve and create jobs, enhance the tax base, implement certain housing initiatives, promote the general welfare of the people of the City of Duluth and assume primary responsibility for development activities within the City of Duluth, including operation and management of tax increment financing districts.

Pursuant to the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152 through 469.165 (the "Act"), the Authority is authorized to issue the Series 2021A Bonds and to lend the proceeds thereof to the Corporation and the Obligors for the purposes described herein. As required by the Act, the Series 2021A Bonds shall not be payable from or charged upon the funds of the Authority or the City of Duluth other than the proceeds of the Series 2021A Bonds and the payments to be made under the Loan Agreement and the Series 2021A Master Note and pledged to the payment of the Series 2021A Bonds, nor shall the Authority or the City of Duluth be subject to any liability thereon. No Holder of any Series 2021A Bonds shall have the right to compel any exercise of the taxing power of the City of Duluth to pay the Series 2021A Bonds or the interest thereon nor to enforce payment against any property of the Authority or the City of Duluth other than the proceeds of the Series 2021A Bonds and the payments to be made under the Loan Agreement and the Series 2021A Master Note which are pledged to the payment of the Series 2021A Bonds. The Authority has no taxing power.

## LITIGATION

### THE AUTHORITY

There is not now pending, after service of process, or, to the knowledge of the Authority, threatened, any litigation against the Authority related to the Series 2021A Bonds that questions or affects the (i) validity of the Series 2021A Bonds or the proceedings or authority under which they will be issued or (ii) right of the Authority to enter into the Bond Indenture or the Loan Agreement or to secure the Series 2021A Bonds in the manner provided in the Bond Indenture and the relevant statutes under which the Series 2021A Bonds will be issued. Neither the creation, organization or existence of the Authority nor the title of any of the present members or other officers of the Authority to their respective offices is being contested.



## RESOLUTION 21D-20

### RESOLUTION ADOPTING A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 17, ESTABLISHING TAX INCREMENT FINANCING DISTRICT NO. 34: REDEVELOPMENT DISTRICT THEREIN AND ADOPTING A TAX INCREMENT FINANCING PLAN THEREFOR

WHEREAS, it has been proposed by the Board of Commissioners (the "Board") of the Duluth Economic Development Authority ("DEDA") and the City of Duluth (the "City") that DEDA adopt a Modification to the Redevelopment Project / Municipal Development District adopted pursuant to Resolution 89D-03 (the "Development Program Modification") for the Redevelopment District (the "Project Area") and establish Tax Increment Financing District No. 34 (the "TIF District 34") and adopt a Tax Increment Financing Plan (the "TIF Plan") therefor (the Development Program Modification and the TIF Plan are referred to collectively herein as the "Program and Plan"), all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.090 to 469.1082, and Sections 469.174 to 469.1794, inclusive, as amended (the "Act"), all as reflected in the Program and Plan and presented for the Board's consideration; and

WHEREAS, DEDA has investigated the facts relating to the Program and Plan and has caused the Program and Plan to be prepared; and

WHEREAS, DEDA has performed all actions required by law to be performed prior to the adoption of the Program and Plan.

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

1. DEDA hereby finds that the establishment of TIF District 34 is in the public interest and is a "Redevelopment District" under M.S., Section 469.174, Subd. 10 and M.S., Section 469.1794, and finds that the adoption of the proposed Program and Plan conform in all respects to the requirements of the Act and will help fulfill a need to redevelop an area of the State of Minnesota, and constructing additional affordable and high-quality housing.
2. DEDA further finds that the Program and Plan will afford maximum opportunity, consistent with the sound needs for the City as a whole, for the development of the Project Area by private enterprise in that the intent is to provide only that public assistance necessary to make the private developments financially feasible.
3. The boundaries of the Project Area are not being expanded.
4. The reasons and facts supporting the findings in this resolution as set forth in the Program and Plan are hereby affirmed.

5. Conditioned upon the approval thereof by the City Council following its public hearing thereon, the Program and Plan, as presented to DEDA on this date, are hereby approved, established and adopted and shall be placed on file in the office of the Executive Director of DEDA.
6. Upon approval of the Program and Plan by the City Council, the staff, DEDA's advisors and legal counsel are authorized and directed to proceed with the implementation of the Program and Plan and for this purpose to negotiate, draft, prepare and present to this Board for its consideration all further plans, resolutions, documents and contracts necessary for this purpose. Approval of the Program and Plan does not constitute approval of any project or a Development Agreement with any developer.
7. Upon approval of the Program and Plan by the City Council, the Executive Director of DEDA is authorized and directed to forward a copy of the Program and Plan to the Minnesota Department of Revenue and the Office of the State Auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.
8. The Executive Director of DEDA is authorized and directed to forward a copy of the Program and Plan to the St. Louis County Auditor and request that the Auditor certify the original tax capacity of TIF District 34 as described in the Program and Plan, all in accordance with Minnesota Statutes 469.177.

Approved by the Duluth Economic Development Authority on this 26<sup>th</sup> day of May 2021.

ATTEST:

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Executive Director

STATEMENT OF PURPOSE: The purpose of this Resolution is to adopt a modification to the Development Program for the Development District, establish TIF District No. 34 and adopt a Tax Increment Financing Plan for TIF District No. 34 related to the Zenith Historic Old Central High School multi-family residential facility located between Lake Avenue and First Avenue East on Second Street in Duluth.

# Duluth Economic Development Authority

## April 2021 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 4/01/21 - 4/30/21 (as of 05/13/2021)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
<b><u>FUND 860 - OPERATING FUND</u></b>				<b>Beginning Balance</b>	<b>\$ 2,913,620.34</b>
04/01/21	2021-00000028	GL	Cost Allocation - DEDA	(33,333.33)	Cost Allocation - DEDA
04/01/21	2021-00002180	GL	Clear Due To/From Prior to Posting Pay 7	66.32	Clear Due To/From Prior to Posting Pay 7
04/02/21	2021-00002204	RA	Pay Group O'Reilly LLC	450.20	Building Rent
04/07/21	2021-00002349	RA	Housing & Redevelopment Authority of Duluth - HRA	4,336.85	Invoice #2021-00000063
04/14/21	2021-00002483	RA	Passport Labs	471.13	March Parking Revenue
04/15/21	2021-00002514	RA	Interstate Parking	(4,249.84)	Parking Revenue March 2021
04/21/21	2021-00002648	GL	Reimburse City Contingent Account - Checks #37912 - 38732	(95.30)	
04/26/21	2021-00002655	AP	Duluth Area Chamber of Commerce	(210.00)	2021 Lets Do Lunch - 6 Events
04/26/21	2021-00002655	AP	Duluth Area Chamber of Commerce	(35.00)	Lets Do Lunch 3/9/21
04/26/21	2021-00002655	AP	Duluth Airport Authority	(675.00)	Plowing 3/12/21
04/26/21	2021-00002655	AP	Kraus Anderson Construction	(37,644.13)	Pastoret Maintenance & Repairs
04/26/21	2021-00002655	AP	Northspan Group Inc	(45,000.00)	FY 2020-21 Workforce Marketing Contract
04/30/21	2021-00002851	GL	Investment Earnings for April	2,030.00	Investment Earnings for April
<b><u>FUND 860 - OPERATING FUND</u></b>				<b>Ending Balance: 4-30-2021</b>	<b>2,799,732.24 TB</b>
<b><u>FUND 861 - DEBT SERVICE</u></b>				<b>Beginning Balance</b>	<b>918,510.77</b>
04/01/21	2021-00002180	GL	Clear Due To/From Prior to Posting Pay 7	(917,849.87)	Transfer YE Audit balance to Fund 865
04/30/21	2021-00002851	GL	Investment Earnings for April	388.00	Investment Earnings for April
<b><u>FUND 861 - DEBT SERVICE</u></b>				<b>Ending Balance: 4-30-2021</b>	<b>1,048.90 TB</b>
<b><u>FUND 865 - CAPITAL PROJECTS</u></b>				<b>Beginning Balance</b>	<b>3,164,027.26</b>
04/01/21	2021-00002180	GL	Clear Due To/From Prior to Posting Pay 7	917,783.55	Transfer YE Audit balance from Fund 861
04/30/21	2021-00002851	GL	Investment Earnings for April	2,482.00	Investment Earnings for April
<b><u>FUND 865 - CAPITAL PROJECTS</u></b>				<b>Ending Balance: 4-30-2021</b>	<b>4,084,292.81 TB</b>
<b><u>FUND 866 - MRO FACILITY</u></b>				<b>Beginning Balance</b>	<b>798,362.03</b>
04/23/21	2021-00002701	RA	Lake Superior Helicopter	1,000.00	Invoice #2021-00000066
04/26/21	2021-00002655	AP	Duluth Public Utilities - Comfort Systems	(822.15)	335 W Superior St 2/27/21-3/29/21
04/26/21	2021-00002655	AP	Minnesota Power	(11,128.35)	5447119029 1/31/21-2/28/21
04/26/21	2021-00002655	AP	CenturyLink - Phoenix	(199.68)	Data Services April
04/26/21	2021-00002655	AP	Duluth Public Utilities - Comfort Systems	(501.43)	4600 Stebner Rd Water Sewer 1/5/21-2/1/21
04/26/21	2021-00002655	AP	Duluth Public Utilities - Comfort Systems	(491.75)	4600 Stebner Rd Water Sewer 2/2/21-3/1/21
04/26/21	2021-00002655	AP	Duluth Public Utilities - Comfort Systems	(511.16)	4600 Stebner Rd Water Sewer 3/2/21-4/1/21
04/26/21	2021-00002655	AP	Duluth Public Utilities - Comfort Systems	(9,648.15)	4600 Stebner Rd Gas 1/5/21-2/1/21
04/26/21	2021-00002655	AP	Duluth Public Utilities - Comfort Systems	(13,780.71)	4600 Stebner Rd Gas 2/2/21-3/1/21
04/26/21	2021-00002655	AP	Duluth Public Utilities - Comfort Systems	(3,484.09)	4600 Stebner Rd Gas 3/2/21-4/1/21
04/30/21	2021-00002851	GL	Investment Earnings for April	557.00	Investment Earnings for April
<b><u>FUND 866 - MRO FACILITY</u></b>				<b>Ending Balance: 4-30-2021</b>	<b>759,351.56 TB</b>
<b><u>FUND 867 - STOREFRONT LOANS</u></b>				<b>Beginning Balance</b>	<b>255,585.93</b>
04/20/21	2021-00002595	RA	Alerus Financial	1,037.10	Old City Hall loan payment
04/30/21	2021-00002851	GL	Investment Earnings for April	180.00	Investment Earnings for April
<b><u>FUND 867 - STOREFRONT LOANS</u></b>				<b>Ending Balance: 4-30-2021</b>	<b>256,803.03 TB</b>

## RESOLUTION NO. 21D-17

### RESOLUTION APPROVING THE ISSUANCE AND SALE OF REVENUE BONDS (BENEDICTINE HEALTH SYSTEM), SERIES 2021

BE IT RESOLVED, by the Board of Commissioners of the Duluth Economic Development Authority, as follows:

- Section 1. Definitions. The terms used in this resolution (1) have the meanings assigned below or (2) the meanings assigned to them in the Bond Indentures or the Loan Agreements, unless the context, use or the rules of grammar indicate another or differing meaning or intent:
- a. 2021 Projects: constructing, improving, renovating, furnishing and equipping health care and senior housing facilities in the approximate principal amounts and at the locations described on Attachment B.
  - b. Act: the Housing Act, the Joint Powers Act and the Municipal Industrial Development Act.
  - c. Authorized Officers: the President and Secretary of DEDA, or the deputy or acting designee of either of them.
  - d. Benedictine: Benedictine Health System, d/b/a Benedictine.
  - e. Board: the Board of Commissioners of DEDA, DEDA's governing body.
  - f. Bond Counsel: the law firm of Fryberger, Buchanan, Smith & Frederick, P.A.
  - g. Bond Indentures: the Series A Bond Indenture, the Series B Bond Indenture and the Series C Bond Indenture.
  - h. Bond Purchase Agreement: the Bond Purchase Agreement relating to the Series A Bonds to be entered into among the Underwriter, DEDA and the Obligors.
  - i. Bond Trustee: U.S. Bank National Association, a national banking association with an office located in St. Paul, Minnesota, its successors and assigns.
  - j. Bonds: the Series A Bonds, the Series B Bonds and the Series C Bonds.
  - k. Bremer: Bremer Bank, N.A., the purchaser of the Series B Bond.
  - l. City: the City of Duluth, Minnesota.
  - m. Code: the Internal Revenue Code of 1986.

- n. Continuing Disclosure Agreement: the Continuing Disclosure Agreement to be executed by the Obligated Group Agent on behalf of the Obligated Group.
- o. Cooperation Agreements: the Cooperation Agreements between DEDA and each of the Housing Bonds Issuers.
- p. DEDA: the Duluth Economic Development Authority.
- q. DEDA Documents: the DEED Application, the Bond Purchase Agreement, the Cooperation Agreements, the Loan Agreements and the Bond Indentures, including any separations, divisions or combinations thereof.
- r. DEDA Refunded Bonds: the outstanding principal amount of DEDA's Health Care Facilities Revenue Note, Series 2013 (Benedictine Health Center Project) dated October 22, 2013, and Health Care Facilities Revenue Note, Series 2014 (Benedictine Health Center Project) dated September 17, 2014.
- s. DEED: the Minnesota Department of Employment and Economic Development.
- t. DEED Application: the application submitted to DEED on behalf of DEDA, requesting approval of the proposal for the 2021 Projects and the issuance of the portion of the Bonds financing the 2021 Projects.
- u. Documents: the DEDA Documents, the Obligors' Documents and any other documents required for the issuance of the Bonds.
- v. Executive Director: the Executive Director of DEDA.
- w. Final Official Statement: the Preliminary Official Statement completed to show the final terms of the Series A Bonds.
- x. Financing Purposes: making a loan to the Obligors for the purposes of financing the 2021 Projects, refunding the Refunded Bonds and refinancing the Refinanced Projects, financing issuance costs of the Bonds and funding debt service reserves for the Bonds.
- y. First Supplement: Supplemental Master Trust Indenture No. 1 to be entered into between the Obligated Group Agent on behalf of the Obligated Group and the Master Trustee authorizing the issuance of the Series A Note.
- z. Host Municipalities: the Cities of Ada, Byron, Crookston, Hastings, Minneapolis, New Brighton, Osseo, Owatonna, Red Wing, Rochester and Shakopee, Minnesota, and the Port Authority of Winona, Minnesota, on behalf of the City of Winona, Minnesota, which are the municipalities in which any portion of the Projects is located, i.e. a "host." The City is also

host to a portion of the Projects, but is not included in the definition of “Host Municipalities” since related approvals are given by DEDA and the Mayor of the City on behalf of the City.

- aa. Housing Act: Minnesota Statutes, Chapter 462C, as amended.
- bb. Housing Bonds Issuers: the Cities of Ada, Byron, Crookston, Osseo and Shakopee, Minnesota, the Housing and Redevelopment Authority of Duluth, Minnesota, and the Port Authority of Winona.
- cc. Housing Programs: those housing program or programs adopted by each of the Housing Bonds Issuers for the Housing Project described therein and attached to each of the Cooperation Agreements, as applicable.
- dd. Housing Projects: the constructing, improving, renovating, furnishing and equipping senior housing facilities, as described in the Housing Programs at the locations listed on Attachment A.
- ee. Joint Powers Act: Minnesota Statutes, Section 471.59, as amended.
- ff. Lenders: Bremer and NBC.
- gg. Loan Agreements: the Series A Loan Agreement, the Series B Loan Agreement and the Series C Loan Agreement.
- hh. MAEDB: the Minnesota Agricultural and Economic Development Board.
- ii. Master Indenture: the Master Trust Indenture to be entered into among the Obligated Group Agent, the Obligated Group and the Master Trustee, as amended and supplemented, including as supplemented by the Supplements.
- jj. Master Trustee: U.S. Bank National Association, as master trustee under the Master Indenture.
- kk. Municipal Industrial Development Act: Minnesota Statutes, Sections 469.152 through 469.165, as amended.
- ll. NBC: National Bank of Commerce, the purchaser of the Series C Bond.
- mm. Obligated Group: as of the date of issuance of the Bonds, a group composed of the following affiliates of Benedictine: Benedictine Care Centers, Benedictine Health Center, Benedictine Living Communities, Inc., Benedictine Living Community of Wahpeton, Benedictine Living Community of Wahpeton, LLC, Bridges Care Center, City of Lakes Care Center, Ellendale Evergreen Place, Inc., Koda Living Community, Madonna Meadows of Rochester, Madonna Summit of Byron, LLC, Madonna Towers of Rochester, Inc., Regina Senior Living, Saint Anne of Winona, St.

Gertrude's Health Center, Steeple Pointe Senior Living Community and Villa St. Vincent.

- nn. Obligated Group Agent: Benedictine, as obligated group agent under the Master Indenture.
- oo. Obligated Group Notes: the Series A Note, the Series B Note and the Series C Note.
- pp. Obligors: affiliates of Benedictine, including without limitation, Benedictine Care Centers; Bridges Care Center; Benedictine Health Center; City of Lakes Care Center; Koda Living Community; Madonna Meadows of Rochester; Madonna Summit of Byron, LLC; Madonna Towers of Rochester, Inc.; Regina Senior Living; Saint Anne of Winona; St. Gertrude's Health Center; Steeple Pointe Senior Living Community; and Villa St. Vincent, and their successors and assigns.
- qq. Obligors' Documents: the Master Indenture, the Supplements, the Obligated Group Notes, the Continuing Disclosure Agreement and the draft Preliminary Official Statement.
- rr. Preliminary Official Statement: the preliminary official statement for the Series A Bonds.
- ss. Projects: the Refinanced Projects (including the Housing Projects) and the 2021 Projects.
- tt. Qualified Services and Activities: health care facilities and services or revenue-producing facilities and services or senior housing facilities and services of organizations described in Section 501(c)(3) of the Code.
- uu. Refinanced Projects: the construction, improvement, renovation, furnishing and equipping of senior housing and health care facilities at the locations listed on Attachment B.
- vv. Refunded Bonds: the outstanding principal amount of the obligations designated as such on Attachment B.
- ww. Refunded Bonds Issuers: the Cities of Ada, Byron, Crookston, Lauderdale, Owatonna, Preston, St. Paul Park, Shakopee and Spring Valley, Minnesota; the Counties of Goodhue and Steele, Minnesota, the Housing and Redevelopment Authority of Duluth, Minnesota, and the Port Authority of Winona, Minnesota.
- xx. Registrar: the bond registrar, paying agent, authenticating agent and transfer agent for the Bonds.

- yy. Second Supplement: Supplemental Master Trust Indenture No. 2 to be entered into between the Obligated Group Agent on behalf of the Obligated Group and the Master Trustee authorizing the issuance of the Series B Note.
- zz. Series A Bond Indenture: the Bond Trust Indenture to be entered into between DEDA and the Bond Trustee authorizing the issuance of the Series A Bonds.
- aaa. Series A Bonds: that portion of DEDA's Revenue Bonds (Benedictine Health System), Series 2021, authorized under the Series A Bond Indenture.
- bbb. Series A Loan Agreement: the Loan Agreement to be entered into between DEDA and the Obligors relating to the Series A Bonds.
- ccc. Series A Note: the Master Indenture Note issued by the Obligated Group Agent pursuant to the Master Indenture and the First Supplement securing payment of the Series A Bonds.
- ddd. Series B Bond Indenture: the Bond Trust Indenture to be entered into between DEDA and the Bond Trustee authorizing the issuance of the Series B Bonds.
- eee. Series B Bonds: that portion of DEDA's Revenue Bonds (Benedictine Health System), Series 2021, authorized under the Series B Bond Indenture.
- fff. Series B Loan Agreement: the Loan Agreement to be entered into between DEDA and the Obligors relating to the Series B Bonds.
- ggg. Series B Note: the Master Indenture Note issued by the Obligated Group Agent pursuant to the Master Indenture and the Second Supplement securing payment of the Series B Bonds.
- hhh. Series C Bond Indenture: the Bond Trust Indenture to be entered into between DEDA and the Bond Trustee authorizing the issuance of the Series C Bonds.
- iii. Series C Bonds: that portion of DEDA's Revenue Bonds (Benedictine Health System), Series 2021, authorized under the Series C Bond Indenture.
- jjj. Series C Loan Agreement: the Loan Agreement to be entered into between DEDA and the Obligors relating to the Series C Bonds.



- kkk. Series C Note: the Master Indenture Note issued by the Obligated Group Agent pursuant to the Master Indenture and the Third Supplement securing payment of the Series C Bonds.
- lll. Special Tax Counsel: the law firm of Gilmore & Bell, P.C.
- mmm. State: the State of Minnesota.
- nnn. Supplements: the First Supplement, the Second Supplement and the Third Supplement.
- ooo. Tax Certificate: the certificate of the Obligors, in customary form prepared by Special Tax Counsel and approved as to form by Bond Counsel to demonstrate compliance with the conditions of the Code, which allow for interest on the Bonds to be excludable from the gross income of the owners of the Bonds for federal income tax purposes (including any other bonds making up a single issue for federal income tax purposes).
- ppp. Third Supplement: Supplemental Master Trust Indenture No. 3 to be entered into between the Obligated Group Agent on behalf of the Obligated Group and the Master Trustee authorizing the issuance of the Series C Note.
- qqq. Underwriter: Herbert J. Sims & Company, Inc.

Section 2. Summary of the Documents. Bond Counsel has provided the following information relating to the Documents:

- a. In the *Bond Indentures*, DEDA pledges and grants a security interest to the Bond Trustee in all of its right, title, and interest in the Loan Agreements (except for certain rights of DEDA to payment, indemnification and enforcement) and all moneys on deposit with the Bond Trustee under the Bond Indentures, for the benefit of the owners of the Bonds authorized to be issued under such Bond Indenture. The Bond Indentures set forth the terms and conditions, covenants, rights, obligations, duties and agreements of the owners of the Bonds, DEDA and the Bond Trustee.
- b. In the *Loan Agreements*, DEDA loans the proceeds of the Bonds referenced therein to the Obligors and the Obligors agree to repay the loans in the amounts and at the times required to pay the principal of, premium, if any, and interest on the related Bonds in full when due. In addition, the Loan Agreements contain provisions requiring the Obligors to pay the administrative and legal costs incurred by DEDA in connection with the Bonds (including post-issuance expenses, if any) and DEDA's administrative fee required by DEDA as a condition to issue the Bonds. In addition, the Obligors agree and are obligated to indemnify, provide reports, and permit enforcement by DEDA of its rights under the Loan Agreements.

- c. The Obligors' payment obligations under the Loan Agreements are proposed to be secured by the *Obligated Group Notes*, issued by the Obligated Group Agent under and according to the terms of the *Master Indenture* and payable and secured under the Master Indenture on the same basis as all other obligated group notes. One Obligated Group Note will be issued in a stated principal amount equal to the stated principal amount of each series of the Bonds and will bear interest at the rate or rates payable from time to time on such series of the Bonds. Each member of the Obligated Group is jointly and severally liable for payment of the Obligated Group Notes. The Obligated Group Notes are payable to the Bond Trustee. Initially, each member of the Obligated Group will also grant or join in a mortgage on its real property and equipment, as applicable, to secure payment of the Obligated Group Notes.
- d. The *Supplements* are required under the Master Indenture to authorize issuance of the Obligated Group Notes and to establish the terms of the Obligated Group Notes.
- e. As required by the Code, DEDA will execute an endorsement to the *Tax Certificate*, in customary form prepared by Special Tax Counsel and approved as to form by Bond Counsel to demonstrate compliance with the conditions required for interest on the Bonds to be excludable from the gross income of the owners of the Bonds for federal income tax purposes.
- f. The *Cooperation Agreements* are entered into pursuant to the Joint Powers Act. In the Cooperation Agreements, each of the Housing Bonds Issuers consents to the use by DEDA of its Housing Program and authorizes DEDA to rely on its Housing Program in connection with the issuance of the portion of the Bonds refinancing such Housing Program.
- g. In the *Continuing Disclosure Agreement*, the Obligated Group Agent agrees to make information on the financial condition and operations of the Obligated Group publicly available through the Municipal Securities Rulemaking Board.
- h. The *Preliminary Official Statement*, when final, must contain all the facts an investor would need to make the decision whether or not to purchase one of the Series A Bonds. Information which may be omitted includes the offering price(s) of the Series A Bonds, interest rate(s) on the Series A Bonds, Underwriter's compensation, aggregate principal amount of the Series A Bonds, principal amount per maturity of the Series A Bonds, closing date and the identity of the Underwriter(s). The Official Statement is substantially similar to the Preliminary Official Statement, but includes the omitted information.

Section 3. Recitals Regarding Proceedings. The Board makes the following recitals of fact:

- a. Bond Counsel has informed the Board that:
  - i. a notice of public hearing by DEDA on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance and refinance the Projects was published in the *Duluth News Tribune*, DEDA's official newspaper and a newspaper of general circulation; and
  - ii. a notice of public hearings by MAEDB and DEDA on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance and refinance the Projects was published in the official newspaper of and newspaper of general circulation in each of the Host Municipalities, including DEDA, provided that if the official newspaper was a newspaper of general circulation, the notice was published only once; and
  - iii. MAEDB, through its designated hearing officer, held a public hearing by telephone and other electronic means on the Projects and the financing and refinancing thereof on April 29, 2021, and all persons in attendance wishing to speak on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance and refinance the Projects, if any, were given an opportunity to do so.
- b. DEDA held a public hearing by telephone and other electronic means on the Projects and the financing and refinancing thereof on May 26, 2021, and all persons in attendance wishing to speak on the proposed issuance of the Bonds and the proposal of the Obligors to undertake and finance refinance the Projects, if any, were given an opportunity to do so.
- c. Drafts of the forms of the Documents have been made available to this Board and are on file in the office of the Executive Director.

Section 4. Recitals Relating to the Joint Exercise of Powers.

- a. Portions of the Projects are located within the jurisdiction of DEDA and each of the Host Municipalities.
- b. Based on information provided by Bond Counsel:
  - i. each of the Refunded Bonds Issuers (including the Housing Bonds Issuers) have consented to the refunding of its portion of the Refunded Bonds; and
  - ii. each of the Host Municipalities has consented to the issuance of the Bonds by DEDA to finance and refinance the portion of the Projects located within its jurisdiction; and

- iii. each of the Housing Bonds Issuers has agreed to enter into a Cooperation Agreement with DEDA to permit its Housing Program to be refinanced through the issuance of a portion of the Bonds by DEDA under the Housing Act.

Section 5. Recitals Regarding the Obligors and the Projects. The Board makes the following recitals of fact:

- a. Bond Counsel has advised DEDA that:
  - i. the purpose of the Municipal Industrial Development Act, as found and determined by the legislature, is to promote the welfare of the State by the active promotion, attraction, encouragement and development of economically sound industry and commerce through governmental action to prevent, so far as possible, the emergence of blighted and marginal lands and areas of chronic unemployment;
  - ii. the purpose of the Housing Act, as found and determined by the legislature, is to permit municipalities to finance multifamily housing developments or the rehabilitation of multifamily housing developments under a housing program.
  - iii. under the Act, DEDA is authorized and empowered to issue revenue obligations such as the Bonds for the Financing Purposes.
- b. Factors necessitating the active promotion and development of economically sound industry and commerce are the increasing concentration of population in the metropolitan areas and the rapidly rising increase in the amount and cost of governmental services required to meet the needs of the increased population and the need for development of land uses which will provide an adequate tax base to finance these increased costs and access to employment opportunities for the area population.
- c. DEDA has been advised by representatives of the Obligors that: (i) each Obligor is a Minnesota nonprofit corporation or Delaware Limited Liability Company; (ii) each Obligor and each other member of the Obligated Group is an organization described in Section 501(c)(3) of the Code or treated as such under applicable federal law; (iii) each Obligor and its affiliates benefitted by the Bonds are each engaged in Qualified Services and Activities; (iv) financing the capital cost of the 2021 Projects and refunding the Refunded Bonds on a tax exempt basis will benefit their operations; (v) on the basis of information submitted to the Obligors and their discussions with representatives of area financial institutions and potential buyers of tax-exempt bonds, the Bonds could be issued and sold upon favorable rates and terms to finance and refinance the Projects; (vi) the Projects would not be undertaken, or refinanced, as applicable, in their present form but for the availability of financing and refinancing under the Act; and (vii) no public

official of DEDA has either a direct or indirect financial interest in the Projects nor will any public official either directly or indirectly benefit financially from the Projects.

- d. The Obligors have agreed to pay any and all costs incurred by DEDA in connection with the issuance of the Bonds, whether or not the issuance is carried to completion.
- e. The Board has relied without independent investigation on written representations and opinions of the Obligors, its consultants, and Bond Counsel that each of the Projects qualifies either as a “project” as defined in Section 469.153, subdivision 2(d) of the Municipal Industrial Development Act or as a “program” as defined in Section 462C.02, subdivision 3 of the Housing Act.

Section 6. Findings. The Board finds, determines and declares as follows:

- a. The welfare of the State requires the provision of necessary health care and senior housing facilities so that adequate health care and senior housing services are available to residents of the State at reasonable cost.
- b. DEDA desires to facilitate the selective development of the State, retain and improve the tax base and help provide the range of services and employment opportunities required by the population. The Projects will assist DEDA in achieving those objectives; and enhance the image and reputation of the State.
- c. On the basis of information made available to DEDA by the Obligors, it appears, and DEDA finds, that: (i) the Projects constitute properties, used or useful in connection with a revenue producing enterprise providing health care or housing services; (ii) the Projects further the purposes stated in the Act; (iii) the Projects would not be undertaken but for the availability of financing and refinancing under the Act and the willingness of DEDA to furnish financing and refinancing; and (iv) the effect of the Projects, if undertaken, will be to: (A) encourage the development of economically sound industry and commerce, (B) assist in the prevention of the emergence of blighted and marginal land, (C) help prevent chronic unemployment, (D) provide the range of service and employment opportunities required by the population, (E) help prevent the movement of talented and educated persons out of the State where their services may not be as effectively used, (F) promote more intensive development and appropriate use of land within the State, eventually to increase the tax base of the State; and (G) provide adequate health care services to residents of the State at a reasonable cost.

Section 7. Approval of the Projects and the Bonds. The Projects are approved. Issuance of the Bonds for the Financing Purposes in an aggregate principal

amount of not to exceed \$150,000,000 (excluding original issue discount or premium with respect to any series of Bonds) is approved and authorized, subject to the following:

- a. The Series A Bonds shall be sold to the Underwriter, subject to satisfaction of the terms of the Bond Purchase Agreement.
- b. The Series B Bonds shall be sold to Bremer, subject to satisfaction by the Obligors of the terms and conditions imposed by Bremer as conditions precedent to the purchase of the Series B Bonds, the payment of the purchase price of the Series B Bonds by Bremer to be conclusive proof of such satisfaction.
- c. The Series C Bonds shall be sold to NBC, subject to satisfaction by the Obligors of the terms and conditions imposed by NBC as conditions precedent to the purchase of the Series C Bonds, the payment of the purchase price of the Series C Bonds by NBC to be conclusive proof of such satisfaction.
- d. The Bonds are to be issued pursuant to the Act and the Bond Indentures. The Obligors are authorized to approve the final interest rate or rates on the Bonds, subject to such adjustment as may be provided for in the Bond Indentures and the Bonds, and upon the terms and conditions specified in this resolution, the Bond Indentures and the Bonds. The Obligors are further authorized to approve the issue and delivery dates of the Bonds. The Bonds shall contain a recital that they are issued pursuant to the Industrial Development Act and the Housing Act as conclusive evidence of their validity and of the regularity of their issuance. Subject to clause e., below, the Bonds (i) are to be designated (which designation or designations shall supersede any designation or designations contained in Section 1), be dated, be in substantially the form, be signed, be in the denominations, have maturities and be subject to redemption as provided in the Bond Indentures and (ii) will bear interest at rates approved by the Obligors and be described and have such other details and provisions as specified in the Bond Indentures. The Bonds will bear the designations set forth in the Bond Indentures.
- e. The purchase price of the Bonds shall be at a price expressed as a percentage of their par value, less any portion of the stated principal amount of the Bonds which represents original issue discount (as defined in the Code). The maturity date of any of the Bonds cannot exceed 40 years from the date of closing and delivery of the Bonds.
- f. The Bonds must be in substantially the form attached to the Bond Indentures, with appropriate variations, omissions and insertions permitted or required by this resolution, and as may be necessary

and appropriate and approved by Bond Counsel and the Obligors. The Bonds are incorporated by reference.

- g. The Authorized Officers, with advice of Bond Counsel, are authorized and directed to execute, acknowledge and deliver the Bonds. The seal of DEDA may be omitted as allowed by law. The execution of the Bonds by the Authorized Officers is conclusive evidence of approval of the Bonds in accordance with the terms of this resolution.

Section 8. Approval and Execution of Documents and Certificates.

- a. The DEDA Documents, the endorsement to the Tax Certificate, and the Bonds are made a part of this resolution and are approved in substantially the forms on file with DEDA.
- b. The Authorized Officers (individually or with one or more other officers and members of DEDA) are authorized and directed:
  - i. to execute, acknowledge and deliver the DEDA Documents, the endorsement to the Tax Certificate, and the Bonds on behalf of DEDA with such changes, insertions and omissions therein as DEDA's attorney or Bond Counsel may hereafter approve; provided that the seal of DEDA may be omitted as allowed by law;
  - ii. to execute and deliver all other documents which may be required under the terms of the DEDA Documents or the Bonds or by Bond Counsel;
  - iii. to take any other action required or deemed appropriate on the advice of Bond Counsel for the performance of DEDA's duties necessary to carry out the purposes of the Bonds and the DEDA Documents;
  - iv. furnish certified copies of this resolution, all proceedings and records of DEDA relating to the Bonds, and any other affidavits and certificates required, in the opinion of Bond Counsel, to show the facts relating to DEDA respecting the Bonds, as the facts appear from the books and records in DEDA's custody and control or as otherwise known to them; and
  - v. upon the advice of Bond Counsel, to take such further action, including without limitation holding any additional hearings and coordinating additional approvals, and to execute such additional instruments, as may be required or deemed appropriate at any time in the future in connection with the Bonds and the Projects, including further actions in connection with any refinancing or reissuance in whole or in part thereof, and in connection with any federal tax law

remedial actions related to sales, leases or other dispositions or uses of all or any part of the Projects and related changes to uses and allocations of proceeds of tax-exempt obligations.

- c. The execution by the Authorized Officers of the DEDA Documents is conclusive evidence of their approval in accordance with the terms of this resolution.
- d. The Obligors' Documents are accepted in substantially the forms on file with DEDA.

Section 9. Absent or Disabled Officers. If any of the Authorized Officers or any other officer, employee or agent of DEDA authorized to execute certificates, instruments, or other written documents on behalf of DEDA:

- a. ceases to be an officer, employee or agent of DEDA after he or she has executed any certificate, instrument or other written document, the validity or enforceability of the certificate, instrument or other written document signed by them is not affected; or
- b. is unavailable to execute certificates, instruments or other written documents, the certificates, instruments or other written documents may be executed by a deputy or assistant to the unavailable officer, or any other officer of DEDA who is, in the opinion of Bond Counsel, authorized to sign the certificates, instruments or other written documents, with full force and effect.

Section 10. Future Amendments.

- a. After the adoption of this resolution, but prior to the issuance and delivery of the Bonds, the original aggregate principal amount of the Bonds, the maturity date of the Bonds, the principal amount of the Bonds due on each payment date, the date of the documents referenced in this resolution and the Bonds, and the terms of redemption of the Bonds may be established or modified by the Obligors with the approval of the Authorized Officers; provided that the aggregate principal amount of the Bonds may not be increased from the amounts set forth in this resolution.
- b. The authority to approve, execute and deliver, on behalf of DEDA, future amendments to the Loan Agreements are delegated to the Authorized Officers, subject to the conditions established in the applicable Bond Indenture and Loan Agreement; provided that the Board must approve any changes which, in the opinion of Bond Counsel affect the Unassigned Issuer Rights, as defined in the Bond Indentures.
- c. The authorization given above is an authorization for the execution and delivery of any certificates and related items required to demonstrate compliance with the agreements being amended and the terms of this



resolution. The execution of any instrument by one or more of the Authorized Officers is conclusive evidence of the approval in accordance with the terms of this resolution.

Section 11. Registered Form. The Bonds must be issued only in fully registered form, numbered and in such denominations as provided for each series of the Bonds in the Bond Indentures.

Section 12. Bond Trustee; Bond Registrar; Paying Agent. DEDA appoints the Bond Trustee as trustee, registrar and paying agent for the Bonds.

Section 13. Limitations.

- a. *Limitation on Payment and Nature of Security*. The revenues and proceeds derived from the DEDA Documents are specifically pledged to the payment of the principal of and interest on the Bonds in the manner and to the extent specified in this resolution, the Bonds and the Documents; and nothing in this resolution, the Bonds and the Documents assigns, pledges or otherwise encumbers any other funds or assets of DEDA. The Bonds do not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of DEDA, except the portion of the Projects mortgaged or otherwise encumbered under the provisions and for the purposes of the Act. Notwithstanding anything contained in the resolution, the Bonds or the Documents or any other document referred to in the resolution, the Bonds or the Documents to the contrary, under the provisions of the Act, the Bonds may not be payable from nor charged upon any funds other than the revenue pledged to its payment under the DEDA Documents. No holder of the Bonds will ever have the right to compel any exercise of the taxing power of DEDA to pay the Bonds or the interest thereon, or to enforce payment of the Bonds against any property of DEDA except the portion of the Projects mortgaged or otherwise encumbered under the provisions and for the purpose of the Act. The Bonds are not a debt of DEDA within the meaning of any constitutional or statutory limitation. However, nothing impairs the rights of the holder of the Bonds to enforce covenants made for the security of the Bonds.
- b. *Limitation of Liability*. DEDA is not subject to any liability on the Bonds. No agreement, covenant or obligation contained in this resolution or in the Documents is an agreement, covenant or obligation of any member of the Board, or of any officer, employee or agent of DEDA in that person's individual capacity. Neither the members of the Board, nor any officer executing the Bonds or the Documents, is liable personally on the Bonds or subject to any personal liability or accountability by reason of the issuance of the Bonds or execution of the Documents.
- c. *Limitation on Rights Conferred*. Nothing in this resolution or in the Documents will or is intended to be construed to confer upon any person

(other than as provided in the Bonds, the DEDA Documents, and the other agreements, instruments and documents by approved in this resolution) any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provision of this resolution.

Section 14. Offering and Disclosure Materials. DEDA has not participated in the preparation of the Final Official Statement, and has made no independent investigation with respect to the information contained therein, including the appendices thereto, other than the information therein relating solely to DEDA under the captions “THE AUTHORITY” and “LITIGATION – THE AUTHORITY” (solely as it pertains to DEDA), a draft of which is attached hereto as Attachment C and such information is approved in substantially the form attached, and DEDA assumes no responsibility for the sufficiency, accuracy or completeness of such information. Subject to the foregoing, DEDA consents to the distribution and the use by the Underwriter in connection with the sale of the Series A Bonds of the Final Official Statement in the form of the draft Preliminary Official Statement (with such changes and additions thereto as are approved by the Obligated Group Agent) now on file with DEDA.

Section 15. DEED Approval; Conditions Precedent.

- a. The Authorized Officers are authorized and directed to work with Bond Counsel to facilitate submission of the DEED Application to DEED, and other officers, employees and agents of DEDA are authorized to provide DEED with any information it requires. Bond Counsel is authorized and directed to submit the DEED Application to DEED requesting approval.
- b. Notwithstanding anything in this resolution to the contrary, delivery of the Bonds is subject to and contingent upon the following:
  - i. the 2021 Projects and the issuance of a portion of the Bonds therefor are approved by DEED;
  - ii. the Projects and the issuance of the Bonds are approved by the Mayor of the City, in a separate writing;
  - iii. each of the Host Municipalities has consented to the issuance by DEDA of the Bonds financing or refinancing the portion of the Projects located in its jurisdiction;
  - iv. MAEDB has provided its approval relating to the 2021 Projects and the issuance of the Bonds by DEDA; and
  - v. the Obligors have agreed in writing to pay DEDA its administrative fee in the amount equal to 0.25% of the final stated principal amount of the Bonds.

Section 16. Refunding. DEDA consents to the refunding of the DEDA Refunded Bonds, waives any notice of redemption required to be provided to DEDA, agrees that all documents for the refunding of the DEDA Refunded Bonds, including any notices and termination documents, may be given and executed without further consent, action or execution by DEDA and authorizes Benedictine and its officers and agents to take all actions and execute all documents for the refunding and redemption of the DEDA Refunded Bonds, including any required notices and termination documents.

Section 17. Severability. If any provision of this resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this resolution contained shall not affect the remaining portions of this resolution or any part thereof.

Section 18. Effective Date. This resolution shall take effect immediately.

Section 19. Attachments. The following are attached to this resolution:

Attachment A – Housing Projects

Attachment B – Refunded Bonds and Refinanced Projects and 2021 Projects

Attachment C – Offering and Disclosure

Approved by the Duluth Economic Development Authority this 26<sup>th</sup> day of May, 2021.

ATTEST:

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Executive Director

STATEMENT OF PURPOSE: This resolution authorizes the issuance of tax-exempt bonds by DEDA (the “Bonds”) (i) to finance improvements to health care facilities owned and operated by Benedictine Health System, d/b/a Benedictine or one or more of its affiliates located in Duluth and the Cities of Ada, Byron, Crookston, Hastings, Lauderdale, Minneapolis, New Brighton, Osseo, Owatonna, Preston, Red Wing, Rochester, St. Paul Park, Shakopee, Spring Valley and Winona, Minnesota, and (ii) to refinance outstanding tax-exempt indebtedness of the foregoing.

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**ATTACHMENT A**  
**HOUSING PROJECTS**

Benedictine Living Community – Ada located at 201 Ninth Street West, Ada, Minnesota;

Benedictine Living Community Winona located at 1347 West Broadway, Winona, Minnesota;

Benedictine Living Community – St. Gertrude's located at 1850 Sarazin Street, Shakopee, Minnesota;

Benedictine Living Community – Duluth located at 925 Kenwood Avenue, Duluth, Minnesota;

Benedictine Living Community – Osseo located at 625 Central Avenue, Osseo, Minnesota;

Benedictine Living Community – Crookston located at 516 Walsh Street, Crookston, Minnesota; and

Benedictine Living Community – Byron located at 551 Byron Main Court NE, Byron, Minnesota.

## ATTACHMENT B

### REFUNDED BONDS AND REFINANCED PROJECTS AND 2021 PROJECTS

#### Refunded Bonds and Refinanced Projects

Proceeds of the Bonds are expected to be used to refinance the following tax-exempt debt obligations (collectively, the “*Refunded Bonds*”) in the approximate outstanding principal amounts shown below, issued for the benefit of Benedictine, the proceeds of which were used to finance, refinance and reimburse the costs of constructing, improving, renovating, furnishing and equipping senior housing and health care facilities, at the locations indicated below (the “*Refinanced Projects*”):

- (1) \$2,500,000 Port Authority of Winona, Minnesota Housing Revenue Refunding Note, Series 2004 (Saint Anne of Winona Project), for facilities of Benedictine Living Community Winona located at 1347 West Broadway, Winona, Minnesota (“BLC-Winona”);
- (2) \$1,800,000 Port Authority of Winona, Minnesota Housing Facility Revenue Note, Series 2010 (Saint Anne of Winona Project), for facilities at BLC-Winona;
- (3) \$2,300,000 City of Ada, Minnesota Multifamily Housing Development Revenue Note, Series 2012A (Bridges Care Center Project), for facilities at Benedictine Living Community – Ada located at 201 Ninth Street West, Ada, Minnesota;
- (4) \$11,600,000 City of Shakopee, Minnesota Health Care and Housing Facilities Revenue Refunding Notes (Benedictine Health System Obligated Group) Series 2013A and Series 2013B, for facilities of: (A) Benedictine Living Community – Osseo located at 625 Central Avenue, Osseo, Minnesota (“BLC-Osseo”); (B) Benedictine Living Community – St. Gertrude’s located at 1850 Sarazin Street, Shakopee, Minnesota (“BLC-St. Gertrude”) (C) Benedictine Living Community – Minneapolis located at 618 East 17<sup>th</sup> Street, Minneapolis, Minnesota (“BLC-Minneapolis”);
- (5) \$4,200,000 DEDA Health Care Facilities Revenue Note, Series 2013 (Benedictine Health Center Project), for facilities at Benedictine Living Community – Duluth located at 925 Kenwood Avenue, Duluth, Minnesota (“BLC-Duluth”);
- (6) \$3,450,000 DEDA Health Care Facilities Revenue Note, Series 2014 (Benedictine Health Center Project), for facilities at BLC-Duluth;
- (7) \$4,200,000 Housing and Redevelopment Authority of Duluth, Minnesota (“HRA-Duluth”) Health Care Facilities Revenue Note, Series 2013 (Benedictine Health Center Project), for facilities at BLC-Duluth;

- (8) \$3,450,000 HRA-Duluth Health Care Facilities Revenue Note, Series 2014 (Benedictine Health Center Project), for facilities at BLC-Duluth;
- (9) \$6,000,000 HRA-Duluth Health Care Facilities Revenue Refunding Note, Series 2017 (Benedictine Health Center Project), for facilities at BLC-Duluth;
- (10) \$3,850,000 City of St. Paul Park, Minnesota Healthcare Facilities Revenue Bonds (Regina Senior Living Project) Series 2013, for facilities at Benedictine Living Community – Regina located at 1175 Nininger Road, Hastings, Minnesota (“BLC-Regina”);
- (11) \$4,500,000 City of Crookston, Minnesota Health Care Revenue Refunding Note, Series 2013A (Villa St. Vincent Project), for facilities at Benedictine Living Community – Crookston located at 516 Walsh Street, Crookston, Minnesota (“BLC-Crookston”);
- (12) \$7,200,000 City of Byron, Minnesota Amended and Restated Senior Housing Facility Revenue Notes (Living Services Foundation/Byron Project) Series 2014A, for facilities at Benedictine Living Community – Byron located at 551 Byron Main Court NE, Byron, Minnesota (“BLC-Byron”);
- (13) \$1,600,000 City of Byron, Minnesota Amended and Restated Subordinate Senior Housing Facility Revenue Bonds (Living Services Foundation/Byron Project) Series 2014B, for facilities at BLC-Byron;
- (14) \$6,500,000 City of Preston, Minnesota Healthcare Facilities Revenue Note, Series 2015 (Madonna Living Community of Rochester), for facilities of: (A) Benedictine Madonna Meadows located at 3035 Salem Meadows Drive SW, Rochester, Minnesota (“Madonna Meadows”); and (B) Benedictine Madonna Towers located at 4001 19<sup>th</sup> Avenue NW, Rochester, Minnesota (“Madonna Towers”);
- (15) \$6,500,000 City of Spring Valley, Minnesota Healthcare Facilities Revenue Note, Series 2015 (Madonna Living Community of Rochester), for facilities of: (A) Madonna Meadows; and (B) Madonna Towers;
- (16) \$8,600,000 City of Lauderdale, Minnesota Health Care Facilities Revenue Refunding Note (Benedictine Health System Obligated Group) Series 2016A, for facilities of: (A) Benedictine Living Community – Red Wing located at 135 – 213 Pioneer Road, Red Wing, Minnesota (“BLC–Red Wing”); and (B) Benedictine Living Community – New Brighton located at 1101 Black Oak Drive, New Brighton, Minnesota (“BLC-New Brighton”);
- (17) \$9,000,000 Goodhue County, Minnesota Health Care Facilities Revenue Note (Benedictine Health System Obligated Group) Series 2016B, for facilities at BLC–Red Wing;

- (18) \$4,300,000 City of Owatonna, Minnesota Nursing Facility Revenue Refunding Note (Steele County Communities for a Lifetime Koda Living Community Project), Series 2017, for facilities of Benedictine Living Community – Owatonna located at 2255 30<sup>th</sup> Street NW, Owatonna, Minnesota (“BLC-Owatonna”); and
- (19) \$8,600,000 Steele County, Minnesota Nursing Facility Revenue Refunding Note Steele County Communities for a Lifetime Koda Living Community Project), Series 2017, for facilities at BLC–Owatonna.

### 2021 Projects

Approximately \$12,400,000 of the proceeds of the Bonds are expected to be used to finance, refinance and reimburse all or a portion of the costs for the constructing, improving, renovating, furnishing and equipping senior housing, other than independent living facilities, and related health care facilities in the approximate principal amounts at the locations indicated below (the “2021 Projects”): \$5,500,000 at BLC-New Brighton; \$300,000 at BLC-Red Wing; \$600,000 at BLC-Duluth; \$1,000,000 at BLC-Minneapolis; \$300,000 at BLC-Owatonna; \$200,000 at Madonna Meadows; \$600,000 at Madonna Towers; \$200,000 at BLC-Byron; \$1,000,000 at BLC-Regina; \$600,000 at BLC-Winona; \$800,000 at BLC-St. Gertrude; \$300,000 at BLC-Osseo; and \$1,000,000 at BLC-Crookston. Benedictine, at its discretion, may allocate proceeds of the Bonds to any of the above described projects to finance, refinance or reimburse all, a part, or none of the improvements at each location.

**ATTACHMENT C**  
**OFFERING AND DISCLOSURE**

**THE AUTHORITY**

The Authority is a public body, corporate and politic, and political subdivision organized and existing under the Constitution and the laws of the State of Minnesota and exercises economic development and redevelopment powers on behalf of the City of Duluth, Minnesota.

By Resolution No. 89-0323, adopted on April 24, 1989, the City Council established the Authority pursuant to Minnesota Statutes, Sections 469.090 through 469.108. The Act, as hereinafter defined, authorizes the Authority to issue revenue bonds to finance, among other activities, the cost of projects suitable or used in connection with hospital, healthcare or nursing home facilities and to refund bonds previously issued under the Act.

The Authority is governed by a seven person Board of Commissioners. The Commissioners are appointed by the Mayor of the City of Duluth subject to confirmation by the City of Duluth City Council. The current composition of the Board of Commissioners is as follows:

Matt Cartier, President	Derek Medved
Tim McShane, Vice President	ChaQuana McEntyre
Zach Filipovich, Secretary	Ellie Just
Roz Randorf, Treasurer	

The stated purpose of the Authority as articulated by the City Council is to preserve and create jobs, enhance the tax base, implement certain housing initiatives, promote the general welfare of the people of the City of Duluth and assume primary responsibility for development activities within the City of Duluth, including operation and management of tax increment financing districts.

Pursuant to the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152 through 469.165 (the "Act"), the Authority is authorized to issue the Series 2021A Bonds and to lend the proceeds thereof to the Corporation and the Obligors for the purposes described herein. As required by the Act, the Series 2021A Bonds shall not be payable from or charged upon the funds of the Authority or the City of Duluth other than the proceeds of the Series 2021A Bonds and the payments to be made under the Loan Agreement and the Series 2021A Master Note and pledged to the payment of the Series 2021A Bonds, nor shall the Authority or the City of Duluth be subject to any liability thereon. No Holder of any Series 2021A Bonds shall have the right to compel any exercise of the taxing power of the City of Duluth to pay the Series 2021A Bonds or the interest thereon nor to enforce payment against any property of the Authority or the City of Duluth other than the proceeds of the Series 2021A Bonds and the payments to be made under the Loan Agreement and the Series 2021A Master Note which are pledged to the payment of the Series 2021A Bonds. The Authority has no taxing power.



## LITIGATION

### THE AUTHORITY

There is not now pending, after service of process, or, to the knowledge of the Authority, threatened, any litigation against the Authority related to the Series 2021A Bonds that questions or affects the (i) validity of the Series 2021A Bonds or the proceedings or authority under which they will be issued or (ii) right of the Authority to enter into the Bond Indenture or the Loan Agreement or to secure the Series 2021A Bonds in the manner provided in the Bond Indenture and the relevant statutes under which the Series 2021A Bonds will be issued. Neither the creation, organization or existence of the Authority nor the title of any of the present members or other officers of the Authority to their respective offices is being contested.

## RESOLUTION 21D-18

### RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY IN THE LAKESIDE NEIGHBORHOOD FROM THE CITY OF DULUTH RELATED TO THE REBUILD DULUTH PROGRAM

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to acquire by quit claim deed real property in the Lakeside Neighborhood described below located in St. Louis County, Minnesota, from the City of Duluth related to the Rebuild Duluth Program for the sum of \$1.00:

Lots 1 and 2, Block 77, LONDON ADDITION TO DULUTH, and  
Lot 3 and the West ½ of Lot 4, Block 77, LONDON ADDITION TO DULUTH,  
St. Louis County, Minnesota.

Approved by the Duluth Economic Development Authority this 26<sup>TH</sup> day of May,  
2021.

Attest:

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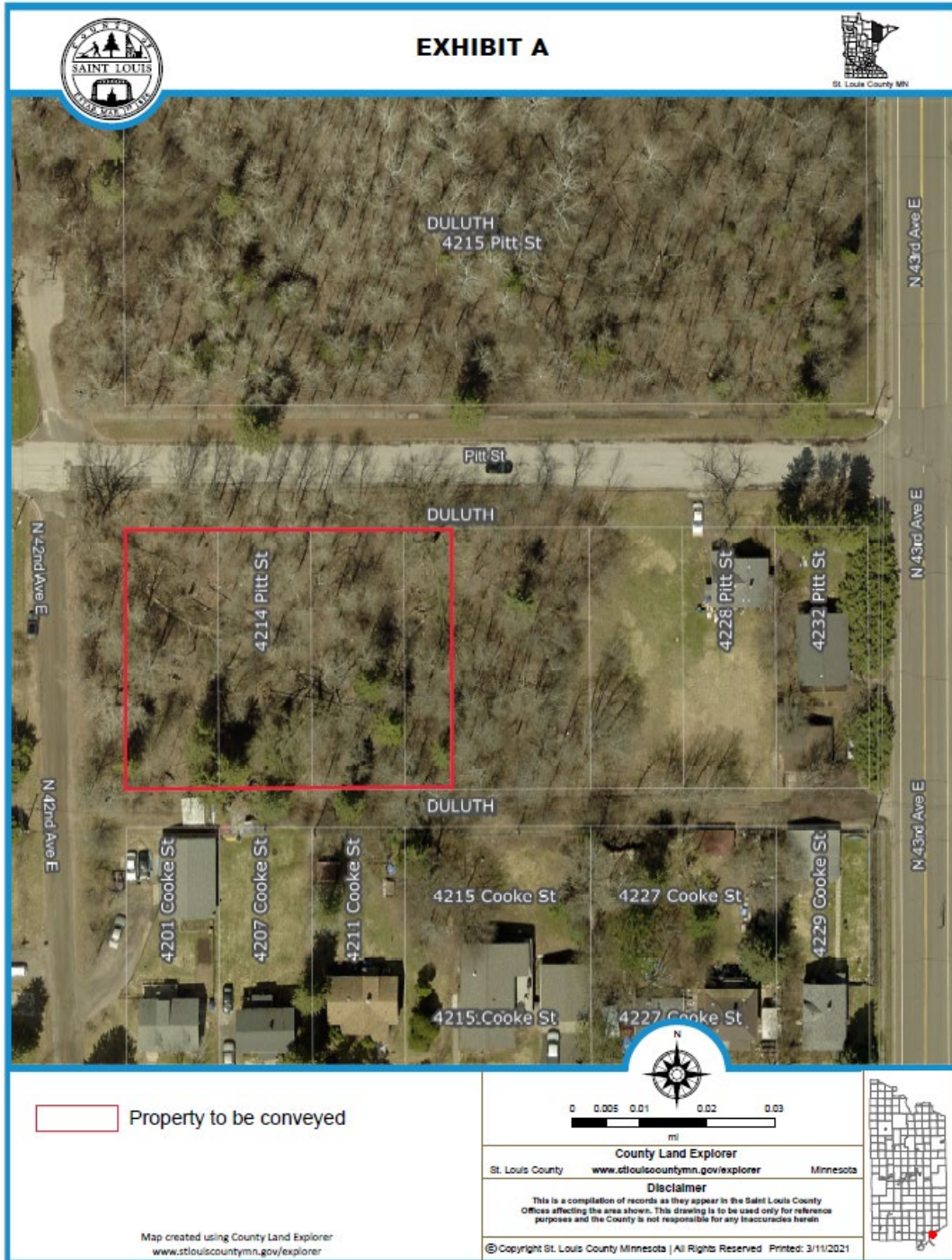
Executive Director

#### STATEMENT OF PURPOSE:

The purpose of this resolution is to authorize the acquisition of real property from the City of Duluth as part of the Rebuild Duluth Program. The property is located near the intersection of 42<sup>nd</sup> Avenue East and Pitt Street in the Lakeside neighborhood. The real property proposed to be acquired is more fully depicted below in the "Map of Development Site" included as Exhibit A.

The property will be included as a part of the Rebuild Duluth Program, which purpose is to convey publicly-owned, developable lots for construction of new homes. DEDA will be administering the conveyance of the publicly-owned lots to a subsequent owner/developer. According to the St. Louis County assessor, the property has a current estimated market value of \$53,400. The City is conveying the Property for a nominal sum due to the public benefit provided by the Rebuild Duluth Program.

# Map of Development Site



## RESOLUTION 21D-19

### RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY IN THE CENTRAL HILLSIDE NEIGHBORHOOD FROM THE CITY OF DULUTH

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to acquire by quit claim deed real property in the Central Hillside Neighborhood described below ("Acquisition Property") located in St. Louis County, Minnesota, in support of redevelopment activities on adjacent sites, for the sum of \$1.00:

Lots 9 and 10, Block 15, NORTON'S DIVISION OF DULUTH, according to the recorded plat thereof

AND

Lot 94, Block 122, DULUTH PROPER THIRD DIVISION, according to the recorded plat thereof.

Approved by the Duluth Economic Development Authority this 26<sup>TH</sup> day of May, 2021.

Attest:

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Executive Director

#### STATEMENT OF PURPOSE:

The purpose of this resolution is to authorize the acquisition of real property from the City of Duluth to support redevelopment of adjacent real property by private developers. The Acquisition Property is located at the intersection of Sixth Avenue East and Ninth Street in the Central Hillside neighborhood, and is currently vacant land. The Acquisition Property proposed to be acquired is more fully depicted below in the "Map of Development Site" included as Exhibit A.

The City acquired the Acquisition Property in 2016 from the State of Minnesota, Department of Transportation ("MnDOT") under a conditional use deed for highway purposes, but the City has not used a majority of the Acquisition Property for this purpose and does not intend to. A portion of Sixth Avenue East goes through the Acquisition Property, and the City previously dedicated a street and utility easement for Sixth Avenue East in Resolution No. 19-0646. The street and utility easement was recorded in the office of the St. Louis County Recorder on February 19, 2020 as

Document No. 1373817. Any further collaboration to finalize MnDOT approvals for conveyance of the Acquisition Property from the City to DEDA will be the responsibility of City staff.

In consideration of the proposed acquisition of the Acquisition Property as part of this resolution, DEDA acted in Resolution 21D-12 to convey property it owned near the intersection of Central Entrance and Arlington Avenue (the "Former DEDA Property") to the City. The Former DEDA Property was provided as part of a City purchase of property along 40<sup>th</sup> Avenue West, and the City has acted to convey the Acquisition Property to DEDA in City Ordinance 21-008-O.

According to the St. Louis County assessor, the property has a current estimated market value of \$40,800. The City is conveying the Property for the nominal sum of \$1.00 in consideration of the conveyance of the Former DEDA Property to the City. The anticipated public benefit associated with the acquisition of the Acquisition Property includes potential for DEDA to enter into a Development Agreement to support redevelopment of the former UDAC site, which is adjacent to the Acquisition Property, and to increase to the tax base, and to create jobs on the former UDAC site.

# Map of Development Site



## RESOLUTION 21D-20

### **RESOLUTION ADOPTING A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 17, ESTABLISHING TAX INCREMENT FINANCING DISTRICT NO. 34: REDEVELOPMENT DISTRICT THEREIN AND ADOPTING A TAX INCREMENT FINANCING PLAN THEREFOR**

WHEREAS, it has been proposed by the Board of Commissioners (the "Board") of the Duluth Economic Development Authority ("DEDA") and the City of Duluth (the "City") that DEDA adopt a Modification to the Redevelopment Project / Municipal Development District adopted pursuant to Resolution 89D-03 (the "Development Program Modification") for the Redevelopment District (the "Project Area") and establish Tax Increment Financing District No. 34 (the "TIF District 34") and adopt a Tax Increment Financing Plan (the "TIF Plan") therefor (the Development Program Modification and the TIF Plan are referred to collectively herein as the "Program and Plan"), all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.090 to 469.1082, and Sections 469.174 to 469.1794, inclusive, as amended (the "Act"), all as reflected in the Program and Plan and presented for the Board's consideration; and

WHEREAS, DEDA has investigated the facts relating to the Program and Plan and has caused the Program and Plan to be prepared; and

WHEREAS, DEDA has performed all actions required by law to be performed prior to the adoption of the Program and Plan.

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

1. DEDA hereby finds that the establishment of TIF District 34 is in the public interest and is a "Redevelopment District" under M.S., Section 469.174, Subd. 10 and M.S., Section 469.1794, and finds that the adoption of the proposed Program and Plan conform in all respects to the requirements of the Act and will help fulfill a need to redevelop an area of the State of Minnesota, and constructing additional affordable and high-quality housing.
2. DEDA further finds that the Program and Plan will afford maximum opportunity, consistent with the sound needs for the City as a whole, for the development of the Project Area by private enterprise in that the intent is to provide only that public assistance necessary to make the private developments financially feasible.
3. The boundaries of the Project Area are not being expanded.
4. The reasons and facts supporting the findings in this resolution as set forth in the Program and Plan are hereby affirmed.

5. Conditioned upon the approval thereof by the City Council following its public hearing thereon, the Program and Plan, as presented to DEDA on this date, are hereby approved, established and adopted and shall be placed on file in the office of the Executive Director of DEDA.
6. Upon approval of the Program and Plan by the City Council, the staff, DEDA's advisors and legal counsel are authorized and directed to proceed with the implementation of the Program and Plan and for this purpose to negotiate, draft, prepare and present to this Board for its consideration all further plans, resolutions, documents and contracts necessary for this purpose. Approval of the Program and Plan does not constitute approval of any project or a Development Agreement with any developer.
7. Upon approval of the Program and Plan by the City Council, the Executive Director of DEDA is authorized and directed to forward a copy of the Program and Plan to the Minnesota Department of Revenue and the Office of the State Auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.
8. The Executive Director of DEDA is authorized and directed to forward a copy of the Program and Plan to the St. Louis County Auditor and request that the Auditor certify the original tax capacity of TIF District 34 as described in the Program and Plan, all in accordance with Minnesota Statutes 469.177.

Approved by the Duluth Economic Development Authority on this 26<sup>th</sup> day of May 2021.

ATTEST:

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Executive Director

STATEMENT OF PURPOSE: The purpose of this Resolution is to adopt a modification to the Development Program for the Development District, establish TIF District No. 34 and adopt a Tax Increment Financing Plan for TIF District No. 34 related to the Zenith Historic Old Central High School multi-family residential facility located between Lake Avenue and First Avenue East on Second Street in Duluth.





MODIFICATION TO THE  
DEVELOPMENT PROGRAM  
Development District No. 17

- AND -

TAX INCREMENT FINANCING PLAN  
Establishment of Tax Increment Financing District No. 34:  
Historic High School Redevelopment  
(a redevelopment district)

Duluth Economic Development Authority  
City of Duluth, St. Louis County, Minnesota

Public Hearing: June 7, 2021

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# Modification to the Development Program for Development District No. 17

## Foreword

The following text represents a Modification to the Development Program for Development District No. 17. This modification represents a continuation of the goals and objectives set forth in the Development Program for Development District No. 17. Generally, the substantive changes include the establishment of Tax Increment Financing District No. 34: Historic High School Redevelopment.

For further information, a review of the Development Program for Development District No. 17, is recommended. It is available from the Senior Housing Developer at the City of Duluth. Other relevant information is contained in the Tax Increment Financing Plans for the Tax Increment Financing Districts located within Development District No. 17.

# Tax Increment Financing Plan for Tax Increment Financing District No. 34: Historic High School Redevelopment

## Foreword

The Duluth Economic Development Authority ("DEDA"), the City of Duluth (the "City"), staff and consultants have prepared the following information to expedite the Establishment of Tax Increment Financing District No. 34: Historic High School Redevelopment (the "District"), a redevelopment tax increment financing district, located in Development District No. 17.

## Statutory Authority

Within the City, there exist areas where public involvement is necessary to cause development or redevelopment to occur. To this end, DEDA and the City have certain statutory powers pursuant to *Minnesota Statutes ("M.S.")*, Sections 469.124 - 469.133, 469.090 - 469.1082, inclusive, as amended, and *M.S.*, Sections 469.174 to 469.1794, inclusive, as amended (the "Tax Increment Financing Act" or "TIF Act"), to assist in financing public costs related to this project.

This section contains the Tax Increment Financing Plan (the "TIF Plan") for the District. Other relevant information is contained in the Modification to the Development Program for Development District No. 17.

## Statement of Objectives

The District currently consists of three (3) parcels of land and adjacent roads and internal rights-of-way. The District is being created to facilitate an adaptive reuse of the historic high school site to create 125 units of new rental housing in the City. DEDA anticipates entering into an agreement with Saturday Properties as the developer of the property. The project is anticipated to begin in 2021. This TIF Plan is expected to achieve many of the objectives outlined in the Development Program for Development District No. 17.

The activities contemplated in the Modification to the Development Program and the TIF Plan do not preclude the undertaking of other qualified development or redevelopment activities. These activities are anticipated to occur over the life of Development District No. 17 and the District.

## Development Program Overview

Pursuant to the Development Program and authorizing state statutes, DEDA or the City is authorized to undertake the following activities in the District:

1. Property to be Acquired - Selected property located within the District may be acquired by DEDA or the City and is further described in this TIF Plan.
2. Relocation - Relocation services, to the extent required by law, are available pursuant to *M.S.*, Chapter 117 and other relevant state and federal laws.

3. Upon approval of a developer's plan relating to the project and completion of the necessary legal requirements, DEDA or the City may sell to a developer selected properties that it may acquire within the District or may lease land or facilities to a developer.
4. DEDA or the City may perform or provide for some or all necessary acquisition, construction, relocation, demolition, and required utilities and public street work within the District.

## Description of Property in the District and Property to be Acquired

The District encompasses all property and adjacent rights-of-way and abutting roadways identified by the parcels listed below.

Parcel number	Address	Owner
010-0950-00010	15 East 2nd Street	ISD 709
010-0970-00550	7 East 3rd Street	ISD 709
010-0980-00410	215 North 1st Ave. East	ISD 709

Please also see the map in Appendix A for further information on the location of the District.

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

## Classification of the District

DEDA and the City, in determining the need to create a tax increment financing district in accordance with *M.S., Sections 469.174 to 469.1794*, as amended, inclusive, find that the District, to be established, is a redevelopment district pursuant to *M.S., Section 469.174, Subd. 10(a)(1)*.

- The District is a redevelopment district consisting of three (3) parcels.
- An inventory shows that parcels consisting of more than 70 percent of the area in the District are occupied by buildings, streets, utilities, paved or gravel parking lots or other similar structures.
- An inspection of the buildings located within the District finds that more than 50 percent of the buildings are structurally substandard as defined in the TIF Act. (See Appendix D).

Pursuant to *M.S., Section 469.176, Subd. 7*, the District does not contain any parcel or part of a parcel that qualified under the provisions of *M.S., Sections 273.111, 273.112, or 273.114 or Chapter 473H* for taxes payable in any of the five calendar years before the filing of the request for certification of the District.

## Duration and First Year of Tax Increment of the District

Pursuant to *M.S., Section 469.175, Subd. 1, and Section 469.176, Subd. 1*, the duration and first year of tax increment of the District must be indicated within the TIF Plan. Pursuant to *M.S., Section 469.176, Subd. 1b.*, the duration of the District will be 25 years after receipt of the first increment by DEDA or the City (a total of 26 years of tax increment). DEDA or the City elects to receive the first tax increment in 2023, which is no later than four years following the year of approval of the District.

Thus, it is estimated that the District, including any modifications of the TIF Plan for subsequent phases or other changes, would terminate after 2048, or when the TIF Plan is satisfied. DEDA or the City reserves the right to decertify the District prior to the legally required date.

## Original Tax Capacity, Tax Rate and Estimated Captured Net Tax Capacity Value/Increment and Notification of Prior Planned Improvements

Pursuant to *M.S., Section 469.174, Subd. 7 and M.S., Section 469.177, Subd. 1*, the Original Net Tax Capacity (ONTC) as certified for the District will be based on the market values placed on the property by the assessor in 2020 for taxes payable 2021.

Pursuant to *M.S., Section 469.177, Subds. 1 and 2*, the County Auditor shall certify in each year (beginning in the payment year 2023) the amount by which the original value has increased or decreased as a result of:

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

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

The original local tax rate for the District will be the local tax rate for taxes payable 2021, assuming the request for certification is made before June 30, 2021. The ONTC and the Original Local Tax Rate for the District appear in the table below.

Pursuant to *M.S., Section 469.174 Subd. 4 and M.S., Section 469.177, Subd. 1, 2, and 4*, the estimated Captured Net Tax Capacity (CTC) of the District, within Development District No. 17, upon completion of the projects within the District, will annually approximate tax increment revenues as shown in the table below. DEDA and the City request 100 percent of the available increase in tax capacity for repayment of its obligations and current expenditures, beginning in the tax year payable 2023. The Project Tax Capacity (PTC) listed is an estimate of values when the projects within the District are completed.

<b>Project Tax Capacity</b>	
Project estimated Tax Capacity upon completion	499,844
Original estimated Net Tax Capacity	57,174
Fiscal Disparities	<u>0</u>
<b>Estimated Captured Tax Capacity</b>	<b>442,671</b>
Original Local Tax Rate	<u>141.9420%</u> Pay 2021
<b>Estimated Annual Tax Increment</b>	<b>\$628,335</b>
Percent Retained by the City	100%

Note: Tax capacity includes a 4.0% inflation factor for the duration of the District. The tax capacity included in this chart is the estimated tax capacity of the District in year 25. The tax capacity of the District in year one is estimated to be \$97,500.

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

The City is reviewing the area to be included in the District to determine if any building permits have been issued during the 18 months immediately preceding approval of the TIF Plan by the City.

## Sources of Revenue/Bonds to be Issued

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

<b>SOURCES</b>	
Tax Increment	\$ 9,521,043
Interest	<u>952,104</u>
<b>TOTAL</b>	<b>\$ 10,473,147</b>

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

DEDA or the City may issue bonds (as defined in the TIF Act) secured in whole or in part with tax increments from the District in a maximum principal amount of \$7,250,498. Such bonds may be in the form of pay-as-you-go notes, revenue bonds or notes, general obligation bonds, or interfund loans. This estimate of total bonded indebtedness is a cumulative statement of authority under this TIF Plan as of the date of approval.

## Uses of Funds

Currently under consideration for the District is a proposal to facilitate an adaptive reuse of the historic high school site to create 125 units of new rental housing. DEDA and the City have determined that it will be necessary to provide assistance to the project(s) for certain District costs, as described.

DEDA has studied the feasibility of the development or redevelopment of property in and around the District. To facilitate the establishment and development or redevelopment of the District, this TIF Plan authorizes the use of tax increment financing to pay for the cost of certain eligible expenses. The estimate of public costs and uses of funds associated with the District is outlined in the following table.

<b>USES</b>	
Land/Building Acquisition	\$ 3,000,000
Site Improvements/Preparation	2,000,000
Utilities	50,000
Other Qualifying Improvements	1,248,394
Administrative Costs (up to 10%)	952,104
<b>PROJECT COSTS TOTAL</b>	<b>\$ 7,250,498</b>
Interest	3,222,649
<b>PROJECT AND INTEREST COSTS TOTAL</b>	<b>\$ 10,473,147</b>

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

Estimated costs associated with the District are subject to change among categories without a modification to this TIF Plan. The cost of all activities to be considered for tax increment financing will not exceed, without formal modification, the budget above pursuant to the applicable statutory requirements. Pursuant to *M.S., Section 469.1763, Subd. 2*, no more than 25 percent of the tax increment paid by property within the District will be spent on activities related to development or redevelopment outside of the District but within the boundaries of Development District No. 17, (including administrative costs, which are considered to be spent outside of the District) subject to the limitations as described in this TIF Plan.



## Estimated Impact on Other Taxing Jurisdictions

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

Impact on Tax Base			
Entity	2020/Pay 2021 Total Net Tax Capacity	Estimated Captured Tax Capacity (CTC) upon completion	Percent of CTC to Entity Total
St. Louis County	205,797,844	442,671	<b>0.2151%</b>
City of Duluth	83,567,551	442,671	<b>0.5297%</b>
ISD 709 (Duluth)	93,009,780	442,671	<b>0.4759%</b>

Impact on Tax Rates				
Entity	Pay 2021 Extension Rate	Percent of Total	CTC	Potential Taxes
St. Louis County	66.2640%	46.68%	442,671	<b>\$ 293,331</b>
City of Duluth	41.6960%	29.38%	442,671	<b>184,576</b>
ISD 709 (Duluth)	28.0170%	19.74%	442,671	<b>124,023</b>
Other	5.9650%	4.20%	442,671	<b>26,405</b>
	<b>141.9420%</b>	<b>100.00%</b>		<b>\$ 628,335</b>

The estimates listed above display the captured tax capacity when all construction is completed. The tax rate used for calculations is the Pay 2021 rate. The total net capacity for the entities listed above are based on Pay 2021 figures. The District will be certified under the Pay 2021 rates.

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

- (1) Estimate of total tax increment. It is estimated that the total amount of tax increment that will be generated over the life of the District is \$9,521,043;
- (2) Probable impact of the District on city provided services and ability to issue debt. An impact of the District on police protection is expected. With any addition of new residents or businesses, police calls for service will be increased. The police department forecasts approximately 150-165 calls for service may be generated annually. In addition, the project may require future intervention by other entities of the police department relating to repeat calls for service and excessive police services. The City does not expect that the proposed development, in and of itself, will necessitate new capital investment in vehicles or facilities. In addition, the police

department determines it can manage the financial and non-financial impacts that may arise from the project under current operations and budgets.

The probable impact of the District on fire protection is not expected to be significant. With any new residential development there is a possibility of medical or assist calls from the fire department. With additional rental residential developments being added to the city, there may be a need for an additional rental inspector in the future. At that time a small vehicle would be needed but is not required at this time. The project will include building upgrades, including to the sprinkler system, which increases the safety of the building, the people using the building and the fire fighters responding to any structure fires. The City does not expect that the proposed development, in and of itself, will necessitate new capital investment in vehicles or facilities.

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

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

- (3) Estimated amount of tax increment attributable to school district levies. It is estimated that the amount of tax increments over the life of the District that would be attributable to school district levies, assuming the school district's share of the total local tax rate for all taxing jurisdictions remained the same, is \$1,879,296;
- (4) Estimated amount of tax increment attributable to county levies. It is estimated that the amount of tax increments over the life of the District that would be attributable to county levies, assuming the county's share of the total local tax rate for all taxing jurisdictions remained the same, is \$4,444,790;
- (5) Additional information requested by the county or school district. The City is not aware of any standard questions in a county or school district written policy regarding tax increment districts and impact on county or school district services. The county or school district must request additional information pursuant to *M.S. Section 469.175 Subd. 2(b)* within 15 days after receipt of the tax increment financing plan.

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

## Supporting Documentation

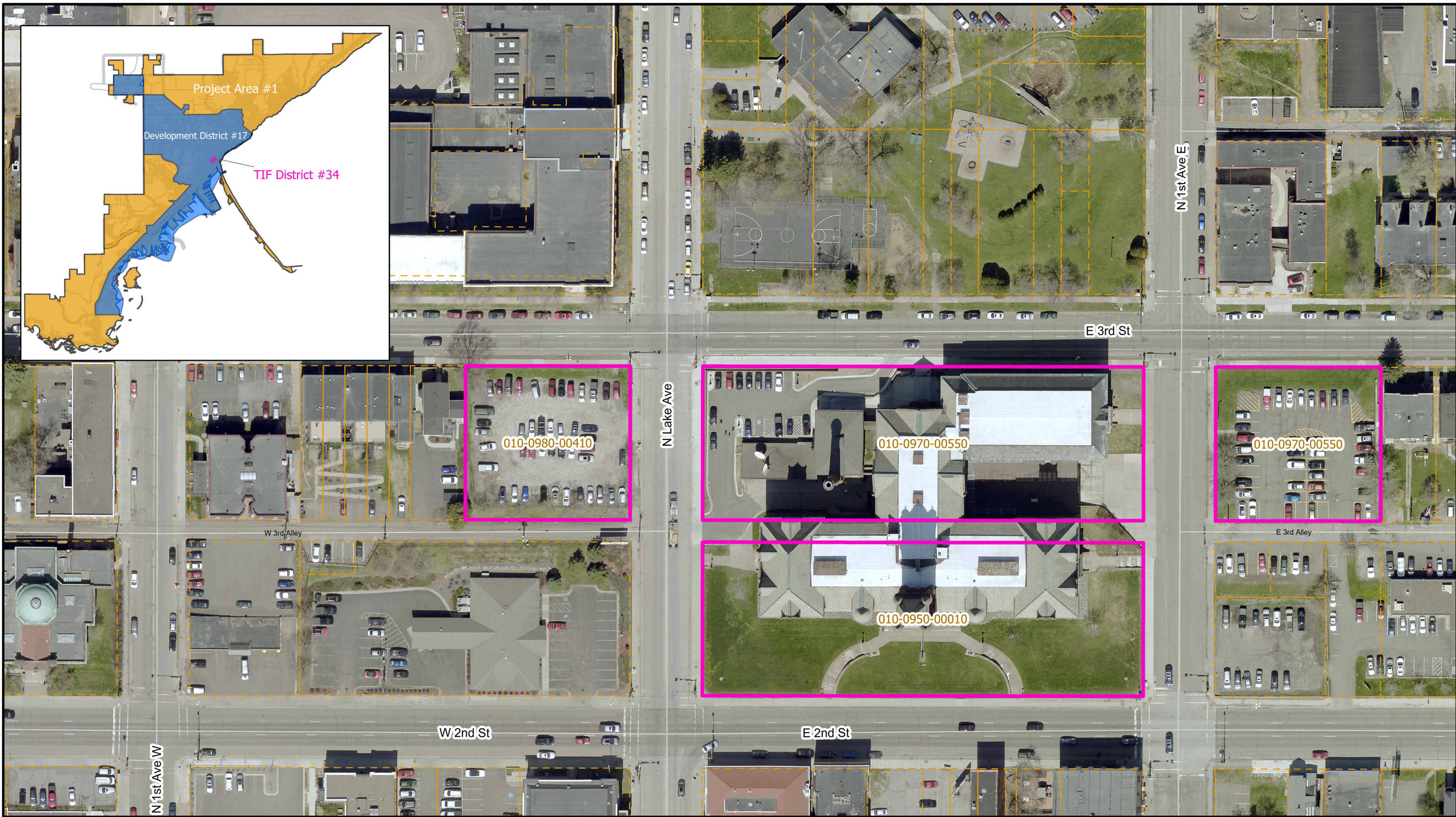
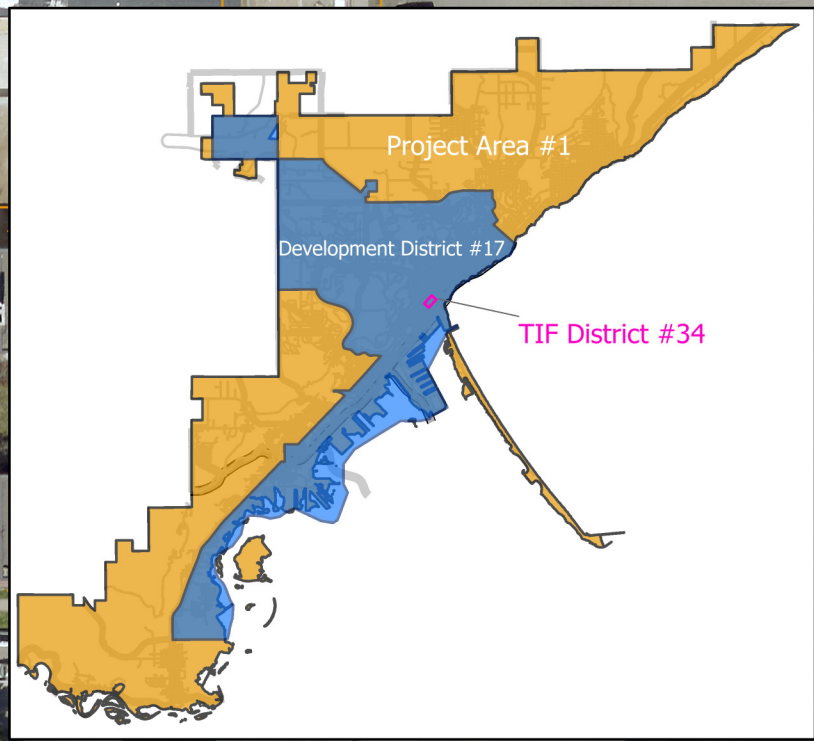
Pursuant to *M.S. Section 469.175, Subd. 1 (a), clause 7* the TIF Plan must contain identification and description of studies and analyses used to make the determination set forth in *M.S. Section 469.175, Subd. 3, clause (b)(2)* and the findings are required in the resolution approving the District.

- (i) In making said determination, reliance has been placed upon (1) written representation made by the developer to such effects, (2) review of the developer's proforma; and (3) City staff awareness of the feasibility of developing the project site within the District, which is further outlined in the City Council resolution approving the establishment of the TIF District and Appendix C.
- (ii) A comparative analysis of estimated market value both with and without establishment of the TIF District and the use of tax increments has been performed. Such analysis is included with the cashflow in Appendix B and indicates that the increase in estimated market value of the proposed development (less the indicated subtractions) exceeds the estimated market value of the site absent the establishment of the TIF District and the use of tax increments.

## Administration of the District

Administration of the District will be handled by the Senior Housing Developer.

**Appendix A: Map of Development District No. 17 and the TIF District**

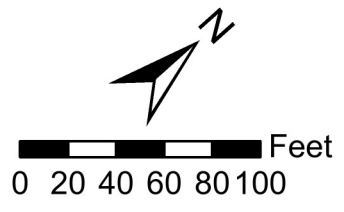


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

The City of Duluth requires that this map/data not be redistributed to any party in whole or in part, including any derivative works of products generated by combining the data with other data, unless authorized by the City of Duluth GIS office.



- Proposed TIF District #34
- Parcel Boundary



# Proposed TIF District #34

Path: G:\GIS\myArcGISProProjects\Default\Default\_RBB.aprx

**Appendix B: Estimated Cash Flow for the District**

## TIF District #34 - Historic High School Redevelopment - 4% Inflation

City of Duluth, MN

125 Apartment Units



### ASSUMPTIONS AND RATES

<b>DistrictType:</b>	<b>Redevelopment</b>
<b>District Name/Number:</b>	
<b>County District #:</b>	
<b>First Year Construction or Inflation on Value</b>	<b>2021</b>
<b>Existing District - Specify No. Years Remaining</b>	
Inflation Rate - Every Year:	<b>4.00%</b>
Interest Rate:	<b>3.00%</b>
Present Value Date:	<b>1-Aug-22</b>
First Period Ending	1-Feb-23
Tax Year District was Certified:	<b>Pay 2021</b>
Cashflow Assumes First Tax Increment For Development:	2023
Years of Tax Increment	26
Assumes Last Year of Tax Increment	2048
Fiscal Disparities Election [Outside (A), Inside (B), or NA]	<b>NA</b>
Incremental or Total Fiscal Disparities	<b>NA</b>
Fiscal Disparities Contribution Ratio	NA Pay 2021
Fiscal Disparities Metro-Wide Tax Rate	NA Pay 2021
Maximum/Frozen Local Tax Rate:	141.942% Pay 2021
Current Local Tax Rate: (Use lesser of Current or Max.)	141.942% Pay 2021
State-wide Tax Rate (Comm./Ind. only used for total taxes)	35.9780% Pay 2021
Market Value Tax Rate (Used for total taxes)	0.18832% Pay 2021

Tax Rates	
Exempt Class Rate (Exempt)	0.00%
Commercial Industrial Preferred Class Rate (C/I Pref.)	
First \$150,000	1.50%
Over \$150,000	2.00%
Commercial Industrial Class Rate (C/I)	2.00%
Rental Housing Class Rate (Rental)	1.25%
Affordable Rental Housing Class Rate (Aff. Rental)	
First \$174,000	0.75%
Over \$174,000	0.25%
Non-Homestead Residential (Non-H Res. 1 Unit)	
First \$500,000	1.00%
Over \$500,000	1.25%
Homestead Residential Class Rate (Hmstd. Res.)	
First \$500,000	1.00%
Over \$500,000	1.25%
Agricultural Non-Homestead	1.00%

BASE VALUE INFORMATION (Original Tax Capacity)														
Map ID	PID	Owner	Address	Land Market Value	Building Market Value	Total Market Value	Percentage Of Value Used for District	Original Market Value	Tax Year Original Market Value	Property Tax Class	Current Original Tax Capacity	Class After Conversion	After Conversion Orig. Tax Cap.	Area/Phase
1	010-0950-00010	ISD 709	15 East 2nd Street	308,000	3,887,500	4,195,500	100%	4,195,500	Pay 2021	Exempt	-	Rental	52,444	1
2	010-0970-00550	ISD 709	7 East 3rd Street	304,900	0	304,900	100%	304,900	Pay 2021	Exempt	-	Rental	3,811	
3	010-0980-00410	ISD 709	215 North 1st Ave. East	73,500	0	73,500	100%	73,500	Pay 2021	Exempt	-	Rental	919	
				<b>686,400</b>	<b>3,887,500</b>	<b>4,573,900</b>		<b>4,573,900</b>			<b>0</b>		<b>57,174</b>	

**Note:**

1. Base values are for pay 2021 based upon review of County website on 4-1-2021.
2. Located in SD # 709

**TIF District #34 - Historic High School Redevelopment - 4% Inflation**  
**City of Duluth, MN**  
**125 Apartment Units**



PROJECT INFORMATION (Project Tax Capacity)													
Area/Phase	New Use	Estimated Market Value Per Sq. Ft./Unit	Taxable Market Value Per Sq. Ft./Unit	Total Sq. Ft./Units	Total Taxable Market Value	Property Tax Class	Project Tax Capacity	Project Tax Capacity/Unit	Percentage Completed 2021	Percentage Completed 2022	Percentage Completed 2023	Percentage Completed 2024	First Year Full Taxes Payable
1	Apartments	124,800	124,800	125	15,600,000	Rental	195,000	1,560	50%	100%	100%	100%	2024
<b>TOTAL</b>					<b>15,600,000</b>		<b>195,000</b>						
Subtotal Residential				125	15,600,000		195,000						
Subtotal Commercial/Ind.				0	0		0						

**Note:**

1. Market values are based upon estimates received from the County Assessor's office.

TAX CALCULATIONS									
New Use	Total Tax Capacity	Fiscal Disparities Tax Capacity	Local Tax Capacity	Local Property Taxes	Fiscal Disparities Taxes	State-wide Property Taxes	Market Value Taxes	Total Taxes	Taxes Per Sq. Ft./Unit
Apartments	195,000	0	195,000	276,787	0	0	29,378	306,165	2,449.32
<b>TOTAL</b>	<b>195,000</b>	<b>0</b>	<b>195,000</b>	<b>276,787</b>	<b>0</b>	<b>0</b>	<b>29,378</b>	<b>306,165</b>	

**Note:**

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

WHAT IS EXCLUDED FROM TIF?	
Total Property Taxes	306,165
less State-wide Taxes	0
less Fiscal Disp. Adj.	0
less Market Value Taxes	(29,378)
less Base Value Taxes	(81,154)
<b>Annual Gross TIF</b>	<b>195,633</b>

MARKET VALUE BUT / FOR ANALYSIS	
Current Market Value - Est.	4,573,900
New Market Value - Est.	15,600,000
Difference	11,026,100
Present Value of Tax Increment	5,961,784
Difference	5,064,316
Value likely to occur without Tax Increment is less than:	5,064,316





**TIF District #34 - Historic High School Redevelopment - 4% Inflation**  
 City of Duluth, MN  
 125 Apartment Units

TAX INCREMENT CASH FLOW															
% of OTC	Project Tax Capacity	Original Tax Capacity	Fiscal Disparities NA	Captured Tax Capacity	Local Tax Rate	Annual Gross Tax Increment	Semi-Annual Gross Tax Increment	State Auditor 0.36%	Admin. at 10%	Semi-Annual Net Tax Increment	Semi-Annual Present Value	PERIOD ENDING Yrs.	Tax Year	Payment Date	
														02/01/23	
100%	97,500	(57,174)	-	40,326	141.942%	57,240	28,620	(103)	(2,852)	25,665	24,912	0.5	2023	08/01/23	
100%	97,500	(57,174)	-	40,326	141.942%	57,240	28,620	(103)	(2,852)	25,665	49,456	1	2023	02/01/24	
100%	195,000	(57,174)	-	137,826	141.942%	195,633	97,817	(352)	(9,746)	87,718	132,103	1.5	2024	08/01/24	
100%	195,000	(57,174)	-	137,826	141.942%	195,633	97,817	(352)	(9,746)	87,718	213,528	2	2024	02/01/25	
100%	202,800	(57,174)	-	145,626	141.942%	206,705	103,352	(372)	(10,298)	92,682	298,290	2.5	2025	08/01/25	
100%	202,800	(57,174)	-	145,626	141.942%	206,705	103,352	(372)	(10,298)	92,682	381,799	3	2025	02/01/26	
100%	210,912	(57,174)	-	153,738	141.942%	218,219	109,110	(393)	(10,872)	97,845	468,657	3.5	2026	08/01/26	
100%	210,912	(57,174)	-	153,738	141.942%	218,219	109,110	(393)	(10,872)	97,845	554,232	4	2026	02/01/27	
100%	219,348	(57,174)	-	162,175	141.942%	230,194	115,097	(414)	(11,468)	103,214	643,168	4.5	2027	08/01/27	
100%	219,348	(57,174)	-	162,175	141.942%	230,194	115,097	(414)	(11,468)	103,214	730,791	5	2027	02/01/28	
100%	228,122	(57,174)	-	170,949	141.942%	242,648	121,324	(437)	(12,089)	108,798	821,788	5.5	2028	08/01/28	
100%	228,122	(57,174)	-	170,949	141.942%	242,648	121,324	(437)	(12,089)	108,798	911,441	6	2028	02/01/29	
100%	237,247	(57,174)	-	180,074	141.942%	255,600	127,800	(460)	(12,734)	114,606	1,004,484	6.5	2029	08/01/29	
100%	237,247	(57,174)	-	180,074	141.942%	255,600	127,800	(460)	(12,734)	114,606	1,096,152	7	2029	02/01/30	
100%	246,737	(57,174)	-	189,563	141.942%	269,070	134,535	(484)	(13,405)	120,646	1,191,224	7.5	2030	08/01/30	
100%	246,737	(57,174)	-	189,563	141.942%	269,070	134,535	(484)	(13,405)	120,646	1,284,892	8	2030	02/01/31	
100%	256,607	(57,174)	-	199,433	141.942%	283,079	141,540	(510)	(14,103)	126,927	1,381,980	8.5	2031	08/01/31	
100%	256,607	(57,174)	-	199,433	141.942%	283,079	141,540	(510)	(14,103)	126,927	1,477,633	9	2031	02/01/32	
100%	266,871	(57,174)	-	209,697	141.942%	297,648	148,824	(536)	(14,829)	133,460	1,576,723	9.5	2032	08/01/32	
100%	266,871	(57,174)	-	209,697	141.942%	297,648	148,824	(536)	(14,829)	133,460	1,674,348	10	2032	02/01/33	
100%	277,546	(57,174)	-	220,372	141.942%	312,801	156,400	(563)	(15,584)	140,253	1,775,427	10.5	2033	08/01/33	
100%	277,546	(57,174)	-	220,372	141.942%	312,801	156,400	(563)	(15,584)	140,253	1,875,012	11	2033	02/01/34	
100%	288,648	(57,174)	-	231,474	141.942%	328,559	164,279	(591)	(16,369)	147,319	1,978,068	11.5	2034	08/01/34	
100%	288,648	(57,174)	-	231,474	141.942%	328,559	164,279	(591)	(16,369)	147,319	2,079,602	12	2034	02/01/35	
100%	300,194	(57,174)	-	243,020	141.942%	344,947	172,474	(621)	(17,185)	154,667	2,184,624	12.5	2035	08/01/35	
100%	300,194	(57,174)	-	243,020	141.942%	344,947	172,474	(621)	(17,185)	154,667	2,288,094	13	2035	02/01/36	
100%	312,201	(57,174)	-	255,028	141.942%	361,991	180,996	(652)	(18,034)	162,310	2,395,072	13.5	2036	08/01/36	
100%	312,201	(57,174)	-	255,028	141.942%	361,991	180,996	(652)	(18,034)	162,310	2,500,470	14	2036	02/01/37	
100%	324,689	(57,174)	-	267,516	141.942%	379,717	189,858	(683)	(18,917)	170,257	2,609,394	14.5	2037	08/01/37	
100%	324,689	(57,174)	-	267,516	141.942%	379,717	189,858	(683)	(18,917)	170,257	2,716,709	15	2037	02/01/38	
100%	337,677	(57,174)	-	280,503	141.942%	398,152	199,076	(717)	(19,836)	178,523	2,827,570	15.5	2038	08/01/38	
100%	337,677	(57,174)	-	280,503	141.942%	398,152	199,076	(717)	(19,836)	178,523	2,936,794	16	2038	02/01/39	
100%	351,184	(57,174)	-	294,010	141.942%	417,324	208,662	(751)	(20,791)	187,120	3,049,585	16.5	2039	08/01/39	
100%	351,184	(57,174)	-	294,010	141.942%	417,324	208,662	(751)	(20,791)	187,120	3,160,709	17	2039	02/01/40	
100%	365,231	(57,174)	-	308,058	141.942%	437,263	218,632	(787)	(21,784)	196,060	3,275,421	17.5	2040	08/01/40	
100%	365,231	(57,174)	-	308,058	141.942%	437,263	218,632	(787)	(21,784)	196,060	3,388,439	18	2040	02/01/41	
100%	379,841	(57,174)	-	322,667	141.942%	458,000	229,000	(824)	(22,818)	205,358	3,505,066	18.5	2041	08/01/41	
100%	379,841	(57,174)	-	322,667	141.942%	458,000	229,000	(824)	(22,818)	205,358	3,619,971	19	2041	02/01/42	
100%	395,034	(57,174)	-	337,860	141.942%	479,566	239,783	(863)	(23,892)	215,028	3,738,507	19.5	2042	08/01/42	
100%	395,034	(57,174)	-	337,860	141.942%	479,566	239,783	(863)	(23,892)	215,028	3,855,292	20	2042	02/01/43	
100%	410,836	(57,174)	-	353,662	141.942%	501,995	250,997	(904)	(25,009)	225,084	3,975,733	20.5	2043	08/01/43	
100%	410,836	(57,174)	-	353,662	141.942%	501,995	250,997	(904)	(25,009)	225,084	4,094,393	21	2043	02/01/44	
100%	427,269	(57,174)	-	370,095	141.942%	525,321	262,660	(946)	(26,171)	235,543	4,216,732	21.5	2044	08/01/44	
100%	427,269	(57,174)	-	370,095	141.942%	525,321	262,660	(946)	(26,171)	235,543	4,337,263	22	2044	02/01/45	
100%	444,360	(57,174)	-	387,186	141.942%	549,580	274,790	(989)	(27,380)	246,420	4,461,496	22.5	2045	08/01/45	
100%	444,360	(57,174)	-	387,186	141.942%	549,580	274,790	(989)	(27,380)	246,420	4,583,894	23	2045	02/01/46	
100%	462,134	(57,174)	-	404,960	141.942%	574,809	287,404	(1,035)	(28,637)	257,733	4,710,019	23.5	2046	08/01/46	
100%	462,134	(57,174)	-	404,960	141.942%	574,809	287,404	(1,035)	(28,637)	257,733	4,834,279	24	2046	02/01/47	
100%	480,620	(57,174)	-	423,446	141.942%	601,047	300,524	(1,082)	(29,944)	269,498	4,962,292	24.5	2047	08/01/47	
100%	480,620	(57,174)	-	423,446	141.942%	601,047	300,524	(1,082)	(29,944)	269,498	5,088,413	25	2047	02/01/48	
100%	499,844	(57,174)	-	442,671	141.942%	628,335	314,168	(1,131)	(31,304)	281,733	5,218,311	25.5	2048	08/01/48	
100%	499,844	(57,174)	-	442,671	141.942%	628,335	314,168	(1,131)	(31,304)	281,733	5,346,290	26	2048	02/01/49	
<b>Total</b>							<b>9,555,443</b>	<b>(34,400)</b>	<b>(952,104)</b>	<b>8,568,939</b>					
<b>Present Value From 08/01/2022</b>							<b>5,961,784</b>	<b>(21,462)</b>	<b>(594,032)</b>	<b>5,346,290</b>					
<b>Present Value Rate</b>							<b>3.00%</b>								

## Appendix C: Findings Including But/For Qualifications

The reasons and facts supporting the findings for the adoption of the Tax Increment Financing Plan (TIF Plan) for Tax Increment Financing District No. 34: Historic High School Redevelopment (the “District”), as required pursuant to Minnesota Statutes, Section 469.175, Subdivision 3 are as follows:

1. *Finding that Tax Increment Financing District No. 34: Historic High School Redevelopment is a redevelopment district as defined in M.S., Section 469.174, Subd. 10.*

The District consists of two (2) parcels and vacant right-of-way, with plans to redevelop the area for adaptive reuse of the historic high school site to include 125 units of new rental housing. Parcels consisting of 70 percent of the area of the District are occupied by buildings, streets, utilities, paved or gravel parking lots or other similar structures and more than 50 percent of the buildings in the District, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance. (See Appendix D of the TIF Plan.)

2. *Finding that the proposed development, in the opinion of the City Council, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of Tax Increment Financing District No. 34: Historic High School Redevelopment permitted by the TIF Plan.*

*The proposed development, in the opinion of the City, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future:* This finding is supported by the fact that the development proposed in this plan is an adaptive reuse of a historic building that will also include affordable housing units meeting the City's objectives for development. The cost of building rehabilitation makes this housing development infeasible without City assistance. The cost to rehabilitate the building for housing is the same for affordable housing units as it is for market rate housing units. The decreased rental income from the affordable units means there is less cash flow available to service the operating and debt expenses for the project. The affordable rents contribute to a gap in funding for the project. The cost to rehabilitate the building and the need to offset the reduction in rents for the affordable housing units makes this development feasible only through assistance, in part, from tax increment financing. The developer was asked for and provided a letter and a pro forma as justification that the project would not have gone forward without tax increment assistance.

*The increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF Plan:* This finding is justified on the grounds that the costs of building acquisition and rehabilitation for housing adds to the total development cost. Historically, the costs of construction and/or rehabilitation in the City have made development of affordable housing infeasible without tax increment assistance. Although other projects could potentially be proposed, the City reasonably determines that no other redevelopment of similar scope providing the desired affordability

can be anticipated on this site without substantially similar assistance being provided to the development.

Therefore, the City concludes as follows:

- a. The City's estimate of the amount by which the market value of the entire District will increase without the use of tax increment financing is \$0.
  - b. If the proposed development occurs, the total increase in market value will be \$11,026,100.
  - c. The present value of tax increments from the District for the maximum duration of the district permitted by the TIF Plan is estimated to be \$5,961,784.
  - d. Even if some development other than the proposed development were to occur, the Council finds that no alternative would occur that would produce a market value increase greater than \$5,064,316 (the amount in clause b less the amount in clause c) without tax increment assistance.
3. *Finding that the TIF Plan for the District conforms to the general plan for the development or redevelopment of the municipality as a whole.*

The Planning Commission reviewed the TIF Plan on 05/11/2021 and found that the TIF Plan conforms to the general development plan of the City.

4. *Finding that the TIF Plan for Tax Increment Financing District No. 34: Historic High School Redevelopment will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the development or redevelopment of Development District No. 17 by private enterprise.*

Through the implementation of the TIF Plan, DEDA or the City will provide an impetus for residential development, which is desirable or necessary for increased population and an increased need for life-cycle housing within the City.

## **Appendix D: Redevelopment Qualifications for the District**

*(to be included prior to public hearing)*

## RESOLUTION 21D-21

### RESOLUTION APPROVING A DEVELOPMENT AGREEMENT WITH SATURDAY ZENITH, LLC FOR THE DEVELOPMENT OF THE ZENITH HISTORIC OLD CENTRAL HIGH SCHOOL PROJECT

WHEREAS, Saturday Zenith, LLC (“Developer”), proposes to redevelop property located between Lake Avenue and First Avenue East and between Second Street and Third Street in Duluth, Minnesota into a multi-family residential facility with apartment units (the “Project”);

WHEREAS, DEDA has determined that it is reasonable and necessary to provide certain financial assistance to Developer in order to facilitate Developer’s plans for the Project and to that end, DEDA and Developer have negotiated a Development Agreement for the Project; and

WHEREAS, DEDA has approved the establishment of Tax Increment Financing District No. 34, a Redevelopment District (the “TIF District”) pursuant to Minnesota Statutes §§469.174 to 469.1794, as amended; and

WHEREAS, pursuant the terms of the Development Agreement, DEDA proposes to provide certain tax increment financing assistance to Developer consisting of a pay-as-you-go tax increment revenue note (the “TIF Assistance”) payable from the TIF District; and

WHEREAS, the TIF Assistance constitutes a business subsidy within the meaning of Resolution 18-0515R of the City of Duluth (the “Business Subsidy Resolution”), and the Development Agreement constitutes a “business subsidy agreement” under the Business Subsidy Resolution; and

WHEREAS, pursuant to Minnesota Statutes §§116J.993 through 116J.995 (the “Business Subsidy Act”), after a public hearing, if the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero; and

WHEREAS, DEDA on this same date held a duly noticed public hearing on the granting of a business subsidy to Developer pursuant to the Development Agreement and on setting the wage and job goals at zero in accordance with the Business Subsidy Act; and

NOW, THEREFORE, BE IT RESOLVED:

1. DEDA finds that the Development Agreement is in the best interests of the City and the welfare of its residents, and in accordance with the public purposes and provisions of the applicable State and local laws and requirements under which the development will be undertaken.

2. DEDA hereby determines that the Project will enhance the economic diversity of the City and the City's tax base; enhance the quality of life of the City's residents by investing in neglected neighborhoods or business areas and stimulating the redevelopment of underutilized, blighted or obsolete land uses, expand the City's tax base and realize a reasonable rate of return on the public investment; encourage the development of housing and commercial areas in the City that result in higher quality development and private investment; and achieve redevelopment on a site which would not be redeveloped without assistance. DEDA hereby determines that the creation or retention of jobs is not a goal of the Project for purposes of the Business Subsidy Act. Therefore, the wage and job goals may be and hereby are set at zero in the Development Agreement in accordance with the Business Subsidy Act.
3. DEDA hereby authorizes the proper DEDA officials to enter into a Development Agreement with Developer substantially in the form of that attached hereto (DEDA Contract No. \_\_\_\_\_), together with any related documents necessary in connection therewith.
4. DEDA staff, officials and consultants are authorized and directed to implement the terms of the Development Agreement as provided therein and carry out DEDA's obligations under the Development Agreement.

Approved by the Duluth Economic Development Authority this 26<sup>th</sup> day of May 2021.

ATTEST:

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Executive Director

STATEMENT OF PURPOSE:

This resolution authorizes a Development Agreement with Saturday Zenith, LLC for the development of the Zenith Historic Old Central High School project located between Lake Avenue and First Avenue East and between Second Street and Third Street in downtown Duluth. The project will be located in an area identified as Tax Increment Financing District No. 34, a Redevelopment District. A resolution approving the creation of TIF District No. 34 will be on the June 7, 2021, City Council agenda.

The Development Agreement provides for the acquisition of the property and redevelopment of the existing buildings by Developer resulting in approximately 125

apartment units and common areas. Of these apartment units, not less than 13 units will be available at 60% or less of the Area Median Income, as posted annually by the Minnesota Housing Finance Agency. The total development cost is estimated to be \$42,365,179. DEDA will provide up to \$2,940,000 of the TIF generated by this project plus interest at the rate of 3.25% to pay for public eligible costs of redevelopment on a pay-as-you-go basis. The term of the TIF Note is for a period of twenty six (26) years from the date of receipt by DEDA from the St. Louis County Auditor's Office of the first payment of Captured Tax Increment, or until the principle interest on the TIF Note has been paid in full, whichever is sooner; the note is projected to be paid in year 18.

Tax base impact statement: The current market value (2020, payable 2021) of the properties located in this 26 year Redevelopment TIF District (to be created by DEDA) is \$4,500,000 and the property is generating \$0 in net tax capacity. After the improvements are completed, the taxable market value will increase to approximately \$15,600,000 and the annual tax increment will be provided to the Developer to facilitate the redevelopment. After the TIF District is terminated, the development is anticipated to generate over \$195,000 per year in net tax capacity (based on the County Assessor's valuation of the completed property, not including inflation).