

**CITY MARSHALL, MINNESOTA**

**RESOLUTION NUMBER 21-065**

**APPROVING ESTABLISHMENT OF PROJECT AREA NO. 6 AND A PROJECT PLAN THEREFOR; APPROVING ESTABLISHMENT OF TAX INCREMENT FINANCING (HOUSING) DISTRICT NO. 6-1 AND A TAX INCREMENT FINANCING PLAN THEREFOR; AND APPROVING AND AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT FOR THE SUITE LIV'N HOUSING PROJECT AND RELATED DOCUMENTS**

WHEREAS, the City Council (the “Council”) of the City of Marshall, Minnesota (the “City”) has the statutory responsibility under Minnesota Statutes, Section 469.028 to approve redevelopment plans and projects of the Housing and Redevelopment Authority in and for the City of Marshall, Minnesota (the “Authority”), after public hearing thereon;

WHEREAS, the Authority has proposed to establish Project Area No. 6 (the “Project Area”) located in the City pursuant to Minnesota Statutes, Sections 469.001 to 469.047 (the “HRA Act”), and to that end has caused to be prepared a document entitled “Project Plan for Project Area No. 6” (the “Project Plan”); and

WHEREAS, the Project Plan contains an identification of need and a statement of purpose and objectives, land uses and standards for development for carrying out a development project, including property to be acquired, public improvements to be provided, development to occur, and sources of revenue to pay development costs within the Project Area; and

WHEREAS, the Authority has determined a need to establish Tax Increment Financing (Housing) District No. 6-1 (the “TIF District”) within the Project Area, pursuant to Minnesota Statutes, Sections 469.174 to 469.1794, as amended (the “TIF Act”), and to that end has caused to be prepared a document entitled “Tax Increment Financing Plan for Tax Increment Financing (Housing) District No. 6-1” (the “TIF Plan”); and

WHEREAS, the TIF District is being established to facilitate the acquisition and construction of an affordable housing development consisting of two three-story apartment buildings containing a total of approximately 48 rental housing units and related amenities (the “Housing Development”); and

WHEREAS, Minnesota Statutes, Section 469.175 requires that before a county auditor may certify a tax increment financing district created under the TIF Act the governing body of the municipality must approve the tax increment financing plan after a public hearing thereon; and

WHEREAS, the Authority has asked the Council to approve the establishment of the Project Area and the Project Plan therefor and the creation, within the Project Area, of the TIF District as a housing tax increment financing district under Minnesota Statutes, Section 469.174, Subd. 11 and the adoption of the TIF Plan therefor, all pursuant to and in accordance with the TIF Act; and

WHEREAS, on June 22, 2021, the Council adopted a resolution calling for a public hearing on July 27, 2021 to consider the establishment of the Project Area and the Project Plan and the establishment of the TIF District and the TIF Plan; and

WHEREAS, the Project Plan and the TIF Plan were, in accordance with the HRA Act and TIF Act,

referred to the Planning Commission of the City (the “Planning Commission”) and by resolution adopted by the Planning Commission on July 14, 2021, the Planning Commission found that the Project Plan for the proposed Project Area and the TIF Plan for the proposed TIF District conform to the general plan for the development or redevelopment of the City as a whole; and

WHEREAS, the Authority has performed all actions required by law to be performed prior to the creation of the TIF District and adoption of the TIF Plan therefor, including, but not limited to, notification of the Lyon County Commissioner representing the area of the County in which the TIF District is located, and delivering a copy the proposed TIF Plan for the TIF District and the Authority’s estimate of the fiscal and economic implications of the proposed TIF District to the County Auditor/Treasurer of Lyon County and the Clerk/Treasurer of the School Board of Independent School District No. 413, which have taxing jurisdiction over the property to be included in the TIF District; and

WHEREAS, on July 27, 2021, the Authority adopted a resolution establishing the Project Area and approving the Project Plan therefor and establishing the TIF District and approving the TIF Plan, and referred such plans to the Council for consideration; and

WHEREAS, this Council has reviewed the contents of the Project Plan and the TIF Plan; and

WHEREAS, on July 27, 2021, the Council held a public hearing relating to the establishment of the Project Area and the approval of the Project Plan therefor and the establishment of the TIF District and the approval of the TIF Plan therefor, and at the public hearing, the views of all interested parties were heard; and

WHEREAS, the Council has considered the findings and determinations of the Planning Commission and the Authority respecting the Project Area, Project Plan, TIF District, and TIF Plan, together with the documentation submitted in support of the same and has taken into account the information and knowledge gained in hearings upon and during consideration of other matters relating to the development proposed within the Project Area; and

WHEREAS, to facilitate the development of certain property within the Project Area and the TIF District, the City, the Authority, and L2A, LLC, a Minnesota limited liability company (the “Developer”), have negotiated a Contract for Private Development (the “Development Agreement”) which provides for the construction of an affordable housing development consisting of two three-story apartment buildings containing a total of approximately 48 rental housing units and related amenities (the “Project”), and the issuance by the Authority of its Taxable Tax Increment Revenue Note (Suite Liv’n Housing Project) (the “Note”) to the Developer; and

WHEREAS, the Development Agreement has been prepared and presented to the City Council for its consideration, stating the terms and conditions described therein and the Authority’s assistance with the financing of certain costs of the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marshall, Minnesota that:

Section 1.        Findings; Project Area No. 6

1.01.    The Council hereby finds that the Project Plan is intended and, in the judgment of the Council, the effect will be, to carry out the objectives of the Project Plan and to create an impetus for development and housing activities in the City and otherwise promote public purposes and accomplish certain objectives as specified in the Project Plan.

1.02.    The Council hereby finds that:

          (a)        the land in the Project Area would not be made available for redevelopment without the use of tax increment financing; and

          (b)        the Project Plan is intended and, in the judgment of this Council, the effect of such actions will be to afford maximum opportunity, consistent with the needs of the City as a whole, for the development of the Project Area by private enterprise; and

          (c)        the Project Plan conforms to the general plan for the development of the City as a whole.

Section 2.        Findings; Tax Increment Financing (Housing) District No. 6-1

2.01.    The Council hereby finds that the creation of the TIF District and adoption of the TIF Plan therefor, are intended and, in the judgment of the Council, its effect will be, to carry out the objectives of the Project Plan and to create an impetus for the construction of low and moderate income housing, and will otherwise promote certain public purposes and accomplish certain objectives as specified in the Project Plan and TIF Plan.

2.02.    The Council hereby finds that the TIF District qualifies as a “housing district” under Minnesota Statutes, Section 469.174, Subd. 11 of the TIF Act for the following reasons:

The TIF District is, pursuant to Minnesota Statutes, Section 469.174, Subdivision 11, a “housing district” because it consists of a project or portions of a project or a portion of a project intended for occupancy, in part, by persons or families of low and moderate income as defined in Chapter 462A, Title II of the National Housing Act of 1934; the National Housing Act of 1959; the United States Housing Act of 1937, as amended; Title V of the Housing Act of 1949, as amended; and any other similar present or future federal, state or municipal legislation or the regulations promulgated under any of those acts. No more than 20% of the square footage of buildings that receive assistance from tax increments will consist of commercial, retail or other nonresidential uses.

The Housing Development to be constructed in the TIF District will consist of approximately 48 units of workforce housing. At least 40% of the units (i.e., 20 units) in the Housing Development will be rented to and occupied by individuals or families whose income is 60% or less of area median income.

The Housing Development, which includes the only two buildings in the TIF District receiving assistance from the TIF District, is not expected to be used for any commercial, retail, or other non-residential use; therefore, not more than 20% of the square footage of the buildings that will receive assistance from tax increments from the TIF District are expected to be used for commercial, retail or other non-residential uses.

2.02. The Council hereby makes the following findings:

(a) The Council further finds that the proposed Housing Development, in opinion of the Council, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and, therefore, the use of tax increment financing is deemed necessary.

(b) The Council further finds that the TIF Plan conforms to the general plan for the development or redevelopment of the City as a whole.

(c) The Council further finds that the TIF Plan will afford maximum opportunity consistent with the sound needs of the City as a whole for the development of the TIF District by private enterprise.

2.05. Reasons and facts supporting all the above findings are set forth in the TIF Plan and are incorporated herein by reference. The Council has also relied upon a resolution of the Planning Commission, the reports and recommendations of the Authority's and City's staff and consultants, as well as the personal knowledge of members of the Council, in reaching its conclusions regarding the TIF Plan.

### Section 3. Public Purpose

The adoption of the Project Plan and the TIF Plan conforms in all respects to the requirements of the TIF Act. The proposed housing development will satisfy a need within the community for affordable multifamily housing in that at least 40% of the residential units in the housing development (i.e., 20 units) will be rented to and occupied by individuals or families whose income is 60% or less of area median income and will improve the tax base and the general economy of the State, and thereby serves a public purpose. The City expressly finds that any private benefit to be received by the developer is incidental, as the tax increment assistance is provided solely to make the development financially feasible and thus produce the public benefits described. Therefore, the City finds that the public benefits of the TIF Plan exceed any private benefits.

### Section 4. Approvals; Further Proceedings

4.01. The establishment of the Project Area and the Project Plan therefor are hereby approved.

4.02. The establishment of the TIF District and the TIF Plan therefor are hereby approved.

4.03. The staff of the Authority and the City, the Authority's Executive Director and the Authority's and the City's advisors and legal counsel are authorized and directed to proceed with the establishment of the Project Area and the TIF District and the implementation of the Project Plan and the TIF Plan and this resolution. The Authority's Executive Director is authorized and directed to negotiate, draft, execute, prepare, file and present to the Board of Commissioners of the Authority for its consideration all further plans, resolutions, documents and contracts necessary to accomplish these actions.

4.04. The Authority is authorized and directed to file a request for certification of the TIF District with the County Auditor/Treasurer of Lyon County and to file a copy of the TIF Plan and the Project Plan with the Commissioner of the Minnesota Department of Revenue and the Office of the State Auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

4.05. Subject to approval by the Authority on the date hereof, the City hereby approves the Development Agreement, substantially in accordance with the terms set forth in the form presented to the City Council, together with any related documents necessary in connection therewith, including without limitation all documents, exhibits, certifications or consents referenced in or attached to the Development Agreement, including without limitation the Note (collectively, the “Development Documents”), and hereby authorizes the Mayor and City Administrator to negotiate the final terms thereof and, in their discretion and at such time as they may deem appropriate, to execute the Development Documents on behalf of the City, and to carry out, on behalf of the City, the City’s obligations thereunder when all conditions precedent thereto have been satisfied.

4.06. The approval hereby given to the Development Documents includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by legal counsel to the City and by the officers authorized herein to execute said documents prior to their execution; and said officers are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. This resolution shall not constitute an offer and the Development Documents shall not be effective until the date of execution thereof as provided herein.

4.07. In the event of absence or disability of the officers, any of the documents authorized by this resolution to be executed may be executed without further act or authorization of the City Council by any duly designated acting official, or by such other officer or officers of the City Council as, in the opinion of the City Attorney, may act in their behalf. Upon execution and delivery of the Development Documents, the officers and employees of the City are hereby authorized and directed to take or cause to be taken such actions as may be necessary on behalf of the City to implement the Development Documents when all conditions precedent thereto have been satisfied.

4.08. The City Council hereby determines that the execution and performance of the Development Documents will help realize the public purposes of state laws, including Minnesota Statutes, Sections 469.174 through 469.1794, the Project Plan, and the TIF Plan.

Approved by the City Council of the City of Marshall, Minnesota this 24th day of August, 2021.

**CITY OF MARSHALL, MINNESOTA**

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Robert J. Byrnes  
Mayor

Attest:

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Kyle Box  
City Clerk