

CITY OF SHAKOPEE, MINNESOTA

RESOLUTION NO. R2018-149

RESOLUTION AMENDING AND RESTATING RESOLUTION
NO. 7921 AND AUTHORIZING AN INTERFUND LOAN FOR
ADVANCE OF CERTAIN COSTS IN CONNECTION WITH
PROPOSED TAX INCREMENT FINANCING DISTRICT

WHEREAS, the City of Shakopee, Minnesota (the “City”) has established the Minnesota River Valley Housing and Redevelopment Project No. 1 (the “Project”) in an area located in the City, pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and Tax Increment Financing District No. 20 (the “TIF District”), a redevelopment district, within the Project, pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the “TIF Act”); and

WHEREAS, the City has transferred control, authority, and operation of the Project to the Authority; and

WHEREAS, under Section 469.178, subdivision 7 of the TIF Act, the City is authorized to advance or loan money from the City’s general fund or any other fund from which such advances may be legally authorized, in order to finance, on a temporary basis, costs eligible to be reimbursed from tax increment under the TIF Act; and

WHEREAS, on September 19, 2017, the City Council of the City (the “City Council”) adopted Resolution No. 7921 (the “Original Interfund Loan Resolution”), which authorized the City to loan funds from its General Fund to pay for certain costs of demolition of substandard buildings within the TIF District, costs of environmental remediation, and administrative costs (the “Qualified Costs”), in an amount of up to \$300,000 (the “Original Interfund Loan”), which accrues interest at the rate of 4.0% per annum; and

WHEREAS, pursuant to the Original Interfund Loan Resolution and a resolution adopted by the Board of Commissioners of the Authority on September 19, 2017, the Authority agreed to reimburse the City for the Original Interfund Loan from tax increment revenue derived from the property within the TIF District, which tax increments would then be transferred to the City’s General Fund;

WHEREAS, the Authority proposes to enter into a Contract for Private Redevelopment (the “Agreement”) with Enclave Development, LLC, a North Dakota limited liability company (the “Redeveloper”), pursuant to which the Authority will convey certain parcels of property (the “Redevelopment Property”) located within the TIF District to the Redeveloper, and the Redeveloper will agree to develop approximately 80 market-rate apartment units, including underground parking, and approximately 1,500 square feet of retail and restaurant space (the “Minimum Improvements”); and

WHEREAS, pursuant to the Agreement, the Redeveloper will also agree to make certain public improvements, and the Authority has proposed to grant the Redeveloper funds in an amount of up to \$2,132,400 (the “Redevelopment Grant”) for the costs of site improvements, public infrastructure, a parking structure, and demolition and remediation costs related to the Minimum Improvements and other costs eligible to be reimbursed with tax increment; and

WHEREAS, the City has determined to amend and restate the Original Interfund Loan Resolution to amend the interest rate of the Original Interfund Loan and to provide that advances of the Original

Interfund Loan may be made from and reimbursed to the City's Sanitary Sewer and/or Storm Drainage Fund, or any other fund designated by the City; and

WHEREAS, the City has also determined to loan funds from its Sanitary Sewer and/or Storm Drainage Fund, or from any other fund designated by the City, in the amount of up to \$2,132,400 (the "Grant Interfund Loan") to the Authority in order to provide funds for the Authority's Redevelopment Grant to the Redeveloper, in accordance with the terms of this resolution; and

WHEREAS, the Original Interfund Loan and the Grant Interfund Loan shall be referred to herein as the "Interfund Loan" and will be in the maximum principal amount of \$2,432,400; and

WHEREAS, pursuant to a resolution adopted by the Board of Commissioners of the Authority on the date hereof, the Authority agreed to reimburse the City for all or a portion of the Interfund Loan from tax increments derived from the TIF District in accordance with the terms of this resolution.

NOW THEREFORE BE IT RESOLVED by the Council as follows:

1. The Original Interfund Loan Resolution is hereby amended and restated to incorporate the terms provided herein.
2. The City hereby authorizes the advance of up to \$2,432,400 from the City's Sanitary Sewer and/or Storm Drainage Fund or so much thereof as may be paid to fund the Qualified Costs and the Redevelopment Grant. The City shall reimburse itself for such advances together with interest at the rate stated below. Interest accrues on the principal amount from the date of each advance. The maximum rate of interest permitted to be charged is limited to the greater of the rates specified under Minnesota Statutes, Section 270C.40 or Section 549.09 as of the date the loan or advance is authorized, unless the written agreement providing the terms and conditions for repayment of the loan states that the maximum interest rate will fluctuate as the interest rates specified under Minnesota Statutes, Section 270C.40 or Section 549.09 are from time to time adjusted. The interest rate shall be 3.0% and will not fluctuate.
3. Payments of principal of and interest on the Interfund Loan (the "Payments") shall be made semiannually on each February 1 and August 1 (each a "Payment Date"), commencing on the first Payment Date after the advance of the Interfund Loan. Payments shall continue until the earlier of (a) the date the principal and accrued interest of the Interfund Loan is paid in full, or (b) the date of last receipt of Tax Increment (hereinafter defined) from the TIF District. Payments on the Interfund Loan will be made in the amount and only to the extent of Tax Increment. Payments shall be applied first to accrued interest, and then to unpaid principal.
4. Payments on the Interfund Loan are payable solely from "Tax Increment," which shall mean, on each Payment Date, all of the tax increment generated in the preceding six (6) months with respect to the property within the TIF District and remitted to the Authority by Scott County, Minnesota, all in accordance with the TIF Act. Payments on the Interfund Loan shall be on parity with any outstanding or future interfund loans secured in whole or in part with Tax Increment.
5. The principal sum and all accrued interest payable under the Interfund Loan are prepayable in whole or in part at any time by the Authority without premium or penalty. No partial prepayment shall affect the amount or timing of any other regular payment otherwise required to be made under the Interfund Loan.

6. The Interfund Loan is evidence of an internal borrowing by the City in accordance with Section 469.178, subdivision 7 of the TIF Act, and is a limited obligation payable solely from Tax Increment pledged to the payment hereof under this resolution. The Interfund Loan and the interest hereon shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the City. Neither the State of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of or interest on the Interfund Loan or other costs incident hereto except out of Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on the Interfund Loan or other costs incident hereto. The City shall have no obligation to pay any principal amount of the Interfund Loan or accrued interest thereon, which may remain unpaid after the final Payment Date.
7. The City may amend the terms of the Interfund Loan at any time by resolution of the City Council, including a determination to forgive the outstanding principal amount and accrued interest to the extent permissible under law.
8. City staff and officials are hereby authorized and directed to execute any documents and take any other actions necessary to carry out the intent of this resolution.
9. This resolution shall be in full force and effect from and after its approval.

Approved by the City Council of the City of Shakopee, Minnesota this 18th day of December, 2018.

Mayor

ATTEST:

City Clerk