

# STATE OF MINNESOTA

## Office of the State Auditor



**Rebecca Otto**  
**State Auditor**

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## **TAX INCREMENT FINANCING LEGISLATIVE REPORT**

**TIF Reports for the Year Ended December 31, 2011**  
**TIF Audits Concluded for the Year Ended December 31, 2012**

## **Description of the Office of the State Auditor**

The mission of the Office of the State Auditor is to oversee local government finances for Minnesota taxpayers by helping to ensure financial integrity and accountability in local governmental financial activities.

Through financial, compliance, and special audits, the State Auditor oversees and ensures that local government funds are used for the purposes intended by law and that local governments hold themselves to the highest standards of financial accountability.

The State Auditor performs approximately 160 financial and compliance audits per year and has oversight responsibilities for over 3,300 local units of government throughout the state. The office currently maintains five divisions:

**Audit Practice** - conducts financial and legal compliance audits for local governments;

**Government Information** - collects and analyzes financial information for cities, towns, counties, and special districts;

**Legal/Special Investigations** - provides legal analysis and counsel to the Office and responds to outside inquiries about Minnesota local government law; as well as investigates allegations of misfeasance, malfeasance, and nonfeasance in local government;

**Pension** - monitors investment, financial, and actuarial reporting for approximately 730 public pension funds; and

**Tax Increment Financing** - promotes compliance and accountability in local governments' use of tax increment financing through financial and compliance audits.

The State Auditor serves on the State Executive Council, State Board of Investment, Land Exchange Board, Public Employee's Retirement Association Board, Minnesota Housing Finance Agency, and the Rural Finance Authority Board.

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# TAX INCREMENT FINANCING LEGISLATIVE REPORT

TIF Reports for the Year Ended December 31, 2011  
TIF Audits Concluded for the Year Ended December 31, 2012



February 6, 2013

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# TAX INCREMENT FINANCING REPORT

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Office of the State Auditor Final Notice of Noncompliance – City of Ramsey

APPENDIX F

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# **EXECUTIVE SUMMARY**

## **Current Trends**

- The total number of TIF districts certified in 2011 increased by 72 percent compared to 2010. The number of economic development districts certified increased from 12 to 33. (pg. 13)
- In 2011, 35 percent of the total number of TIF districts were located in the Metro Area; 65 percent were located in Greater Minnesota. (pg. 10)
- Although most districts are located in Greater Minnesota, approximately \$210 million of the \$252 million of tax increment, or 83 percent, was generated in the Metro Area. (pg. 17)
- In 2011, development authorities returned \$5,070,233 in tax increment revenue to county auditors for redistribution to the city, county, and school district as property taxes. (pg. 20)

## **Long-Term Trends**

- In 2011, certifications decreased by 27 percent as compared to 2007. (pg. 14)
- Tax increment revenues for 2011 stabilized after two years of decline. (pg. 20)
- Between 1996 and 2004 the number of districts increased. From 2004 through 2011 there has been a decline. One cause of this decline is that older districts are decertifying. (pg. 12)

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## Scope and Methodology

This seventeenth Annual Legislative Report (Report) was compiled from information received from the 426 development authorities currently authorized to exercise tax increment financing (TIF) powers in Minnesota. The Report summarizes the data received from the 1,810 unaudited TIF reports for the calendar year ended December 31, 2011, and provides a summary of the violations cited in the limited-scope reviews concluded by the Office of the State Auditor (OSA) in 2012. This Report contains a summary of the TIF reports and reviews and is provided annually to the chairs of the legislative committees with jurisdiction over TIF matters.<sup>1</sup>

In 1995, the Minnesota Legislature assigned legal compliance oversight for TIF to the OSA.<sup>2</sup> This oversight involves examining and auditing the use of TIF by political subdivisions, as authorized by the Minnesota Tax Increment Financing Act (TIF Act).<sup>3</sup>

The TIF Act requires an authority to file annual financial reports for each of its TIF districts with the OSA. This reporting requirement applies to all TIF districts regardless of when they were created. An authority must submit its reports on or before August 1 of each year, starting the year in which the district is certified.

A total of 426 development authorities had 1,817 TIF districts for which they were required to file TIF reports with the OSA for the year ended December 31, 2011. To date, the OSA has received reports for 1,810 of the TIF districts. On August 21, 2012, the OSA sent letters to the remaining development authorities, addressed to the governing board of the municipality, advising them that the required reports had not been filed.<sup>4</sup>

For authorities that had not filed completed reports by October 1, 2012, a notice was mailed to each of the applicable county auditors to withhold tax increment that otherwise would have been distributed to the authorities.<sup>5</sup> A list of the authorities who have not submitted the required TIF reports as of the date of this Report can be found in Appendix A.

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<sup>1</sup> 1995 Minn. Laws, ch. 264, art. 5, § 34.

<sup>2</sup> Minn. Stat. § 469.1771.

<sup>3</sup> Minn. Stat. §§ 469.174 through 469.1799 inclusive, as amended.

<sup>4</sup> Minn. Stat. § 469.1771, subd. 2a(a).

<sup>5</sup> Minn. Stat. § 469.1771, subd. 2a(a).

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# TAX INCREMENT FINANCING LEGISLATIVE REPORT

## BACKGROUND

Tax increment financing (TIF) is a financing tool established by the Legislature to support local economic development, redevelopment, and housing development. As its name suggests, TIF finances development activity by “capturing” the incremental increase in property tax revenues, or “tax increments,” generated by the growth in the taxable value of property caused by the new development. The tax increments are captured within a TIF district comprised of the parcels on which development activity occurs. The tax increments are used to finance public improvements and other qualifying costs related to the new development, which presumably would not otherwise occur without the use of TIF.

Tax increment financing is not a property tax abatement program. The owners of property located in the TIF district continue to pay the same amount of property taxes that they would have otherwise paid. Instead of being paid to the local taxing jurisdictions, that portion of the property taxes generated by the new development, and only that portion, is used to pay for public improvements and qualifying costs that made the new development possible.<sup>6</sup> Examples of such costs include: land and building acquisition, demolition of structurally substandard buildings, removal of hazardous substances, site preparation, installation of utilities, and road improvements. The costs that may be paid from tax increment revenue depend on the type of development activity taking place, the type of TIF district created, and the year in which the TIF district was created.

Tax increment has been available as a financing tool in Minnesota since the 1940s. Early procedures for the use of tax increment varied widely. The TIF Act of 1979 established uniform procedures that limited the use of tax increment to only those parcels on which new development activity was occurring.<sup>7</sup>

A development authority creates the TIF district and must be in place before a TIF district can be created.<sup>8</sup> An authority can be a city, an entity created by a city, or an entity created by a county.

Development authorities derive their authority from the Housing and Redevelopment Authorities (HRA) Act, the Port Authorities Act, the Economic Development Authorities (EDA) Act, and the Rural Development Financing Authorities Act. Together with the City Development District Act, these acts are referred to in this Report as the Development Acts.<sup>9</sup> Any city with the

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<sup>6</sup> Minn. Stat. § 469.177, subd. 1(a). Property taxes already existing at the time the district is created continue to be paid in the same amount to the city, county and school district often referred to as the “frozen base.” *But see* Minn. Stat. §§ 469.174, subd. 23, and 469.175, subd. 7 (due to the extraordinary expense involved in cleaning up hazardous substances, the entire property tax payment may be used to pay it).

<sup>7</sup> Minn. Stat. §§ 469.174 to 469.1799, as amended. The Act also provides procedures for establishing TIF districts and for the administration of districts, as well as providing additional development powers.

<sup>8</sup> Minn. Stat. § 469.174, subd. 2 and subd. 6. Counties are defined as “municipalities” for projects undertaken by county development authorities.

<sup>9</sup> Minn. Stat. § 469.174, subd. 2, lists the statutory citations for the HRA Act, the Port Authorities Act, the EDA Act, the City Development Districts Act, and the Rural Development Financing Authorities Act.

authority to exercise the powers of the City Development District Act or the powers of a port authority acts as a development authority.<sup>10</sup> Development powers and the purposes for which tax increment can be used vary between each of the Development Acts.

City council members may serve on the board of an HRA, an EDA, or a port authority established by the city they serve. Counties do not have independent development powers, but can establish county HRAs and EDAs on which county board members may serve.

The TIF Act is cross-referenced into the Development Acts primarily through the use of the term “project,” although the term is used differently in each of the Development Acts.<sup>11</sup> In the HRA Act, for example, the term “project” can mean any combination of a housing project, a housing development project, a redevelopment project, or property/cash/assets/funds held or used in connection with the development or operation of a project.<sup>12</sup> In the City Development District Act, however, the term “project” means a designated area within a city.<sup>13</sup> The Development Acts do not expressly limit the size of areas that can qualify as projects.

The Legislature indirectly limited the size of a TIF district by requiring it to be composed of only the parcels on which new development activity was occurring. The geographic area of a project was intended to be only modestly larger than the TIF district itself to permit tax increments to be used to connect utilities and other infrastructure from the developed area of the community to the site. The TIF Act, however, did not expressly limit the size of the geographic area of a project.

## **Development Authorities**

In 2011, there were 426 active development authorities in Minnesota. One new city development authority and two county development authorities were created, but the total number of active development authorities dropped from 430 in 2010 due to decertifications. Of the two counties creating development authorities, one already had a county HRA and was now creating a county EDA.

In the last five years, the new authorities have generally been created by smaller cities. In 2011, the population of the city in which the new city development authority was created is 183. The average population of cities in which new development authorities were created during the last five years is approximately 787.

## **Development Authorities by Location**

Development authorities using TIF powers are located throughout the State of Minnesota. Of the 426 development authorities reporting for 2011, 322 are located in Greater Minnesota and 104

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<sup>10</sup> In this Report, the HRA Act, the Port Authorities Act, the EDA Act, the Rural Development Financing Authorities Act, and the City Development District Act are referred to collectively as the Development Acts. Minn. Stat. § 469.174, subd. 2. HRAs, port authorities, and EDAs are public bodies, corporate and politic; rural development financing authorities are public nonprofit corporations; city development districts are designated areas within the corporate limits of a city.

<sup>11</sup> Minn. Stat. § 469.174, subd. 8.

<sup>12</sup> Minn. Stat. § 469.002, subd. 12.

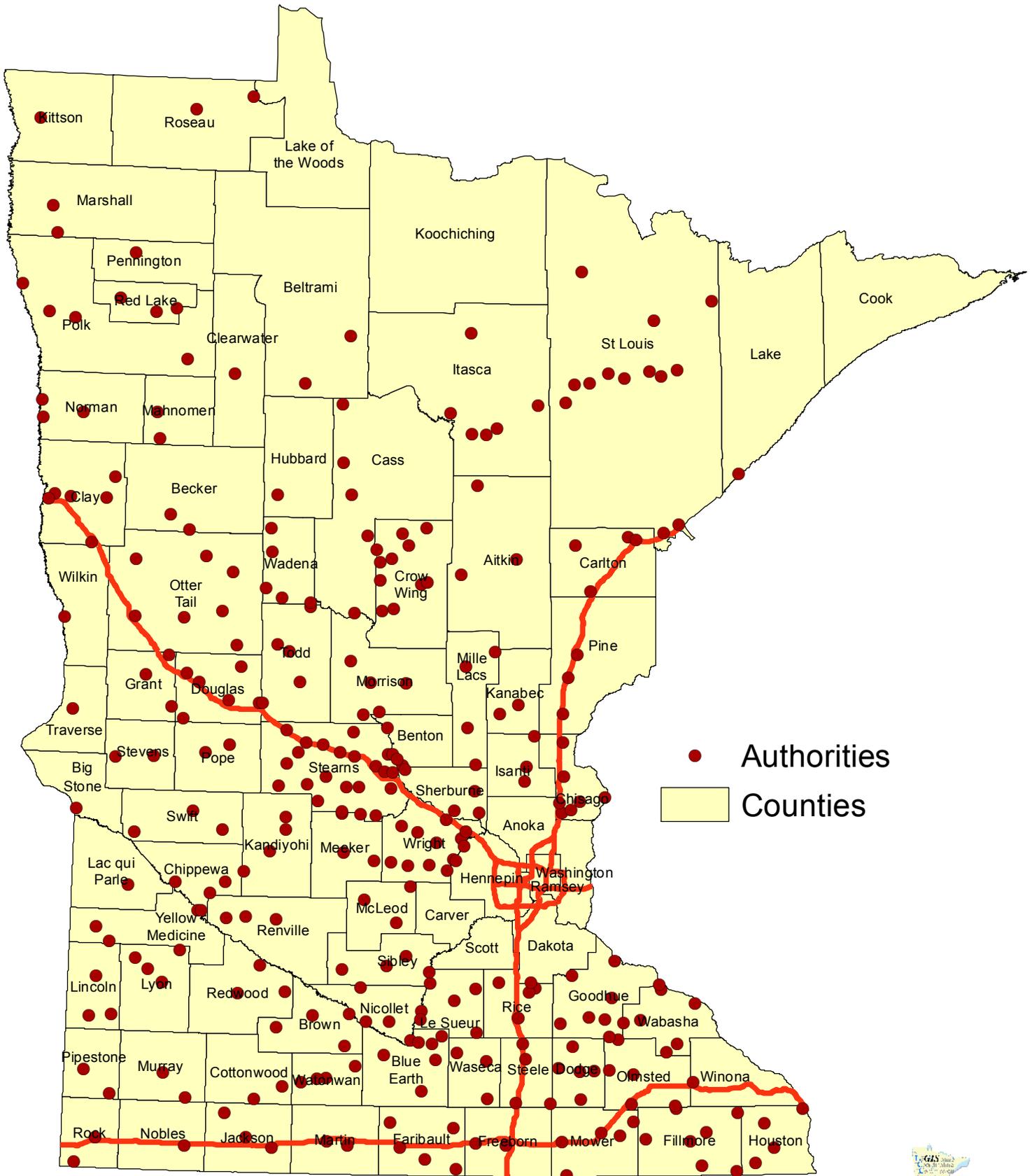
<sup>13</sup> Minn. Stat. § 469.125, subd. 9.

are located in the Seven-County Metropolitan Area (Metro Area). Maps 1 and 2 on the following pages show the locations of these authorities. Map 3 identifies the various counties throughout the state that have created a separate authority for development purposes.<sup>14</sup>

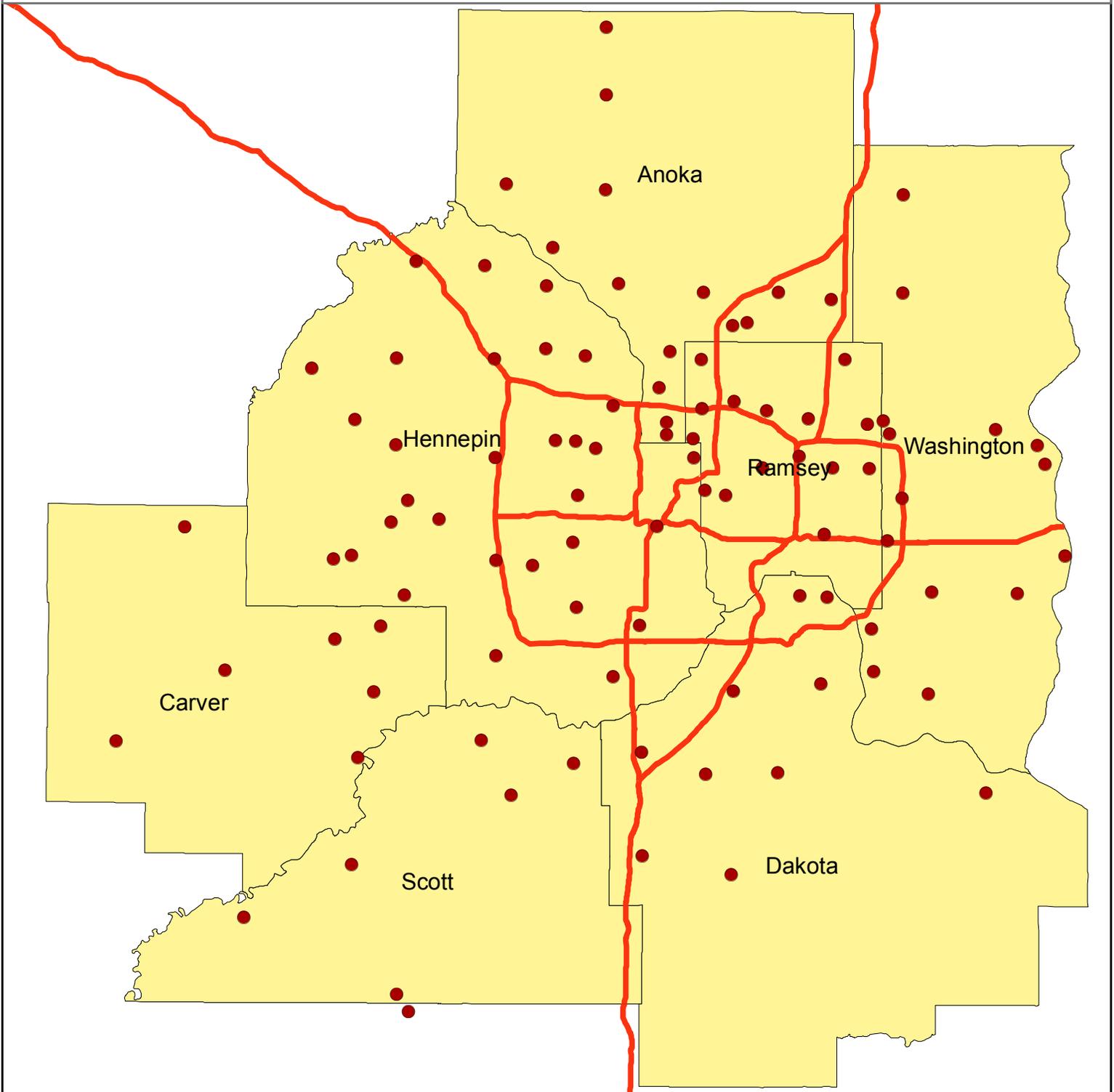
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<sup>14</sup> This map does not include the following joint authorities: Bluff Country HRA and Southeast Minnesota Multi-County HRA.

# Development Authorities in Greater Minnesota 2011



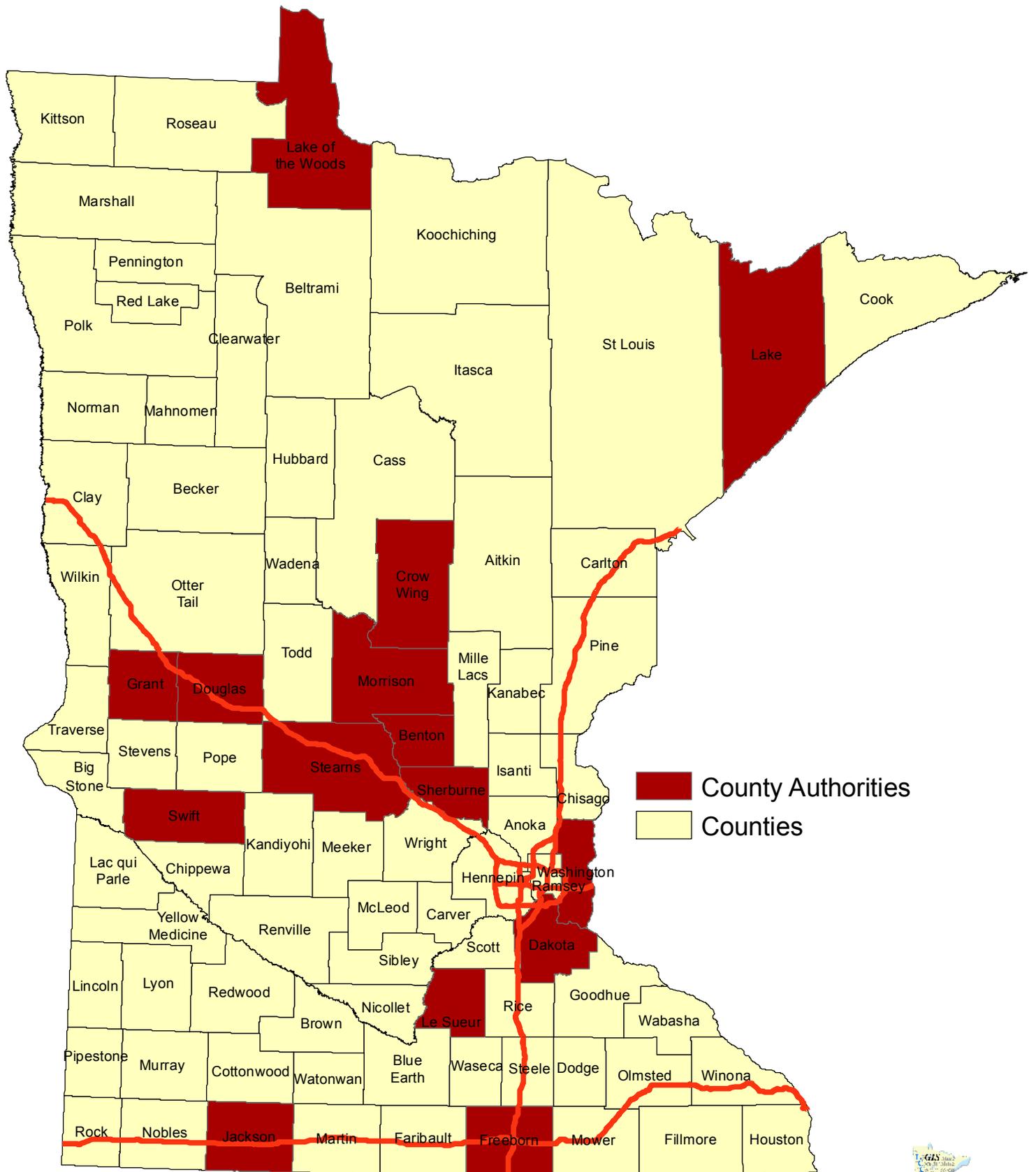
# Development Authorities in Metro Area 2011



- Authorities - Metro Area
- Counties



# County Development Authorities With Active TIF Districts in 2011



## Creation of TIF Districts

The first step a development authority takes in creating a TIF district is to adopt a TIF plan. The TIF plan outlines the development activity to be funded with tax increment. Approval of the TIF plan authorizes the use of tax increment to pay TIF-eligible project costs.<sup>15</sup>

A development authority must obtain approval of the TIF plan from the governing body of the municipality in which the TIF district is to be located. A “municipality” is defined in the TIF Act to mean “the city, however organized, in which the district is located.”<sup>16</sup> Before approving a TIF plan, the city must publish a notice for and hold a public hearing.<sup>17</sup> For example, if a city’s port authority proposes creating a TIF district in the city, the city council must first approve the TIF plan for the district.<sup>18</sup>

Before the notice for a public hearing is published, the development authority must provide a copy of the proposed TIF plan to the county auditor and the clerk of the school board who, in turn, provide copies of these documents to the members of the county board of commissioners and the school board.<sup>19</sup> The county board and school board may comment on the proposed district, but cannot prevent its creation.<sup>20</sup>

## Types of TIF Districts

There are seven different types of TIF districts authorized by statute:

- Redevelopment districts
- Economic development districts
- Housing districts
- Renewal and renovation districts
- Soils condition districts
- Compact development districts
- Hazardous substance sub-districts

In addition to these types, there were districts that were created prior to the enactment of the TIF Act (called “pre-1979 districts”) that have since decertified and districts that have been created under special laws. Each type of TIF district has different requirements for its creation, different maximum duration limits, and different restrictions on the use of tax increment revenue.

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<sup>15</sup> Minn. Stat. § 469.175, subd. 1.

<sup>16</sup> Minn. Stat. § 469.174, subd. 6. Subdivision 6 also identifies several exceptions where the municipality is not a city.

<sup>17</sup> Minn. Stat. § 469.175, subd. 3.

<sup>18</sup> In many cases, the commissioners of the TIF authority include some or all of the council members.

<sup>19</sup> Minn. Stat. § 469.175, subd. 2.

<sup>20</sup> In those situations in which the county is the municipality that must approve the TIF plan, however, the county board may prevent creation of a TIF district.

**Redevelopment Districts** – The purpose of a redevelopment district is to eliminate blighted conditions.<sup>21</sup> Qualifying tax increment expenditures include acquiring sites containing substandard buildings, streets, utilities, paved or gravel parking lots, or other similar structures; demolishing and removing substandard structures; eliminating hazardous substances; clearing the land; and installing utilities, sidewalks, and parking facilities. This activity, paid for with tax increment, is generally considered a means to “level the playing field” so that blighted property can compete for development with bare land. Redevelopment districts are designed to conserve the use of existing utilities, roads, and other public infrastructure, and to discourage urban sprawl.

**Economic Development Districts** – The purpose of an economic development district is to support a project which an authority considers to be in the public interest because it will: (i) discourage commerce, industry, or manufacturing from moving to another state or city; (ii) increase employment in the State; or (iii) preserve and enhance the tax base.<sup>22</sup> Economic development districts are short-term districts (eight years).<sup>23</sup> Tax increment revenue from economic development districts is used primarily to assist manufacturing, warehousing, storage and distribution, research and development, telemarketing, and tourism. Commercial development (retail sales) is excluded by law, except in “small cities.”<sup>24</sup>

In 2010, the Legislature established, and in 2011 the Legislature extended, temporary authority for a development authority to establish economic development districts to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form to developments if the municipality found that the project would create or retain jobs in the State, including construction jobs, that would not otherwise have commenced before July 1, 2012. These districts had to request certification no later than June 30, 2012 and construction must have begun by July 1, 2012.<sup>25</sup>

**Housing Districts** – The purpose of a housing district is to encourage development of owner-occupied and rental housing for low- and moderate-income individuals and families by using tax increment revenue as a type of financial assistance. Tax increment revenue can be used in the construction of low- and moderate-income housing, as well as to acquire and improve the housing site. The TIF Act’s low- and moderate-income limits are the same income limits found in the Internal Revenue Code.<sup>26</sup>

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<sup>21</sup> Minn. Stat. § 469.174, subd. 10(a)(1).

<sup>22</sup> Minn. Stat. § 469.174, subd. 12.

<sup>23</sup> Minn. Stat. § 469.176, subd. 1b(a)(3).

<sup>24</sup> Minn. Stat. § 469.174, subd. 27, and Minn. Stat. § 469.176, subd. 4c.

<sup>25</sup> The Jobs Stimulus Program provisions also included temporary authority to use increments from existing districts of any type for similar purposes.

<sup>26</sup> Minn. Stat. § 469.1761. Income limits for owner-occupied housing units are identified in section 143(f) of the Internal Revenue Code. Income limits for rental housing units are identified in section 142(d) of the Internal Revenue Code. However, the income limits for “qualified” housing districts are tied to the stricter federal low-income tax credit guidelines, regardless of whether tax credits are used. The 2008 Minnesota Legislature repealed the definition of “qualified housing.” Nevertheless, this more restrictive type of housing district designation continues to be used for qualified housing districts created prior to March 8, 2008.

**Renewal and Renovation Districts** – The purpose of a renewal and renovation district is similar to that of a redevelopment district, except the amount of blight to be removed may be less, and the development activity is more closely related to inappropriate or obsolete land use.

**Soils Condition Districts** – The purpose of a soils condition district is to assist in the redevelopment of property which cannot otherwise be developed due to the existence of hazardous substances, pollutants, or contaminants. The presence of these materials requires removal or remedial action before the property can be used, and the estimated cost of the proposed removal and remediation must exceed the fair market value of the land before the remediation is completed.<sup>27</sup>

**Compact Development Districts** – The purpose of a compact development district is to increase the square footage of the commercial/industrial buildings by three times or more. This type of district must meet a coverage test similar to redevelopment districts in that 70 percent of the area of the district must be occupied by buildings or similar structures classified as commercial/industrial property. The authority to create a compact development district expired on June 30, 2012. As of the date of this Report, the OSA has no record that any compact development district had been established.

**Hazardous Substance Subdistricts** – A hazardous substance subdistrict (HSS) must have an overlying TIF district, generally a redevelopment district.<sup>28</sup> The site must have a hazardous substance problem that requires removal actions or remedial actions specified in a development response action plan.<sup>29</sup> The development response action plan must be submitted and approved by the Minnesota pollution control agency (PCA).<sup>30</sup> The original net tax capacity (ONTC) of an HSS is determined as of the date the development authority certifies to the county auditor that it has entered into an agreement for the removal actions or remedial actions specified in the plan.<sup>31</sup> The ONTC of the parcels on which the HSS is located is reduced by the estimated costs of the removal actions.<sup>32</sup> In other words, the payment of costs for the removal actions or remedial actions of the HSS comes from the frozen base of the district.

**Pre-1979 Districts** – Districts created prior to the 1979 TIF Act have been identified as a separate type of district, but were required to decertify by August 1, 2009. This Report, however, continues to identify these districts in many of the tables and graphs because development authorities are required to file Annual TIF Reporting Forms until all tax increments from these districts have been properly disposed.

## **Special Legislation**

**Uncodified Districts** – Special laws have been enacted that permit the generation of tax increment revenue from a geographic area not meeting the definition of a type of TIF district

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<sup>27</sup> Minn. Stat. § 469.174, subd. 19.

<sup>28</sup> Minn. Stat. § 469.174, subd. 24.

<sup>29</sup> Minn. Stat. § 469.174, subd. 16.

<sup>30</sup> Minn. Stat. § 469.174, subd. 17.

<sup>31</sup> Minn. Stat. § 469.174, subd. 7.

<sup>32</sup> Minn. Stat. § 469.174, subd. 7(b).

authorized by the TIF Act. This type of district is referred to as an “uncodified” district. Examples of uncodified districts are housing transition districts for the cities of Crystal, Fridley, St. Paul, and Minneapolis, and a district with distressed rental properties in Brooklyn Park.

**Modification of Terms** - In some cases, special legislation has been enacted to allow an exception to the general law for a development authority. As of 2011, 122 TIF districts reported having been subject to one or more special laws. The most common reasons for enacting special legislation are: (1) extending the five-year deadline for entering into contracts or issuing bonds;<sup>33</sup> (2) extending the duration limits of a TIF district;<sup>34</sup> (3) creating an exception to requirements or findings needed to create a TIF district;<sup>35</sup> and (4) creating an exception to the limitations on the use of tax increment.<sup>36</sup>

### Number of TIF Districts

In 2011, 96 percent of the TIF districts were redevelopment, economic development, and housing districts. Figure 1 below shows the number of TIF districts by type statewide as well as the number in Greater Minnesota versus the Metro Area. In 2011, 35 percent of the total number of TIF districts were located in the Metro Area; 65 percent were located in Greater Minnesota.

**Figure 1.**

<b>TIF Districts by Type; Statewide, Greater MN, and Metro Area; 2011</b>						
<b>Type of District</b>	<b>Statewide</b>	<b>% of total</b>	<b>Greater MN</b>	<b>% of total</b>	<b>Metro Area</b>	<b>% of total</b>
Redevelopment	883	49%	505	43%	378	60%
Housing	541	30%	394	34%	147	23%
Economic Development	312	17%	263	22%	49	8%
Renewal and Renovation	30	2%	9	1%	21	3%
Pre-1979	22	1%	3	0%	19	3%
Soils Condition	14	1%	1	0%	13	2%
Uncodified	8	0%	0	0%	8	1%
<b>Total</b>	<b>1,810</b>	<b>100%</b>	<b>1,175</b>	<b>100%</b>	<b>635</b>	<b>100%</b>
Hazardous Substance Subdistricts	26		1		25	

<sup>33</sup> See Minn. Stat. § 469.1763, subd. 3.

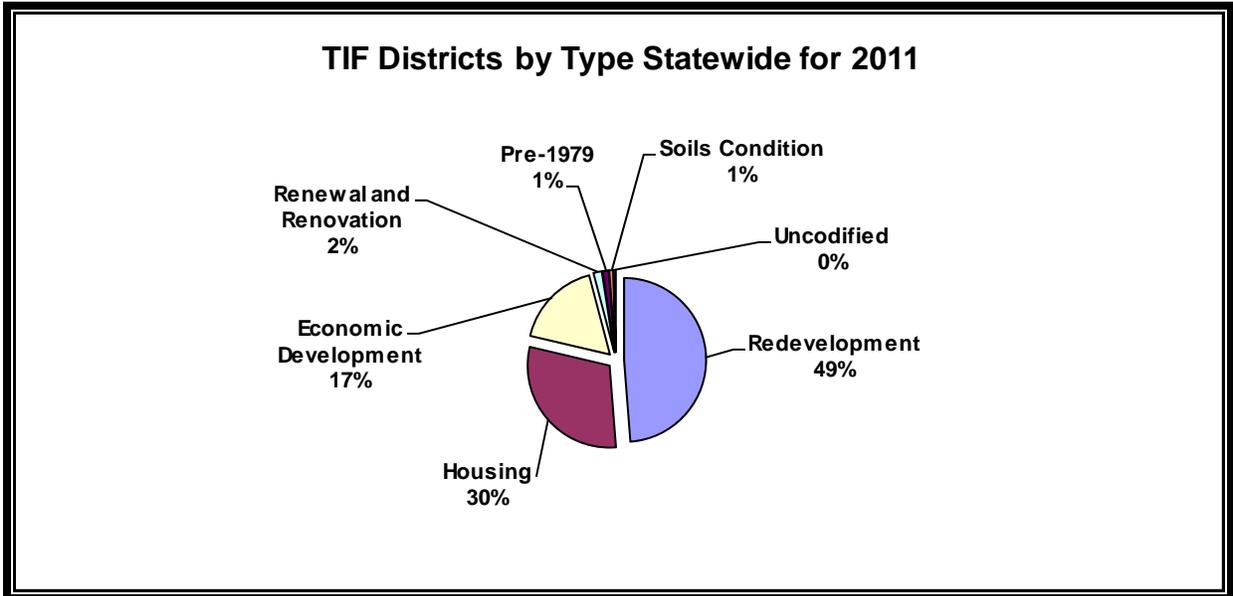
<sup>34</sup> See Minn. Stat. § 469.176, subd. 1b.

<sup>35</sup> See Minn. Stat. § 469.174 and Minn. Stat. § 469.175.

<sup>36</sup> See Minn. Stat. § 469.176.

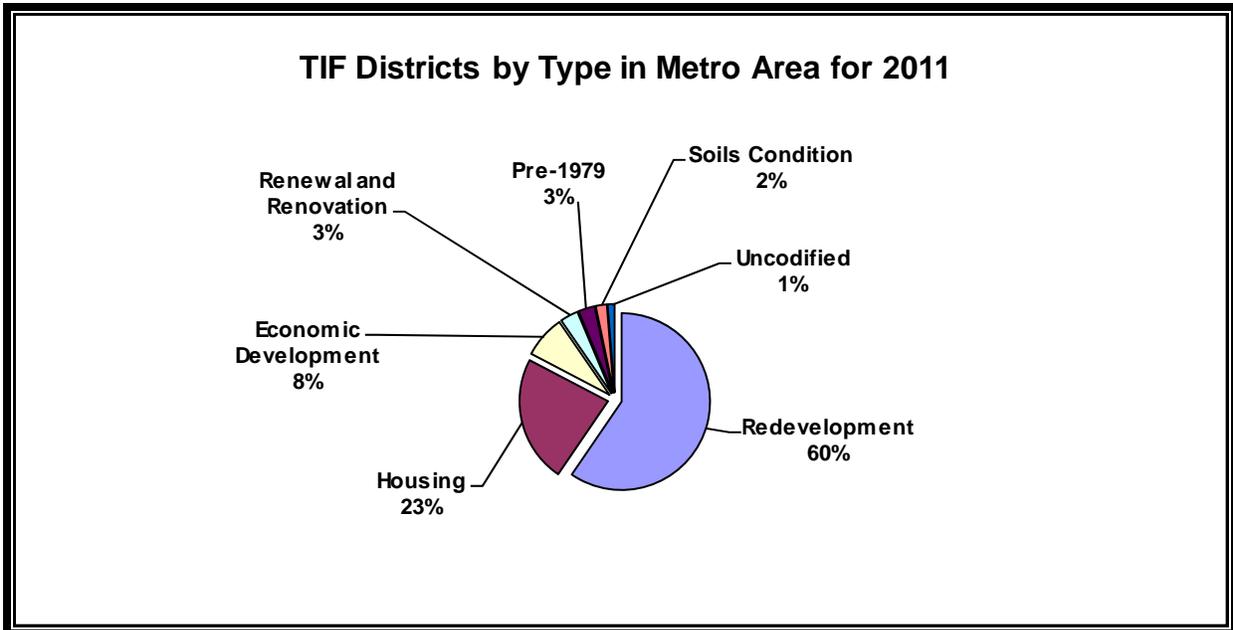
Figure 2 illustrates the percentage of TIF districts by type statewide. Redevelopment districts make up 49% of all districts, followed by housing districts at 30% and economic development districts at 17%.

**Figure 2.**



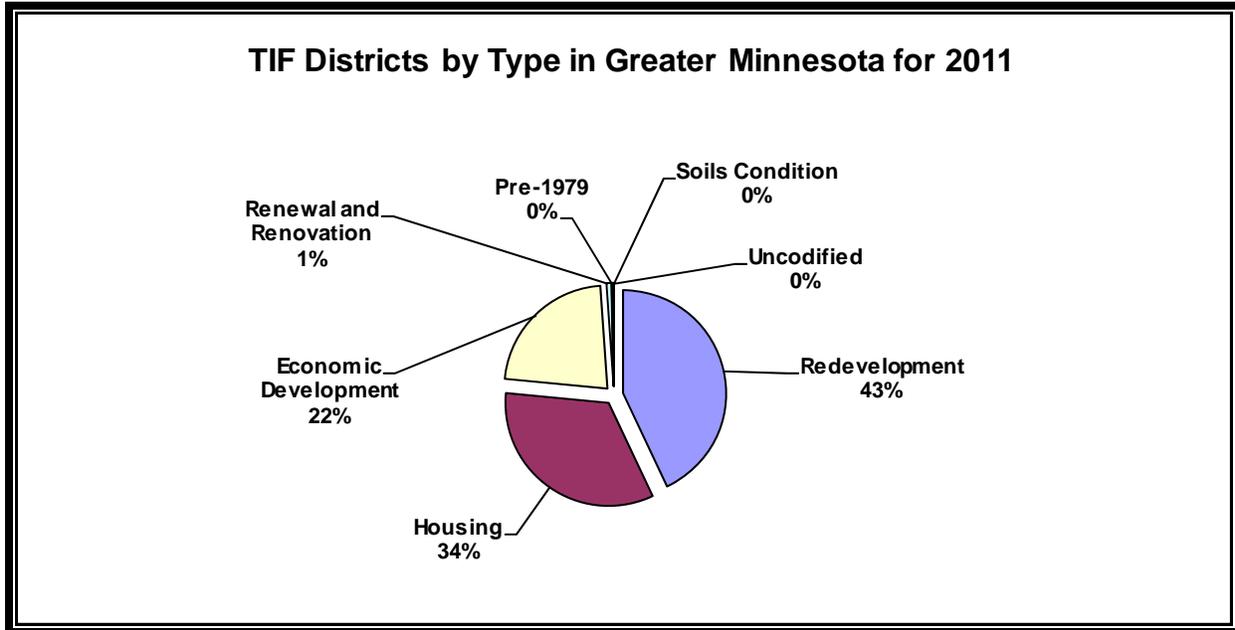
In the Metro Area, (see Figure 3), redevelopment districts are more common and constitute 60% of all districts, with housing districts at 23% and economic development at 8%.

**Figure 3.**



In Greater Minnesota, (see Figure 4), redevelopment districts represent 43% of the districts, housing districts make up 34% of the districts, and economic development districts make up 22% of the districts.

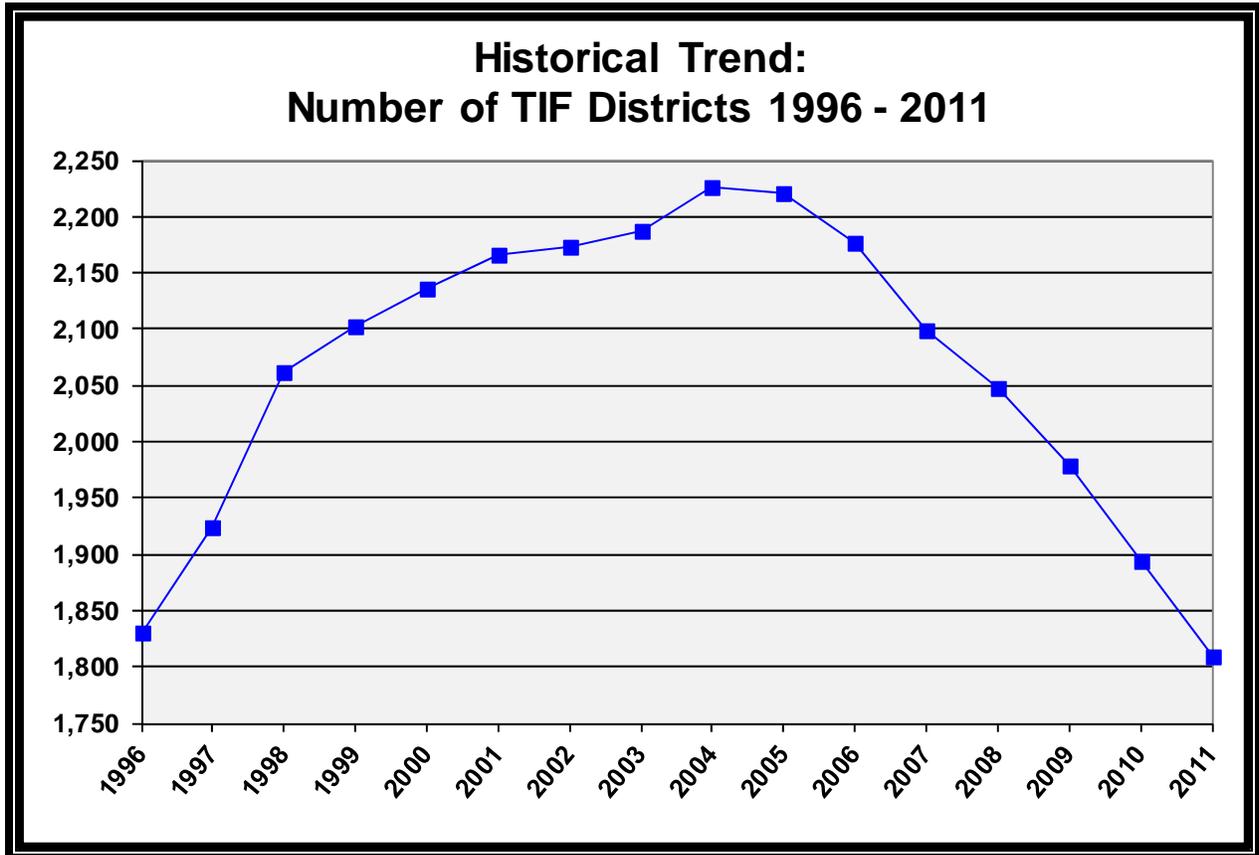
**Figure 4.**



### **Trends in the Number of TIF Districts**

Figure 5 shows the total number of TIF districts from 1996, when the OSA began its oversight authority, to 2011 for historical context. Between 1996 and 2004 the number of districts increased. From 2004 through 2011 there has been a decline. One cause of this decline is that older districts are decertifying.

Figure 5.



### New Districts Certified

After a municipality approves the creation of a TIF district, the county auditor certifies the original net tax capacity.<sup>37</sup> From the date it is *certified*, the increase in property taxes is sent by the county auditor to the TIF authority to pay qualifying development costs.

The total number of TIF districts certified in 2011 increased by 72 percent compared to 2010 (see Figure 6). The number of economic development districts certified increased from 12 to 33. It might be noted that this change coincides with the Jobs Stimulus Program. The Jobs Stimulus Program, in part, allowed development authorities to create new economic development districts with loosened restrictions and broader authority.

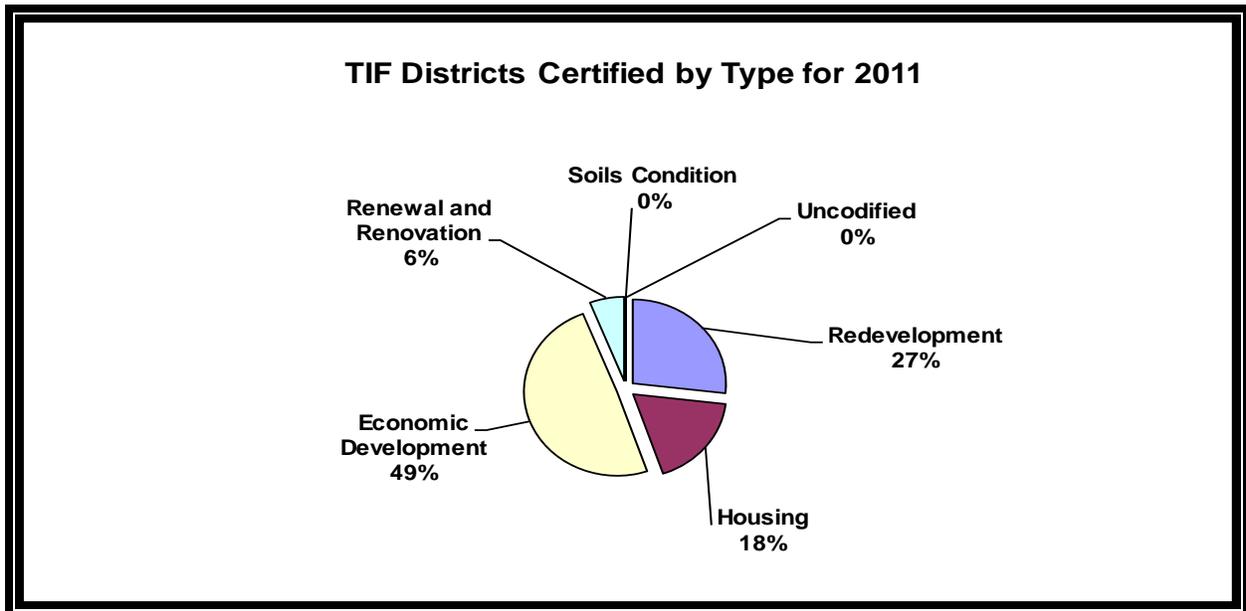
<sup>37</sup> Minn. Stat. § 469.177, subd. 1.

Figure 6.

<b>TIF Districts Certified by Type, 2007-2011</b>					
	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Redevelopment	33	28	30	15	18
Housing	27	26	14	11	12
Economic Development	29	34	11	12	33
Renewal and Renovation	1	0	1	0	4
Soils Condition	2	0	0	0	0
Uncodified	0	0	0	1	0
<b>Total</b>	<b>92</b>	<b>88</b>	<b>56</b>	<b>39</b>	<b>67</b>

Figure 7 shows the number of TIF districts certified by type in 2011 as a percent of the total.

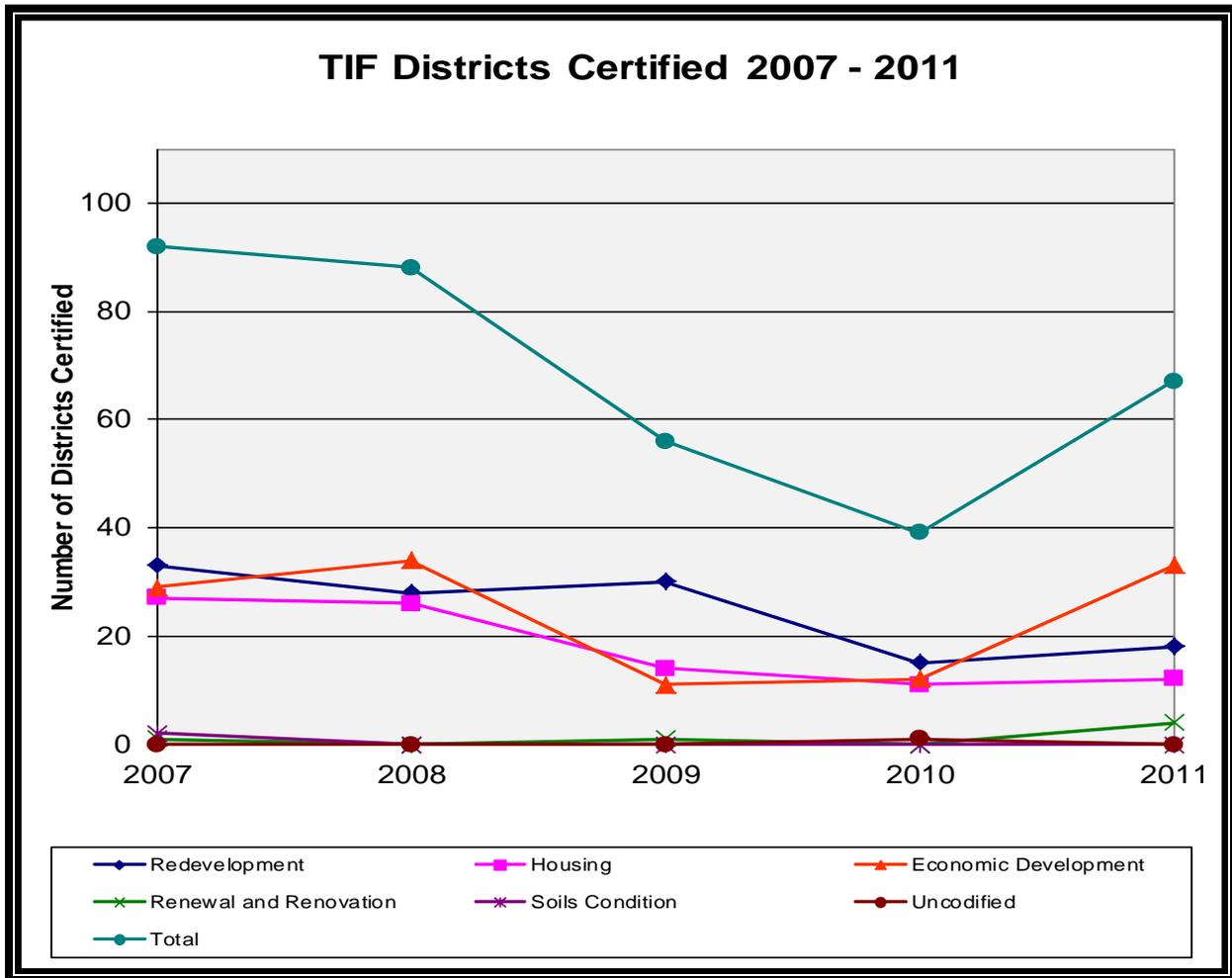
Figure 7.



### Certification Trends

Figure 6 shows the number of TIF districts certified by type from 2007 to 2011, and this five-year history is further illustrated in Figure 8. In 2011, certifications decreased by 27 percent as compared to 2007.

Figure 8.



## Districts Decertified

After a TIF district's statutory term expires and the development costs have been paid, the district is *decertified*, and excess tax increments are redistributed to the city, county, and school district.

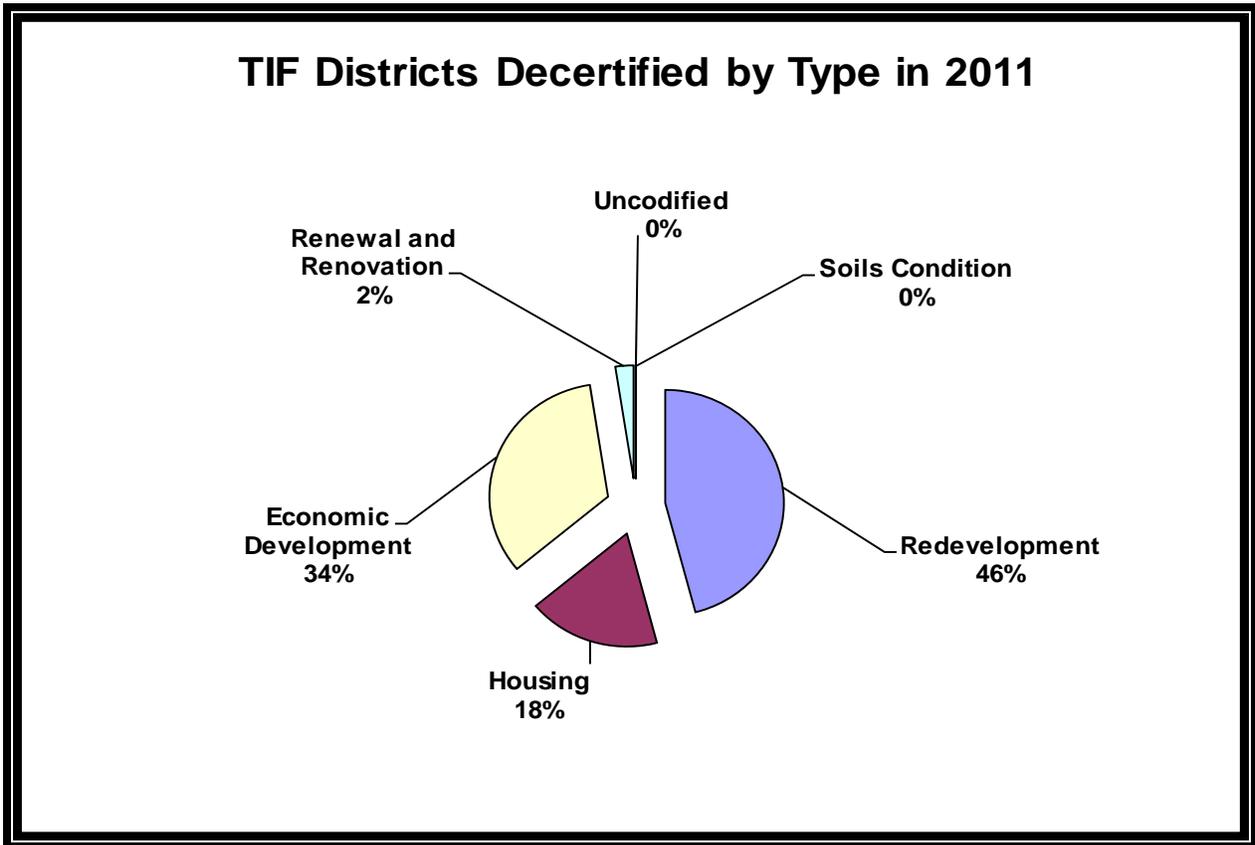
There were 122 TIF districts that were decertified in 2011 (see Figure 9). This is a 19 percent decrease in decertifications compared to 2010. The number of economic development district decertifications dropped from 58 to 41. The Jobs Stimulus Program authorized the use of tax increment from existing economic development districts for expanded purposes, which might have delayed the decertification of some districts.

Figure 9.

TIF Districts Decertified by Type, 2007-2011					
	2007	2008	2009	2010	2011
Redevelopment	51	37	37	71	56
Housing	17	15	16	21	22
Economic Development	69	63	68	58	41
Renewal and Renovation	2	1	0	0	3
Soils Condition	5	0	0	0	0
Uncodified	0	0	0	0	0
Pre-1979	3	7	37	1	0
Total	147	123	158	151	122

Figure 10 shows the number of TIF districts decertified by type in 2011 as a percent of the total.

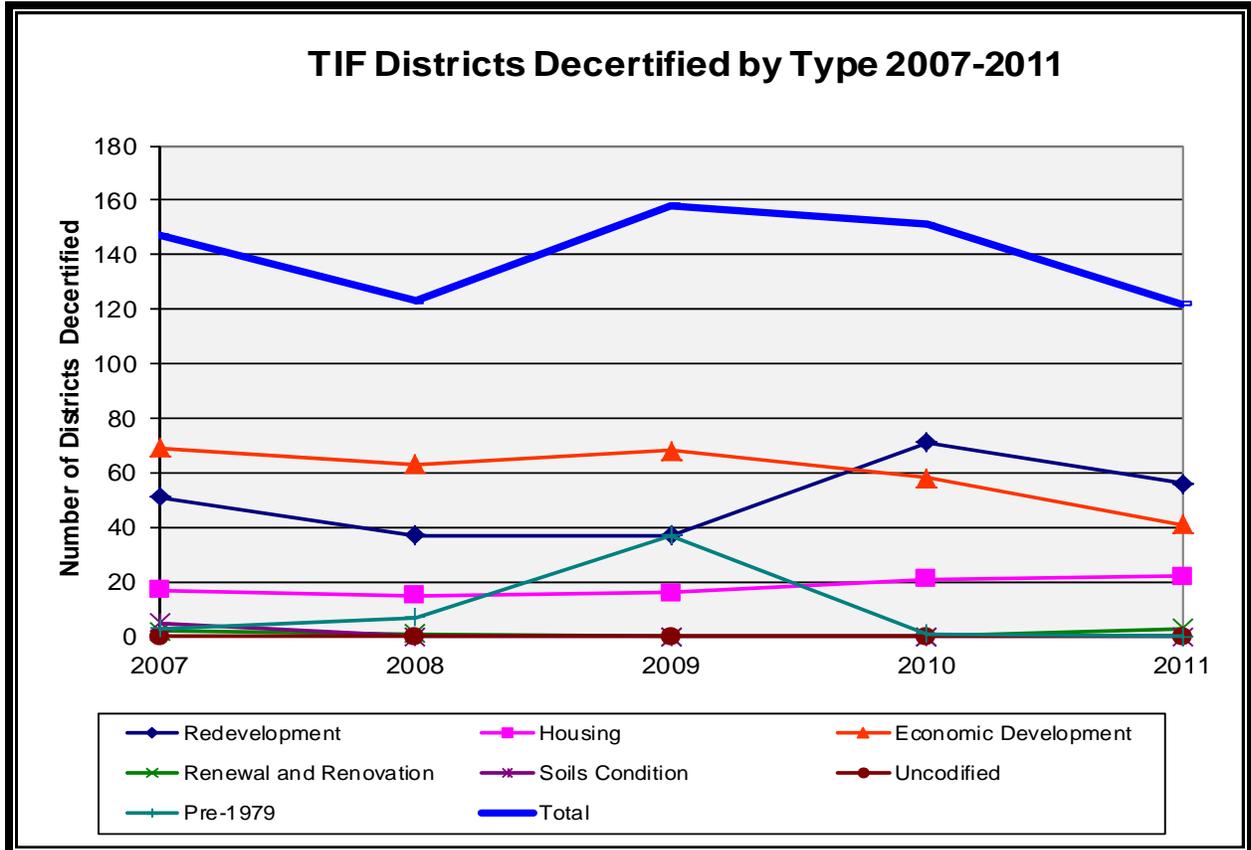
Figure 10.



## Decertification Trends

The number of TIF districts decertified by type from 2007 to 2011 is further illustrated in Figure 11 below. The total number of decertifications each year has exceeded the total number of new certifications over this period.

Figure 11.



## Tax Increment Revenue

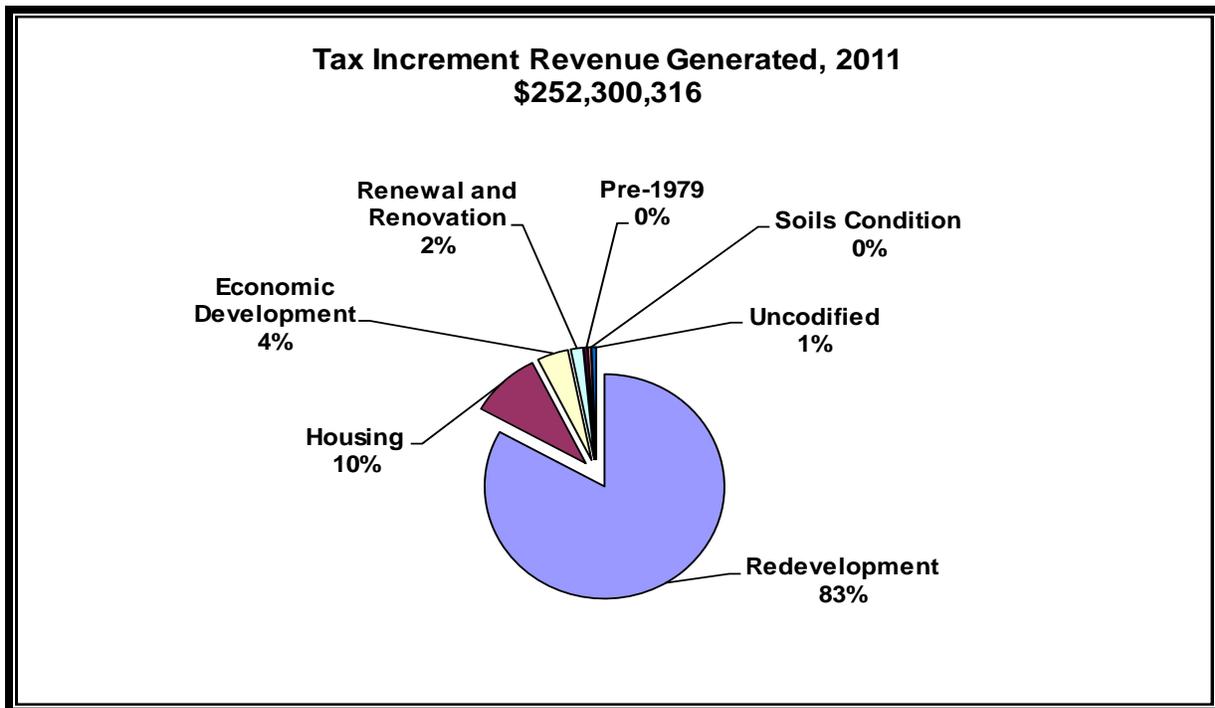
The amount of tax increment revenue generated from within a TIF district depends, in part, on the type of district, the development activity occurring within the district, the length of its term, and the location of the district. Figure 12 shows the amount of tax increment revenue generated in 2011. Although most districts are located in Greater Minnesota, approximately \$210 million of the \$252 million of tax increment, or 83 percent, was generated in the Metro Area.

Figure 12.

Revenue Generated by Type; Statewide, Greater MN, and Metro Area; 2011						
Type of District	Statewide	% of total	Greater MN	% of total	Metro Area	% of total
Redevelopment	\$209,567,024	83%	\$27,269,332	64%	\$182,297,692	87%
Housing	\$24,157,579	10%	\$9,363,146	22%	\$14,794,433	7%
Economic Development	\$10,607,550	4%	\$5,409,416	13%	\$5,198,134	2%
Renewal and Renovation	\$4,163,540	2%	\$408,001	1%	\$3,755,539	2%
Pre-1979	\$1,104,834	0%	\$0	0%	\$1,104,834	1%
Soils Condition	\$1,093,004	0%	\$0	0%	\$1,093,004	1%
Uncodified	\$1,606,785	1%	\$0	0%	\$1,606,785	1%
<b>Total</b>	<b>\$252,300,316</b>	<b>100%</b>	<b>\$42,449,895</b>	<b>100%</b>	<b>\$209,850,421</b>	<b>100%</b>

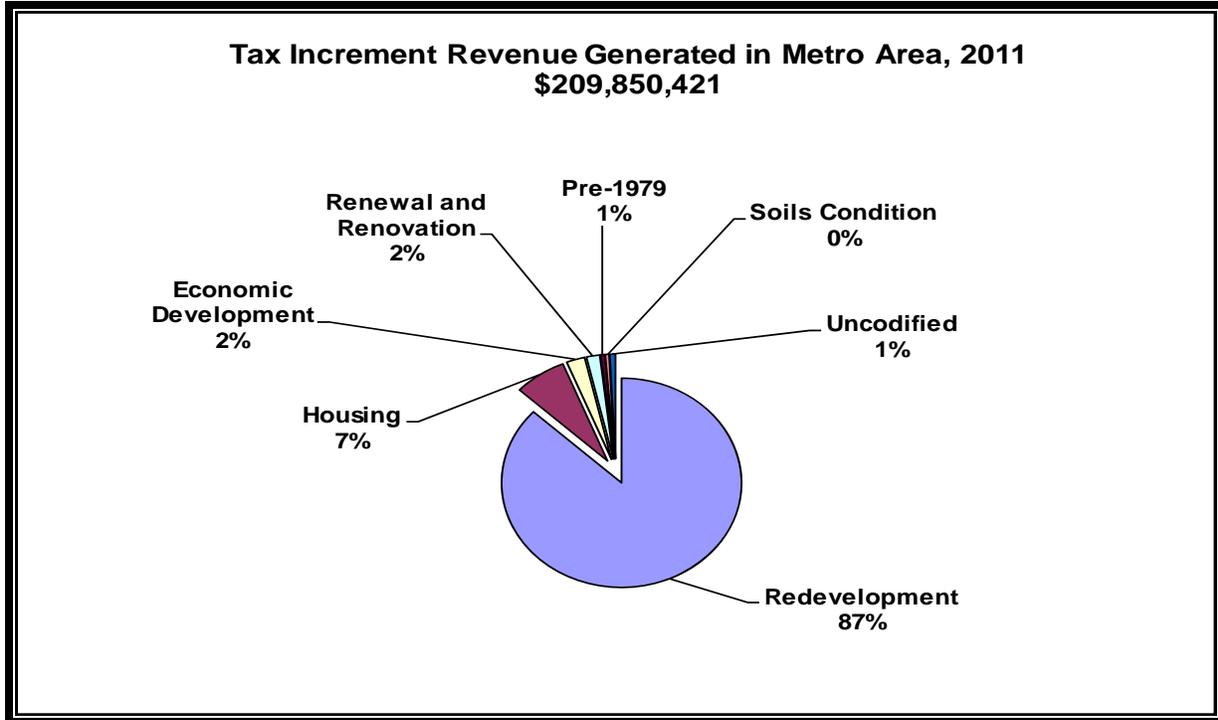
Redevelopment districts made up 49 percent of the TIF districts in the State, and yet they generated 83 percent of the State’s tax increment revenue. Figure 13 illustrates the tax increment revenue generated by type as a percent of the total.

Figure 13.



Figures 14 and 15 below show the shares of tax increment revenue generated by district type, as a percent of the total, in the Metro Area and Greater Minnesota.

**Figure 14.**



**Figure 15.**

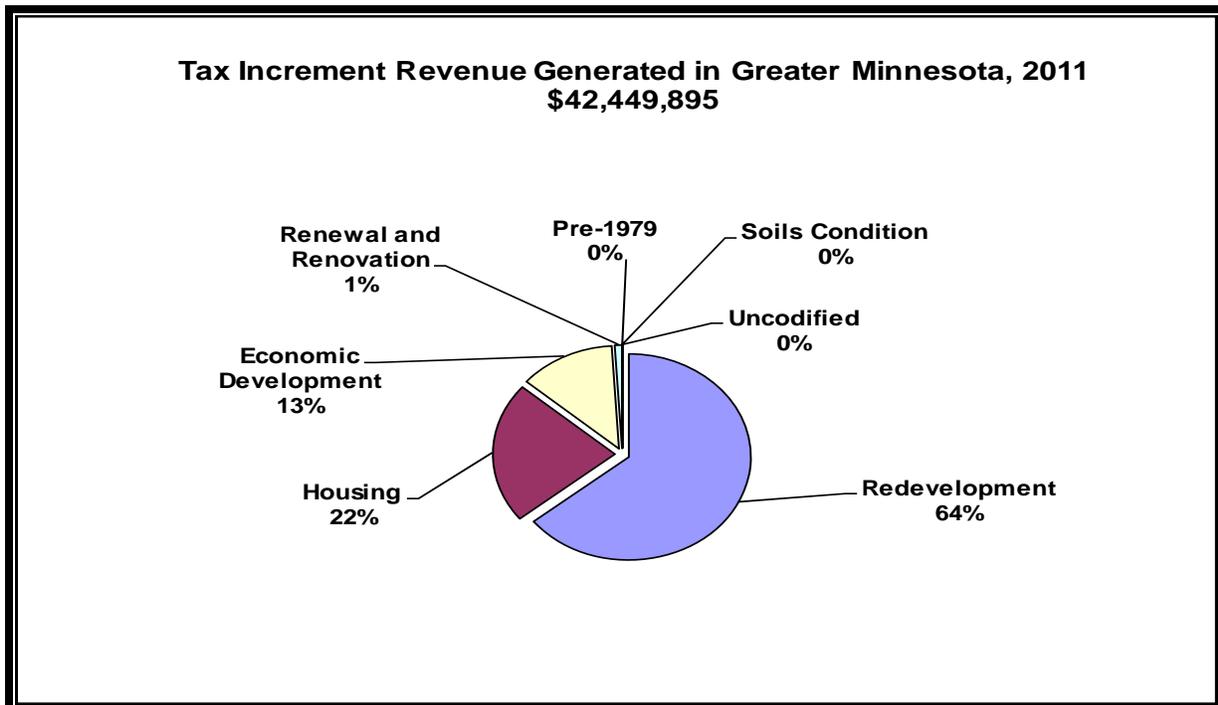
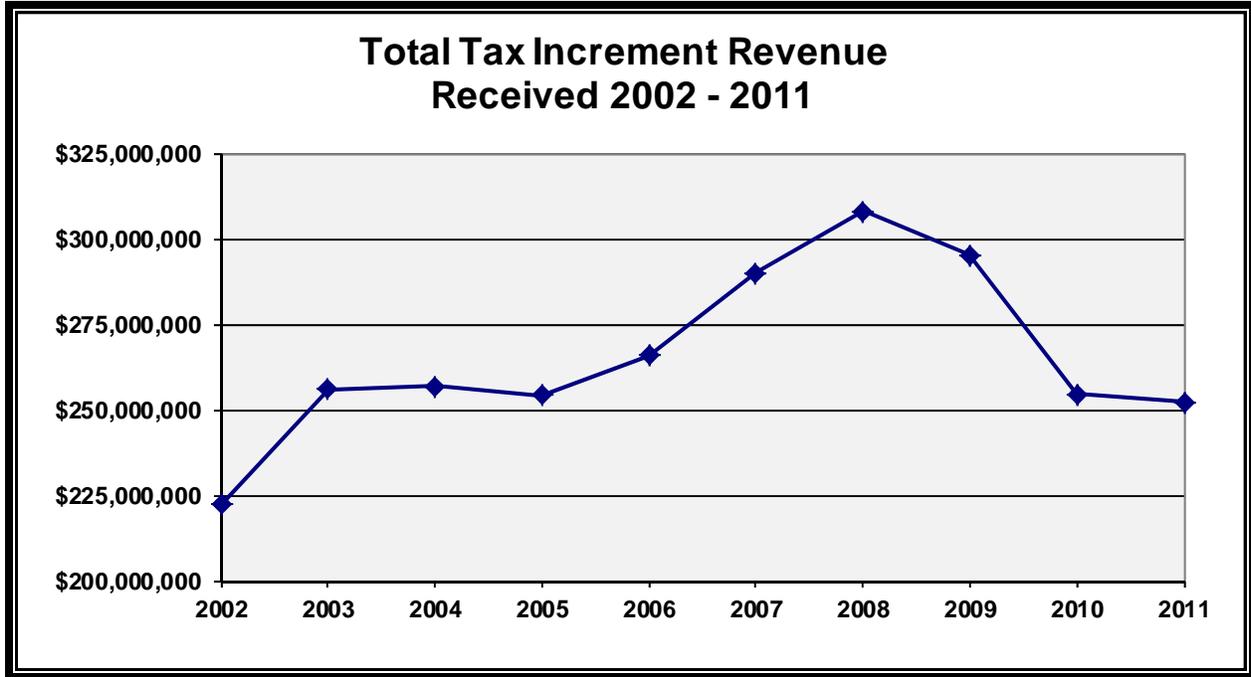


Figure 16 shows the amount of tax increment revenue generated over the last ten years. Tax increment revenues for 2011 stabilized after two years of decline.

**Figure 16.**



### **Returned Tax Increment**

In 2011, development authorities returned \$5,070,233 in tax increment revenue to county auditors for redistribution to the city, county, and school district as property taxes. Some of the reasons tax increment revenue is returned include receiving excess tax increment revenue or improperly receiving tax increment revenue.

### **Reported Debt**

Tax increment is property tax revenue generated from new development that would not occur but for the use of tax increment. Tax increment revenue is used primarily to pay for acquisition and site improvement costs necessary before new development can begin. Tax increment revenue, however, is not generated until after the new development is completed and assessed, and property taxes are being paid. Therefore, up-front qualifying costs are paid with debt obligations. If the new development does not generate the amount of tax increment revenue anticipated, the entity assuming the risk is the entity ultimately responsible for paying the debt. Debt obligations and how these obligations are secured are significant issues in financing economic development.

In 2011, a total of \$1,693,492,629 of outstanding debt was reported. Pay-as-you-go (PAYG) bonds and general obligation bonds are the two primary debt obligations used to finance

qualifying tax increment costs. Only the general obligation (GO) bonds, secured by the municipalities' full faith and credit, may become the taxpayers' responsibility. Of the reported debt, approximately 30 percent is secured by the municipalities' full faith and credit.<sup>38</sup>

Bonds are usually issued by a municipality or development authority to finance development activity, like land acquisition, site improvements, and public utility costs. The TIF Act defines bonds broadly to include obligations such as the types of obligations currently reported to the OSA:<sup>39</sup>

- General Obligation (G.O. Bonds) Bonds
- Revenue Bonds
- Interfund Loans
- Pay-As-You-Go (PAYG) Obligations
- Other Bonds

**General Obligation Bonds** – A G.O. bond pledges the full faith and credit of the municipality as security for the bond. If tax increment is not sufficient to make the required debt service payments, the municipality must use other available funds or levy a property tax to generate the funds to pay the required debt service payments.

**Revenue Bonds** – A revenue bond requires only the revenue generated from the TIF district to be used for the required debt service payments and does not pledge the full faith and credit of the municipality as security for the bond.

**Interfund Loans** – An interfund loan is created when an authority or municipality loans or advances money from its general fund or from any other fund for which it has legal authority. The loan or advance must be authorized by resolution of the governing body before money is transferred, advanced, or spent. The terms and conditions for repayment of the loan must be in writing and include, at a minimum, the principal amount, the interest rate, and maximum term.<sup>40</sup> The interfund loan may be forgiven if the tax increment generated is not sufficient to repay the interfund loan.

**Pay-As-You-Go Obligations** – Under PAYG, the development costs are initially paid by the developer pursuant to the terms of a (re)development agreement. After the qualifying costs are substantiated, the developer is then reimbursed pursuant to the terms of the PAYG note, if and when tax increment is generated by the TIF district. Generally, in PAYG financing, the developer accepts the risks of failed development. If sufficient tax increments are not generated as anticipated, the developer does not get reimbursed.

**Other Bonds** – Other bonds include all other bonds that a municipality or development authority may legally issue for which tax increment may be pledged to pay the required debt service payments.

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<sup>38</sup> This percentage is not comparable to the percentage cited for 2010 because of a change in analysis. (See Figure 18.) The comparable percentage for 2010 G.O. Bonds is 31% (\$549,382,536).

<sup>39</sup> Minn. Stat. § 469.174, subd. 3.

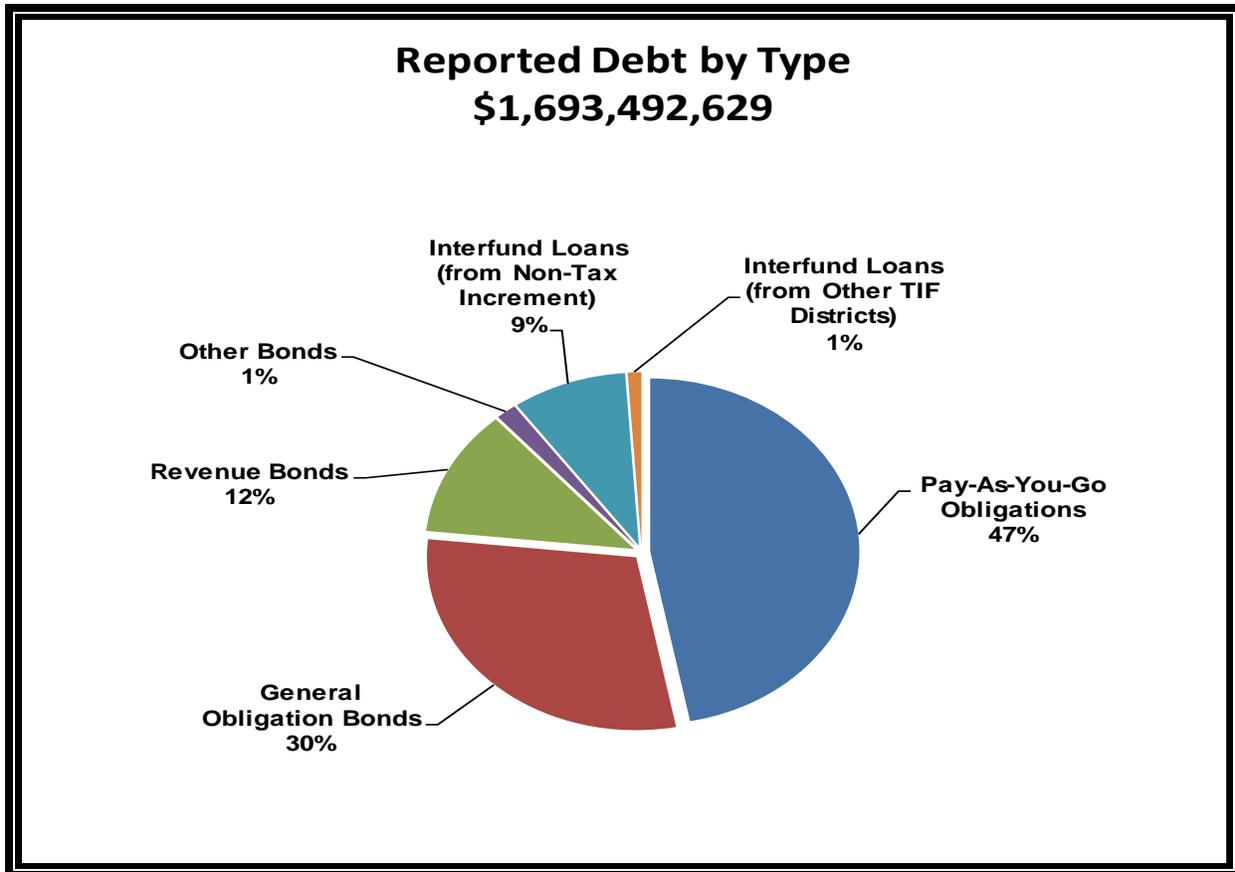
<sup>40</sup> Minn. Stat. § 469.178, subd. 7.

Figures 17 and 18 below shows the types of debt obligations being used to finance improvements to be paid with tax increment revenue.<sup>41</sup>

Figure 17.

<b>Reported Debt by Type, 2011</b>	
<b>Type of Debt</b>	<b>Amount Outstanding</b>
Pay-As-You-Go Obligations	\$794,801,595
General Obligation Bonds	\$503,541,920
Revenue Bonds	\$200,130,266
Other Bonds	\$26,990,820
Interfund Loans (from Non-Tax Increment)	\$150,105,698
Interfund Loans (from Other TIF Districts)	\$17,922,330
<b>Total</b>	<b>\$1,693,492,629</b>

Figure 18.



<sup>41</sup> Figure 18 no longer identifies “Pooled Debt” as a separate category. Debt paid with pooled increment is integrated into these primary types of debt.

## **JOBS STIMULUS PROGRAM**

In 2010, development authorities were given temporary expanded authority under the Jobs Stimulus Program to use tax increment in ways not previously authorized. In 2011, the Legislature extended this authority by one year. The purpose of the expanded authority was to stimulate the economy through the assistance to private development with an emphasis on creating and retaining jobs, including construction jobs, within the state. The temporary authority expired in 2012.

The expanded authority authorized under the Jobs Stimulus Program came in two forms: (1) authority to create an economic development district with loosened restrictions and broader authority,<sup>42</sup> or (2) authority to use available tax increment generated from existing districts for expanded purposes as established in a spending plan.<sup>43</sup>

### **Revenue from Economic Development Districts**

In general, tax increment generated from economic development districts may be used only for manufacturing, warehousing, research and development, telemarketing, and tourism facilities.<sup>44</sup> The Jobs Stimulus Program allows a development authority to create an economic development district and use the tax increment generated to provide subsidies or assistance in any form to developments consisting of buildings and ancillary facilities if (i) the project will create or retain jobs in the State; (ii) construction of the project begins no later than July 1, 2012; and (iii) the request for certification of the district is made after June 30, 2009, and no later than July 1, 2012.<sup>45</sup>

Development authorities are required to submit to the OSA copies of the approved TIF plans for all newly created TIF districts. As of the date of this Report, the OSA has received TIF plans for 43 economic development districts created under the Jobs Stimulus Program. A summary of the economic development districts created under the Jobs Stimulus Program can be found in Appendix B.

### **Revenue from Existing Districts**

Under the Jobs Stimulus Program, development authorities were given temporary authority to use available and uncommitted tax increment revenue from any type of existing TIF district to create jobs. Assistance provided by the Jobs Stimulus Program included providing subsidies or assistance in any form to developments, as well as direct investments in businesses to finance the development.<sup>46</sup> The temporary authority to expend tax increment expired on December 31, 2012.

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<sup>42</sup> Minn. Stat. § 469.176, subd. 4c(d).

<sup>43</sup> Minn. Stat. § 469.176, subd. 4m.

<sup>44</sup> Minn. Stat. § 469.176, subd. 4c(a)(1) to (7).

<sup>45</sup> Minn. Stat. § 469.176, subd. 4c(d)(1) to (3).

<sup>46</sup> Minn. Stat. § 469.176, subd. 4m.

Before an authority could use tax increment from an existing TIF district for the Jobs Stimulus Program, a written spending plan had to be approved by the municipality and submitted to the OSA.<sup>47</sup> As of the date of this Report, 45 spending plans have been submitted to the OSA. A summary of the spending plans approved under the Jobs Stimulus Program can be found in Appendix C.

## **FINDINGS AND RESPONSES**

The OSA conducts informal and limited reviews of development authorities. Generally, if an authority is not in legal compliance with the TIF Act, an initial notice of noncompliance (Initial Notice) is sent to the governing body of the municipality that approved the TIF district in which the violation arose. The Initial Notice provides the findings, the base for the findings, and describes the possible consequences of the noncompliance.

The municipality is required by law to respond in writing within 60 days after receiving the Initial Notice. In its response (Response), the municipality must state whether it accepts the findings, in whole or in part, and must indicate the basis for any disagreement with the findings. After consideration of the Response, if the findings are not resolved, the OSA provides its final notice of noncompliance (Final Notice) to the municipality. The OSA forwards information regarding unresolved findings of noncompliance to the appropriate county attorney who may bring an action to enforce the TIF Act.<sup>48</sup> If the county attorney does not commence an action against the authority within one year after receiving a referral of a Final Notice, the OSA refers the Final Notice to the Attorney General who may commence an action.

### **Summary of Findings and Responses**

State law requires the OSA to provide a summary of the Responses it received from the municipalities and copies of the Responses themselves to the chairs of the legislative committees with jurisdiction over tax increment financing.<sup>49</sup> This section of the Report summarizes the TIF legal compliance reviews and investigations concluded as of December 31, 2012. Initial Notices and Final Notices were sent to the following municipalities:

1. City of Cottage Grove – An Initial Notice was sent on March 29, 2012. A Response from the City of Cottage Grove was received on May 29, 2012. A Final Notice was sent on July 9, 2012. (Appendix D.)
2. City of Ramsey – An Initial Notice was sent on September 24, 2012. A Response from the City of Ramsey was received on October 25, 2012. A Final Notice was sent on November 5, 2012. (Appendix E.)

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<sup>47</sup> The Office of the State Auditor requests copies of the spending plans be filed pursuant to existing authority. Minn. Stat. § 6.74; *see also* §§ 6.48 to .51.

<sup>48</sup> All information and communications remain confidential until the Final Notice is submitted. Minn. Stat. § 6.715.

<sup>49</sup> Minn. Stat. § 469.1771, subd. 1(c).

3. City of Wyoming – An Initial Notice was sent on September 12, 2012. A Response from the City of Wyoming was received on October 9, 2012. A Final Notice was sent on October 11, 2012. (Appendix F.)

Complete copies of the Initial Notices and Final Notices and the municipalities' Responses are provided in Appendix D.

## **Failure to Comply with the Four-Year Rule**

### **City of Cottage Grove**

#### *TIF District 1-10*

In the Initial Notice, the OSA found that the City of Cottage Grove (City) improperly retained \$91,516.63 of tax increment received from parcels in TIF District 10 that did not qualify for retention due to failure to commence demolition, rehabilitation, or renovations or other site preparation under the four-year rule. In its Response, the City agreed with this finding and provided documentation that it returned \$91,516.63 to the Washington County Auditor. In the Final Notice, the OSA considered this finding resolved.

## **Improper Receipt and Expenditure of TIF Revenue**

### **City of Cottage Grove**

#### *TIF District 1-13*

In the Initial Notice, the OSA found that a parcel certified in TIF District 1-10 was improperly included in TIF District 1-13 and that the tax increment generated from the Parcel was improperly used to make debt service payments for costs incurred in TIF District 1-13. In its Response, the City agreed with this finding and provided documentation that it returned \$154,703.19 to the Washington County Auditor. In the Final Notice, the OSA considered this finding resolved.

## **Failure to Decertify the District**

### **City of Cottage Grove**

#### *TIF District 1-10*

In the Initial Notice, the OSA found that the TIF District 1-10 was required by law to be decertified on December 31, 2009, when no qualified outstanding debt was reported. The City received \$155,167 of tax increment from the County in 2010, after the district had paid the qualified obligations incurred within the first five years of the district. The OSA also found insufficient evidence to support characterization of a transfer of \$279,654 in tax increment remaining in the TIF fund (including the \$155,167 in 2010 tax increment mentioned previously)

to pay itself for area charges and park dedication fees was an outstanding obligation of the district.

In its Response, the City provided information on a deficit fund balance that existed for TIF District 1-10 in 2001. The City asserted that the July 31, 2001, deficit was a valid loan or advance; and that “[t]he existence of this obligation, and to the extent that said obligation was not completely defeased is not consistent with the stated requirement that the district be decertified on December 31, 2009.” In addition, the City noted that it returned \$91,516.63 of the \$279,654 to the Washington County Auditor to correct the violation identified in the Failure to Comply with Four-Year Rule finding. About the remaining amount (\$188,137.37), the City stated that it is the City’s position that this amount was retained and repaid to the trunk funds (water, sewer, storm water) which had provided interfund loans or advances totaling \$518,319 into the TIF District 1-10 project fund.

In the Final Notice, the OSA did not dispute the July 31, 2001, deficit or that it was an outstanding obligation identified in the City’s annual financial statements. The existence of the 2001 deficit fund balance has no bearing on whether TIF District 1-10 should have been decertified in 2009 and is irrelevant to the finding.

The City’s reference to \$518,319 is a reference to three 2002 transfers the City made to pay TIF District 1-10 project costs. The City’s current characterization of these transfers as loans is incorrect. The mere transfer of money does not constitute an interfund loan. If it was intended to be a loan, an interfund loan resolution must have been approved by the governing body before money was transferred, advanced, or spent, whichever was earliest. In addition, the City’s financial records do not characterize this transaction as a loan but as an operating transfer from capital project funds to TIF District 1-10.

The OSA did not accept the City’s explanation and determined that the information provided by the City did not resolve this finding. The \$188,137.37 remaining after resolution of the Failure to Comply with Four-Year Rule finding must be returned to the Washington County Auditor.

### *TIF District 1-13*

In the Initial Notice, the OSA found that the City had no outstanding debt as of December 31, 2010 and as such TIF District 1-13 should have been decertified at the end of 2010. In addition, the Office of the State Auditor found that tax increment had been received in 2011, after the TIF district should have been decertified. As a result, the Office of the State Auditor found that \$193,731.71 of tax increment should have been returned to the Washington County Auditor.

In its Response, the City agreed that TIF District 1-13 should have been decertified on December 31, 2010, and that tax increment received in 2011 should be returned to the Washington County Auditor. The City noted in its Response that the amount \$193,731.71 identified in the Initial Notice included the \$154,703.19 returned as part of the Improper Receipt and Expenditure of TIF Revenue finding and as such returned the difference of \$39,028.52 to the Washington County Auditor. In the Final Notice, the OSA considered this finding resolved.

## **Improper Transfer and/or use of Tax Increment**

### **City of Ramsey**

#### *TIF District 10*

In the Initial Notice, the OSA found that the City improperly transferred \$377,936 of tax increment from TIF District 10 to TIF District 1. In its Response, the City agreed with the finding and provided documentation to substantiate that the transferred funds were returned to TIF District 10. In the Final Notice, the OSA considered this finding resolved.

## **Tax Increment Received after Statutory Maximum Duration**

### **City of Wyoming**

#### *TIF District 3-2 Regal Machine*

In the Initial Notice, the OSA found that the City improperly received \$60,249 of tax increment revenues from TIF District 3-2 after the statutorily-required decertification date for the TIF district had passed. In its Response, the City agreed with the finding and provided documentation to substantiate that the tax increment was returned to the Chisago County. In the Final Notice, the OSA considered this finding resolved.

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# **APPENDIX A**

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## Development Authorities That Did Not Submit Complete 2011 Annual TIF Reports

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- Appleton Economic Development Authority<sup>1</sup>
- Le Sueur Economic Development Authority<sup>2</sup>
- Saint Clair
- Waubun
- Willmar

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<sup>1</sup> The Appleton Economic Development Authority did not file the required reporting forms for 2008, 2009 and 2010.

<sup>2</sup> The Le Sueur Economic Development Authority did not file the required reporting forms for three TIF districts for 2010.

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# **APPENDIX B**

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**Jobs Stimulus Program**  
**TIF Revenues from Economic Development Districts**

Minn. Stat. § 469.176, subd. 4c (d)

Self-reported to the Office of the State Auditor as of December 31, 2012

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**City of Alden, TIF 1-1 Arnold Companies**

The City of Alden established an economic development district for the purposes of property acquisition and making site improvements for a sales & service facility to be operated by Arnold Companies for agriculture, light construction, and consumer products. The estimated amount of tax increment to be expended is \$213,536.

**City of Apple Valley, TIF 14**

The City of Apple Valley established an economic development district for the construction of four commercial buildings within the Valley Business Campus. The estimated amount of tax increment to be expended is \$3,100,000.

**City of Baxter, Isle Drive TIF District**

The City of Baxter established an economic development district to facilitate the improvement and extension of Isle Drive in conjunction with proposed medical office projects, including the construction of a 40,000 square foot two-story medical clinic. The estimated amount of tax increment to be expended is \$1,091,439.

**City of Big Lake, TIF 1-6**

The City of Big Lake established an economic development district to facilitate construction of a 20-unit assisted living and advanced care facility. The estimated amount of tax increment to be expended is \$294,548.

**City of Bloomington HRA, Penn and American TIF District**

The City of Bloomington HRA established an economic development district to finance a mixed-use development. Phase I of the project is expected to include rental housing and retail uses; the second phase is expected to include restaurant and retail uses plus office use. It is anticipated that the project will result in peak employment of 250 construction workers, with long-term job creation expected to exceed 60 jobs in the first phase of the project. The estimated amount of tax increment to be expended is \$5,738,000.

**City of Cambridge, TIF Districts 6-11 and 6-12**

**TIF 6-11**

- The City of Cambridge established an economic development district to facilitate construction of a dentistry clinic and a future office building in the City. The construction will take place in two phases. The estimated amount of tax increment to be expended is \$500,000.

**TIF 6-12**

- An economic development district was established by the City of Cambridge to facilitate the construction of a 40,000 square-foot facility on the site that will include manufacturing, office and warehouse space occupied by National Recycling, Inc. The district will be located on a

3.97 acre site from the City of Cambridge. The new facility will retain 7 full-time employees and create 13 new full-time positions at an average rate of \$14/hour. The estimated amount of tax increment to be expended is \$2,700,000.

**City of Carver, TIF 1-8 Mills Fleet Farm**

The City of Carver established an economic development district to finance the site preparation and streets and sidewalks costs related to the construction of a Mills Fleet Farm retail facility, including a gas station, car wash, and convenience store. The City anticipates the construction of the facility will create approximately 140 full-time jobs, plus additional construction jobs. The estimated amount of tax increment to be expended is \$1,676,084.

**City of Chisago City, TIF 1-11 Hwy 8 & Sportsman Drive**

The City of Chisago City established an economic development district to facilitate the construction of a strip mall and other retail facilities on the corner of Highway 8 and Sportsman Drive. The initial development will include a drive-in restaurant (McDonald's) and other retail business. The estimated amount of tax increment to be expended is \$1,500,000.

**City of Cloquet, TIF 3-1 Daqota Systems**

The City of Cloquet established an economic development district to facilitate construction of a manufacturing facility for Daqota Systems, Inc. The proposed facility will be used for manufacturing and engineering related to factory automation, research & development, and energy-related engineering. The estimated amount of tax increment to be expended is \$256,000.

**City of Colombia Heights, City-Wide Scattered Housing TIF District**

The City of Colombia Heights established an economic development district to facilitate the redevelopment and sale of new single-family homes in Anoka County and through the Greater Metropolitan Housing Corporation. The estimated amount of tax increment to be expended is \$1,573,000.

**City of Delano, TIF 10 Landscape Structures Expansion**

The city of Delano established an economic development district to facilitate the construction of a 30,000 square-foot expansion of Landscape Structures. The city is also anticipating the construction of a 20,000 square-foot manufacturing facility. The estimated amount of tax increment to be expended is \$457,535.

**City of Edina, Southdale 2 TIF District**

The City of Edina established an economic development district to facilitate renovations to the common areas of Southdale Mall. The renovations will include new entrance structures, flooring, lighting, signage, restrooms, parking deck lighting, and exterior seating, columns, and interior wall treatments. The estimated amount of tax increment to be expended is \$11,952,217.

**City of Faribault, TIF 11 Mike's Garage**

The City of Faribault established an economic development district to assist in the land purchase, clean-up, and new construction of an automotive service station located on the City's main gateway corridor. As a result of the project, four jobs will be retained and 5 new jobs created immediately,

with an additional 20 or more jobs added over time. The estimated amount of tax increment to be expended is \$127,045.

**City of Fergus Falls, TIF 4-9**

The City of Fergus Falls established an economic development district to assist in the construction of a 34-unit assisted living facility on property occupied by the Lakeland Hospice & Home Care Facility, located at 394 and Woodland Drive. Job creation is expected, and the estimated amount of tax increment to be expended is \$374,432.

**Freeport EDA, TIF 2 Swany White Mill**

The Freeport EDA established an economic development district to assist in the construction of a 3,600 square foot building to replace the original flour mill that was destroyed in a fire. An office/retail area will be 1,200 square feet; a manufacturing area will be 1,200 square-feet; and the warehouse will be 1,200 square feet with a 144 square foot enclosed dock. The estimated amount of tax increment to be expended is \$51,000.

**City of Isanti, TIF 11**

The City of Isanti established an economic development district to assist in the construction of an approximately 12,900 square-foot hotel. The project will create approximately 7 new jobs. The estimated amount of tax increment to be expended is \$450,000. Districts 8, 9 and 10 will also be providing \$150,000 of existing increment toward eligible project costs.

**City of La Crescent, TIF 6-1**

The City of La Crescent established an economic development district to assist in the development of a 3,500 square-foot funeral home. The estimated amount of tax increment to be expended is \$51,894.

**City of Lindstrom, TIF 1-6 NABPCO Auto Parts**

The City of Lindstrom established an economic development district to assist in the construction of a retail auto parts facility. Tax increment from the proposed district will finance the infrastructure needs and site improvement costs to relocate the NABPCO Auto Parts business. The costs will be incurred due to the realignment of Highway 8. The estimated amount of tax increment to be expended is \$85,000.

**City of Little Falls, TIF 1-38 AirBorn Expansion and Relocation Project**

The City of Little Falls established an economic development district to facilitate a 50,000 square-foot facility for AirBorn. Employment will be expanded. The estimated amount of tax increment to be expended is \$3,952,936.

**City of Long Prairie TIF 1-10**

The City of Long Prairie established an economic development district to assist Long Prairie Packing with the installation of a methane digester on an 8.16-acre parcel adjacent to Trunk Highway 71 on the North side of the City. The estimated amount of tax increment to be expended is \$1,324,709.

### **City of Maplewood, TIF 1-11 Maplewood Mall Project**

The City of Maplewood established an economic development district to assist the exterior and interior renovations to the Maplewood Mall, including common areas within the 164,276 square foot building. In addition, the project will include public improvements and infrastructure costs incurred by the City. The estimated amount of tax increment to be expended is \$1,379,900.

### **City of Melrose, TIF 7-1**

The City of Melrose established an economic development district to facilitate the construction of a 10,000 square-foot facility used to manufacture and assemble fiberglass fishing boats by Warrior Boats. The estimated amount of tax increment to be expended is \$1,831,458.

### **City of New York Mills, TIF 1-11**

The City of New York Mills established an economic development district to construct a 10-12,000 square-foot facility to retain businesses and jobs in the community. The estimated amount of tax increment to be expended is \$188,391.

### **City of Nisswa, TIF 1-12**

The City of Nisswa created an economic development district for the purpose of renovating, expanding, and equipping an existing facility for a 12-bed assisted-living facility and adult day care program. The estimated amount of tax increment to be expended is \$54,653.

### **City of North Mankato Port Authority, TIF Districts 1-20, 1-21 and 1-22**

#### **TIF 1-20 Ziegler Caterpillar Project**

- The Port Authority of the City of North Mankato established an economic development district to assist with the construction of a sales, service, and warehouse facility for Ziegler Caterpillar. The company estimates that 12 new jobs will be created over the next five years, which are in addition to the employees already working at the existing North Mankato location. The estimated amount of tax increment to be expended is \$765,736.

#### **TIF 1-21 Allstate Peterbilt Project**

- The Port Authority of the City of North Mankato established an economic development district to assist with the construction of a 17,260 square-foot truck and trailer parts and service facility for Allstate Peterbilt Group. The company estimates that 15-20 new jobs will be created over the next two years. The estimated amount of tax increment to be expended is \$228,063.

#### **TIF 1-22 Lindsay Expansion Project**

- The Port Authority of the City of North Mankato established an economic development district to assist with a 20,000 square-foot expansion of Lindsay Window and Door. The company estimates that 15 new jobs will be created over the next two years. The estimated amount of tax increment to be expended is \$148,525.

### **City of Perham, TIF 2-35**

The City of Perham established an economic development district to facilitate the construction of one 12-plex apartment building. The City also plans to construct three additional 12-plexes in the future. The estimated amount of tax increment to be expended is \$362,800.

### **City of Pipestone, TIF 1-12**

The City of Pipestone established an economic development district to facilitate the development of a 35,000 square-foot Coborn's grocery superstore. The estimated amount of tax increment to be expended is \$652,300.

### **City of Prior Lake, TIF 1-4**

The City of Prior Lake established an economic development district to facilitate a 7,000 square-foot expansion of the River Valley Vet Clinic. The estimated amount of tax increment to be expended is \$96,000.

### **City of Robbinsdale, TIF 8-A**

The City of Robbinsdale established an economic development district to assist the redevelopment of parcels within the district that was occupied by structurally substandard single family homes which lacked access to municipal sanitary sewer and water. The parcels will contain new single family homes. The estimated amount of tax increment to be expended is \$100,000.

### **City of Rochester, TIF Districts 38-1 and 40-1**

#### **TIF 38-1**

- The City of Rochester established an economic development district to develop a 47 unit multi-family rental housing development. The estimated amount of tax increment to be expended is \$1,013,376.

#### **TIF 40-1**

- The City of Rochester established an economic development district to facilitate the construction of a 27,600 square-foot ground floor grocery store with 62 units of market-rate rental apartments on the top 3 floors of the building. The estimated amount of tax increment to be expended is \$3,345,550.

### **City of Roseville, TIF 19 Applewood Pointe Senior Cooperative Housing**

The City of Roseville created an economic development district to finance a multi-phase development comprised of a 94-unit senior cooperative building and 93-unit assisted-living facility. The estimated amount of tax increment to be expended is \$2,450,551.

### **City of Saint Augusta, TIF 2-2 St. Cloud Truck Sales Project**

The City of Saint Augusta established an economic development district to facilitate the construction of a 42,000 square-foot building that will contain truck repair, truck sales, and parts warehousing for St. Cloud Truck Sales. The city also plans to use tax increment to assist new projects and businesses that locate or expand within the boundaries of the TIF district. The estimated amount of tax increment to be expended is \$1,232,143.

### **City of Saint Louis Park, Hardcoat TIF District**

The City of Saint Louis Park EDA established an economic development district to assist Hardcoat, Inc., complete renovation of a manufacturing facility to be used for high-tech surface coating applications. The City determined that this renovation will ensure the retention of 14 employees from its current location and anticipates that additional construction jobs will also be created or retained. The estimated amount of tax increment to be expended is \$376,186.

### **Saint Michael, TIF 2-2**

The City of Saint Michael established an economic development district to facilitate the installation of public infrastructure to support commercial development within the City. Kwik Trip is constructing an 8,486 square-foot facility within the district. The City also anticipates the development of a combination of retail, restaurant, hotel, and office space. The estimated amount of tax increment to be expended is \$1,984,310.

### **City of Saint Paul HRA, Cossetta Project**

The City of Saint Paul HRA established an economic development district to facilitate the expansion of an existing restaurant and food market known as Cossetta's Italian Market and Pizzeria. Specifically, the project includes the construction of a new building, the renovation and internal reconfiguration of existing space, and related parking improvements. The estimated amount of tax increment to be expended is \$641,155.

### **City of Sartell, TIF 5-4**

The City of Sartell established an economic development district to facilitate the construction of 75 market-rate apartments in the City within the Grand View Estates South complex. The estimated amount of tax increment to be expended is \$876,213.

### **City of Sauk Rapids HRA, TIF 20 Torberg Apartments**

The City of Sauk Rapids HRA established an economic development district to facilitate the construction of a market-rate rental housing development consisting of 16 townhome units and 138 apartment units. Tax increment will be used to assist with the cost of site improvements and infrastructure. The development is expected to add 35 full-time jobs over a two-year period. The estimated amount of tax increment to be expended is \$1,826,525.

### **City of Shoreview, TIF 7 Southview Senior Living**

The City of Shoreview established an economic development district to assist with demolition, site improvements and other improvements to construct a 105-unit congregate, assisted living and memory care facility. The development is expected to create 33 full-time equivalent jobs and an estimated 110 construction jobs. The estimated amount of tax increment to be expended is \$1,215,000.

### **City of Waconia, TIF 3 Cherry Street**

The City of Waconia established an economic development district to facilitate the construction of a hotel expansion, a restaurant, and a medical office building. The estimated amount of tax increment to be expended is \$1,035,000.

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**Jobs Stimulus Program**  
**TIF Revenues from Existing Districts**

Minn. Stat. § 469.176, subd. 4m

Self-reported to the Office of the State Auditor as of December 31, 2012

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**City of Albany, TIF Districts 1-3, 1-10 and 1-11**

The City of Albany approved a spending plan to authorize the city to use available increment from TIF districts 1-3, 1-10 and 1-11 for land acquisition, demolition and building/site improvements. The plan states that the city was to assist with the acquisition and demolition of key properties in the downtown area. With commitments from private developers they would either redevelop or construct new buildings to include a new dental office and other commercial space. In addition, to create local jobs and aid in the preservation of existing buildings the plan also called for increment to be used for exterior and façade improvements. The specific amount of tax increment to be made available from these districts was \$625,000.

**City of Apple Valley, TIF District 13**

The City of Apple Valley approved a spending plan to authorize the city to use available increments from TIF District 13, for any of the uses outlined in the statute. The spending plan did not identify a specific project. The specific amount of tax increment to be made available from TIF District 13 was up to \$4,000,000.

**City of Bloomington HRA, Oxboro 0-1 and Oxboro 0-3 TIF Districts**

The City of Bloomington HRA approved a spending plan to authorize the use of available tax increment funds to provide assistance for housing and commercial projects, including parking facilities, in the Normandale Lakes District, South Loop District, and the Penn & American Phase I Redevelopment Area. The maximum amounts of tax increment to be available was \$600,000 and \$450,000 from the Oxboro 0-1 and Oxboro 0-3 TIF Districts, respectively.

**City of Breckenridge, TIF 4**

The City of Breckenridge approved a spending plan to authorize the use of available tax increment funds to provide assistance for exterior, façade, accessibility, code and energy efficiency improvements that would serve to preserve the existing buildings. At the time the spending plan was approved, the City had identified one specific project to receive assistance: A forgivable loan in the amount of \$100,000 to assist the Greenquist Building Project in funding several exterior improvements. Additional projects were to be discussed by the council. The specific amount of tax increment to be made available from TIF District 4 was \$300,000.

**City of Brooklyn Center, TIF 2**

The City of Brooklyn Center approved a spending plan authorizing financing of the costs that link a local hotel to businesses close by. The spending plan did not identify a specific amount of tax increment to be available.

### **City of Brooklyn Park EDA, TIF 15, TIF 16, and TIF 18**

The City of Brooklyn Park EDA approved a spending plan authorizing the use of available tax increment from TIF Districts 15, 16, and 18 to fund the City's Construction Assistance Program, providing assistance for private development projects requiring a minimum of \$50,000 in financing. The spending plan did not identify a specific amount of tax increment available from the TIF districts.

### **City of Cambridge, TIF Dist 6.8 SE Cambridge Industrial Area**

The City of Cambridge approved a spending plan authorizing the use of available tax increment, up to \$72,000, from TIF 6.8, for purposes consistent with the law. The spending plan did not identify a specific project.

### **City of Coon Rapids, TIF Districts 1-6, 1-29, and 3-1**

The City of Coon Rapids approved two spending plans to authorize the use of available tax increment from three TIF Districts for the projects described below.

#### **TIF 1-6 MFI:**

- Assistance to Autumn Glen Senior Living, LLC, in the amount of \$420,000 for the construction of a 100-unit senior housing campus. The project was expected to create at least 25 new jobs with an average hourly wage of \$12.

#### **TIF 1-29 Oak Manor:**

- Assistance to Biovest International, Inc., in the amount of \$103,000 for the rehabilitation of its current facility to accommodate an increased production of its vaccine for non-Hodgkin's lymphoma. The City anticipated this project to retain at least 24 full-time positions, and to create at least 14 new positions paying no less than \$15 per hour.
- Assistance to MEDRAD, Inc., in the amount of \$27,000 for the expansion of its current facility. The project is estimated to retain 220 full-time positions and to create at least 30 new positions paying an average wage of \$33.65 per hour.

#### **TIF 3-1 Oppidan – Village 10**

- Assistance to MEDRAD, Inc., in the amount of \$313,000 for the same project identified above.

### **City of Delano, Honeytree TIF District and Hwy 12 Hardees TIF District**

The City of Delano approved a spending plan to authorize the use of available tax increment from two TIF Districts to fund an incentive program for new construction (residential or commercial), offering \$5,000 to write-down permitting fees. The City estimates available tax increment to be \$93,807 and \$62,150 for the Honeytree and Hwy 12 Hardees TIF Districts, respectively.

### **City of Detroit Lakes, Various TIF Districts**

The City of Detroit Lakes approved a spending plan to authorize the use of available tax increment from seven TIF Districts to provide assistance for (i) commercial projects, including but not limited to, the DLM Downtown Properties Project, (ii) property acquisition, building demolition, site improvement, and utilities costs in the Crescent Redevelopment Area, and (iii) parking facilities, including but not limited to, the parking lots and improvements in the Central Business District. The specific amount of tax increment to be made available from the TIF Districts was \$488,703.

### **City of Duluth EDA**

The City of Duluth EDA approved a spending plan to authorize the use of available tax increments for potential future projects qualifying under the Jobs Bill. The spending plan did not identify a specific project or amount of assistance to be made available.

### **City of Elk River HRA, TIF 16 King and Main**

The City of Elk River HRA approved a spending plan authorizing the use of available tax increment for construction or rehab of buildings for (i) outpatient medical clinics, (ii) Class I restaurants of at least 50 seats, (iii) green manufacturing or other renewable energy facilities, and (iv) general light industrial or manufacturing. The spending plan did not identify a specific project or amount of assistance to be made available.

### **City of Farmington, Downtown Redevelopment TIF District**

The City of Farmington approved a spending plan to authorize the use of available tax increment from the Downtown TIF District to provide assistance to a developer for the construction of a medical/office building. The specific amount of tax increment to be made available from the TIF districts was \$65,000.

### **City of Fosston, TIF 7 Post Office Project**

The City of Fosston approved a spending plan to authorize the expenditure of available tax increment from TIF District 7 to provide assistance to Overmoe & Nelson, Ltd. The funds were to be used to acquire and redevelop a site for a 2,160 square-foot office building. The City was to require the developer to agree to create at least one full-time job. The specific amount of tax increment to be made available from the TIF district was \$24,900.

### **City of Glencoe, TIF 15 Industrial Park Expansion**

The City of Glencoe approved a spending plan to authorize the use of available tax increment from TIF 15 to assist Midwest Research Swine, Inc., in financing certain equipment and improvements to the Developer's laboratory space. Construction of the improvements was to create or retain at least two full-time jobs. The specific amount of tax increment to be made available from the TIF district was \$60,000.

### **City of Inver Grove Heights, TIF 4-1 SE Quadrant**

The City of Inver Grove Heights approved a spending plan to authorize the use of available tax increment from TIF 4-1. The tax increment was to be used to provide assistance to Inver Grove Heights Investment, LLC, to finance development of the Argenta Hills area, including the completion of a 135,000 square-foot retail anchor store together with 15,000 square-feet of additional commercial space. The project was to create or retain at least 14 new full-time construction jobs at the site. The specific amount of tax increment to be made available from the TIF district was \$1,250,000.

### **City of Isanti, TIF Districts 8, 9, and 10**

The City of Isanti approved a spending plan to authorize the use of available tax increments from three TIF districts for the amounts and purposes listed below.

#### TIF 8 ICC Industrial Park:

- Assistance to Prairie Senior Cottages of Isanti, LLC, in the amount of \$200,000 for the land acquisition and construction of senior memory-care facility. The project was to create approximately 10-15 jobs with an average wage of \$25 per hour including benefits.
- Assistance to H.M. Chris, LLC, in the amount of \$50,000 for land acquisition and for construction of a childcare center. Approximately three new jobs with average wages of \$7-\$9 per hour were to be created.
- Assistance to Stawski & Stawski, Inc., in the amount of \$35,000 for the construction of a restaurant expansion to Wintergreen Golf and Grill. The expansion was to create 3 to 10 new jobs with wages from \$8 to \$20 per hour including benefits and tips.

#### TIF 9 CBD Revitalization:

- Assistance to Stawski & Stawski, Inc., in the amount of \$15,000 for the project described above.

#### TIF 10 Restart Industrial Park:

- Assistance to C.L. Hough, LLC, in the amount of \$50,000 for the construction of an industrial manufacturing expansion. The project was to create approximately 5-8 new jobs with wages ranging from \$10-\$12 per hour.

#### **City of Isanti, TIF Districts 8, 9 and 10**

The City of Isanti approved a spending plan to authorize the city to use available increments from these districts to aid in the construction of an approximately 12,900 square-foot hotel located in district 11. A total of \$150,000 was to be made available with \$70,000 coming from TIF 8, \$50,000 from TIF 9 and \$30,000 from TIF 10. TIF district 11 was created for this project and is expected to generate \$450,000 which will be expended on eligible costs.

#### **City of Isanti TIF District 10**

The city of Isanti approved a spending plan to authorize the city to use available increments from TIF 10 to assist in the construction of an approximately 2,800 square-foot addition to Duncanson Enterprises, LLC. The specific amount of tax increment to be made available from the TIF district was \$16,500.

#### **City of Lindstrom, TIF 1-2**

The City of Lindstrom approved a spending plan to authorize the city to use available increments from TIF 1-2, for any of the uses outlined in the statute. The spending plan did not identify a specific project. The specific amount of tax increment to be made available from the TIF district was \$475,000.

#### **City of Little Canada, TIF 3-2 Rice Street Redevelopment**

The City of Little Canada approved a spending plan to authorize the use of available tax increment from TIF 3-2 to assist in completing build-outs of rental space for a multi-tenant building. The building is a former Knox lumber site that had been converted to an office/warehouse. The developer/owner had been unable to obtain financing to finish the build-outs to attract new tenants. The spending plan did not identify a specific project or amount of assistance.

### **City of Minnetonka EDA, TIF 1-2 Boulevard Gardens**

The City of Minnetonka EDA approved a spending plan to authorize the use of available tax increment from TIF 1-2 to defray a portion of certain City utility charges owed by Glen Lake Senior Housing Development, LLC, in connection with construction of an approximately 150-unit senior rental housing development in the City. Construction would create approximately 30 new jobs. The specific amount of tax increment to be made available from the TIF district was \$100,000.

### **City of Monticello EDA, TIF 1-22 Downtown Dist**

The City of Monticello EDA approved a spending plan to authorize the use of available tax increments from TIF 1-22 for purposes allowed under the law. According to the council meeting minutes, tax increment was to be used to help finance infrastructure costs associated with the Semper Development/Walgreens project, provided that the recipient create or retain at least three full-time jobs for \$400,000 of assistance provided. The spending plan did not identify a specific project or amount of assistance.

### **City of Montrose, TIF 2-1 Jeff-Ex Proj**

The City of Montrose approved a spending plan to authorize the use of available tax increment from TIF 2-1 for (i) assistance for new commercial construction; (ii) assistance with the rehabilitation of the former Stock Lumber building; and (iii) administration associated with TIF 2-1. The specific amount of tax increment to be made available from the TIF district is \$23,200.

### **City of New Brighton, TIF Districts 23, 25, 27, 28, 30, and 33**

The City of New Brighton approved a spending plan authorizing the use of available tax increment in the amount of \$1,200,000 from six TIF districts for the construction of a 120-unit apartment building. The spending plan authorized the City to expend approximately \$300,000 of available tax increment to reimburse itself for costs associated with the development.

### **City of New Prague, TIF 6-1**

The City of New Prague approved a spending plan to authorize the use of available tax increment from one or more existing TIF districts with available funds, and specifically TIF 6-1. The funds made available were to assist in the construction of an approximately 88,922 square foot manufacturing and production building, expanding Chart Industries. The expansion was to create approximately 80 additional jobs over two years and expand the City's tax base. The estimated eligible project costs are \$550,000.

### **City of Plymouth, TIF 7-4 Hoyt - Tech Park**

The City of Plymouth approved a spending plan to authorize the use of available tax increment from TIF 7-4 to provide a loan or other form of assistance for the construction of a 67-unit affordable housing development. The specific amount of tax increment to be made available from the TIF district was \$600,000.

### **City of Proctor, TIF 2**

The City of Proctor approved a spending plan allocating \$80,000 in excess funds from its TIF District Number 2 for approved job-creating activities. The City was to use \$45,000 to aid Midway Sewer Service with the construction of an addition to their existing building. They were also to use \$30,000

to aid Proctor Milk House with remodeling activities and the purchase of new walk-in freezers. Gimme Shelter was also to receive \$5,000 for aid in paving a dirt parking lot.

#### **City of Ramsey, TIF Dist 1 and TIF Dist 2**

The City of Ramsey approved a spending plan to authorize the use of available tax increment from TIF District 1 and TIF District 2, for the purpose of providing assistance to F & C Ramsey LLC for the construction of a mixed-use development consisting of market rate rental housing and retail. The specific amount of tax increment to be made available from the TIF districts was \$1,400,000 and \$2,400,000, respectively.

#### **City of Richfield HRA, Interchange TIF District and Lyndale Gateway West TIF District**

The City of Richfield HRA approved a spending plan to authorize the use of available tax increment from two TIF districts to provide assistance to Lyndale Gardens, LLC, to finance the acquisition and redevelopment of the Lyndale Garden Center. The project was expected to create or retain at least 25 new construction jobs. The HRA estimated available increment from the Interchange and Lyndale Gateway West TIF Districts to be \$951,445. The specific amount of tax increment to be made available to Lyndale Garden Center from the TIF districts was \$650,000. In addition, the Minnesota companies Pizza Luce VII, Inc. and BWPenn66, LLC were to have TIF funds made available to them to assist in financing the acquisition and rehabilitation of Richfield area properties. The specific amount of funds to be made available for each company was \$250,000 and \$50,000, respectively.

#### **City of Saint Cloud, Various TIF Districts**

The City of Saint Cloud approved a spending plan to authorize the city to use available increments from 10 different TIF districts, for any of the uses outlined in the statute. The spending plan did not identify a specific project. The available increment was to be used for projects requiring a minimum of \$10,000 in financing assistance.

#### **City of Saint Joseph, TIF 1-4 St. Joseph Development, LLC**

The City of Saint Joseph approved a spending plan to authorize the use of available tax increment from TIF 1-4 for the purpose of (i) assisting St. Joseph Meat Market with an expansion to the current facility and (ii) assisting Mill Stream Shops/Lofts to construct improvements to their facility to accommodate a new restaurant. The City anticipated providing assistance in the form of a deferred loan, which would be forgiven if the owner continues ownership for 10 years. The specific amount of tax increment to be made available from the TIF district was \$60,000.

#### **City of Saint Louis Park, Various TIF Districts**

The City of Saint Louis Park EDA approved a spending plan to authorize the use of available tax increment from nine TIF districts to fund the City's Construction Assistance Program. The program was created to spur the immediate construction, expansion, or rehabilitation of commercial/industrial/mixed use buildings. The spending plan did not identify a specific project. The specific amount of tax increment to be made available from the TIF district was \$1,600,000.

#### **City of Saint Paul, Housing and Redevelopment Authority**

The City of Saint Paul approved a spending plan to authorize the use of available tax increment to fund housing projects, health care facilities, and other various uses. The specific amount of tax increment to be made available was \$7,700,000.

### **City of Saint Paul Port Authority, Westminster Junction and Energy Lane TIF Districts**

The City of Saint Paul Port Authority approved a spending plan to authorize the use of available increments from two TIF districts for potential projects qualifying under the Jobs Bill. The spending plan did not identify specific projects. The specific amount of tax increment to be made available from the TIF district was \$1,300,000 of available increment from the Westminster Junction District, and \$518,000 from the Energy Lane District.

### **City of Saint Peter, TIF 1-15 Washington Terrace**

The City of Saint Peter approved a spending plan to authorize the use of available tax increment from TIF 1-15 to assist the private redevelopment project being undertaken by Kwik Trip, specifically to provide safe vehicular access and reconstruction of utilities. The specific amount of tax increment to be made available was \$300,000.

### **City of Sauk Rapids HRA, TIF 16 and TIF 18**

The City of Sauk Rapids HRA approved a spending plan to authorize the use of available increments from TIF 16 for the construction of a commercial building and infrastructure within the real property known as VL Properties. The specific amount of tax increment to be made available was \$149,999.

The City later approved an additional spending plan to authorize an increase in the amount of available tax increment from TIF 16 to \$280,000. This spending plan also authorized the use of approximately \$50,000 from TIF 18. The spending plan did not identify a project.

### **City of Shoreview, TIF 5 Mun Dev Dist 2 Victoria Ctr – Shoreview Mall**

The City of Shoreview approved a spending plan to authorize the use of available tax increment from TIF 5 for the following uses: (i) To create a business loan program; (ii) To write-down the costs of the permitting fee for new construction projects; (iii) To provide funds to facilitate commercial (re)development; and (iv) To offset the cost of public infrastructure needed to support development - including Owasso Blvd, Lexington Ave, and Red Fox Road. The specific amount of tax increment to be made available was \$1,653,078.

### **City of Stillwater, TIF 1 Downtown**

The City of Stillwater approved a spending plan to authorize the use of available tax increment from TIF 1 to help fund the City's Downtown Façade Program and Commercial Building Fund. The City intended to approve the guidelines for a specific program prior to expending any of the increment. The specific amount of tax increment to be made available was \$3,000,000.

### **City of West St. Paul, TIF 1-1 South Robert Street**

The City of West St. Paul approved a spending plan to authorize the use of available tax increment from TIF District 1-1. The EDA used the tax increment for its "housing replacement program." The EDA purchased two lots, demolished the existing structures, and sold the lots to housing developers at a write-down. Developers began construction on each of the parcels. Construction jobs were created. The specific amount of tax increment to be made available was \$150,000.

**Town of White Bear EDA, TIF Districts 1, 2, 9 and 12 through 20**

The Town of White Bear EDA approved a spending plan to authorize the use of tax increment to redevelop the Ayde property (1201 Birch Lake Boulevard North) and any other private development in the town for which the EDA found that the private development would create or retain jobs. The spending plan did not identify a specific amount of assistance.

**City of Winsted, TIF 6 Downtown Redevelopment**

The City of Winsted approved a spending plan to authorize the use of available tax increment from TIF 6 to be spent for the implementation of a loan program to provide incentive financing for the exterior beautification of commercial/mixed use buildings in the downtown area. The specific amount of tax increment to be made available was \$40,000.

**Zumbrota EDA, TIF Districts 1-16 and 1-17**

The Zumbrota EDA approved a spending plan to authorize the use of available tax increment to help Zumbrota Bearing and Gear finance an approximately 8,000 square-foot addition to its existing warehouse. The improvement was to create or retain at least 6 full-time jobs. In addition, the EDA was authorized to spend available increment on any other private development in the City that met the requirements of the statute. The spending plan did not identify a specific amount of assistance.

# **APPENDIX D**

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REBECCA OTTO  
STATE AUDITOR

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OFFICE OF THE STATE AUDITOR

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March 29, 2012

The Honorable Myron Bailey, Mayor  
The Honorable Derrick Lehrke, Council Member  
The Honorable Justin Olsen, Council Member  
The Honorable Jen Peterson, Council Member  
The Honorable Dave Thiede, Council Member

**City of Cottage Grove**  
7516 80th Street South  
Cottage Grove, MN 55016

Re: Cottage Grove's TIF Districts—Initial Notice of Noncompliance

Dear Mayor Bailey and Council Members:

On January 3 and 4, 2012, the Office of the State Auditor (OSA) performed a limited scope examination of various records of three tax increment financing districts (TIF Districts) located in the City of Cottage Grove (City). The examination covered TIF District 1-10 Industrial Park, TIF District 1-13, and TIF District 1-14 Werner Electric. TIF District 1-10 was decertified on December 31, 2010, its maximum duration limit, while the other two districts are currently active.

The OSA examined, on a test basis, evidence supporting the City's compliance with the TIF Act.<sup>1</sup> Examiners reviewed and/or tested the TIF reports filed with the OSA through the year ended December 31, 2010, TIF plans, general ledgers, development agreements, assessment agreements, contracts, invoices, comprehensive annual financial reports (CAFRs) and other supporting documents. No findings were made in the examination of TIF District 1-14. The examination of TIF District 1-10 and 1-13 resulted in findings of noncompliance with Minnesota law.

This Initial Notice of Noncompliance (Initial Notice) contains these findings.

All data relating to this examination, including this Initial Notice and the City's Response (Response), are not public until the OSA has issued its final report.<sup>2</sup>

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<sup>1</sup>See Minn. Stat. §§ 469.174 to 469.1799 inclusive, as amended.

<sup>2</sup>See Minn. Stat. § 6.715 (Information relating to an examination is confidential and/or protected nonpublic until the audit is complete); Minn. Stat. § 13.03, subdivision 4 (c) (to the extent data is sent to another government entity, the data retains the same classification).

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Cottage Grove  
March 29, 2012  
Page 2

State law requires the City to send its Response in writing within 60 days after receipt of the Initial Notice. The Response must state whether the City accepts the finding, in whole or in part, and the basis for any disagreement.<sup>3</sup> After reviewing the Response, the OSA is required to forward information on any unresolved issues to the Washington County Attorney for review.<sup>4</sup>

If the City pays to Washington County (County) an amount equal to the amount found to be in noncompliance, the OSA will consider the finding to be resolved. Minnesota law provides that the City will receive its proportionate share of the redistribution of the funds that have been returned to the County, if the City makes the payment within 60 days after the City receives this Initial Notice.<sup>5</sup>

### FINDINGS OF NONCOMPLIANCE

The OSA's findings of noncompliance regarding the TIF districts are as follows:

#### **Finding 1. TIF District 1-10 Industrial Park—Failure to Comply with Four-Year Rule**

A development authority must perform certain activities (qualifying improvements) on each parcel in the TIF district in accordance with the TIF plan within four years from the date the TIF district was certified, or the parcel(s) must be removed from the TIF district. This provision is known as the “four-year rule.”<sup>6</sup>

The TIF plan for TIF District 1-10, an economic development district, was approved on January 19, 2000, and the district was certified on April 21, 2000. The maximum duration limit of the district was December 31, 2010. The City agreed with the OSA at the February 8, 2012, closing conference (Conference) that qualifying improvements were not made on two parcels in TIF District 1-10 (parcel 21.027. 21.34.0006 and 21.027.21.42.0001) within four years from the date of certification.<sup>7</sup>

The OSA finds that these two parcels of land were retained in TIF District 1-10 and that they did not qualify for retention under the four-year rule. Therefore, no tax increment should have been received from the parcels after April 21, 2004. Any tax increment that was received after that date must be returned. Based on information provided by the City and provided on the County website, **\$91,516.63** of tax increment was improperly received. When the City provides

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<sup>3</sup>Minn. Stat. § 469.1771, subd. 1 (c).

<sup>4</sup>Minn. Stat. § 469.1771, subd. 1 (b).

<sup>5</sup>Minn. Stat. § 469.1771, subd. 5.

<sup>6</sup>Minn. Stat. § 469.176, subd. 6.

<sup>7</sup>In attendance at the February 8, 2012, closing conference: Ryan Schroeder, City Administrator, Robin Roland, Finance Director, and Brenda Peper, Financial Analyst.

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Mayor and Council, City of Cottage Grove  
March 29, 2012  
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documentation that it has returned \$91,516.63 to the Washington County Auditor, the OSA will consider this finding resolved.

### **Finding 2. TIF District 1-13—Improper Receipt and Expenditure of TIF Revenue**

The TIF Act requires that, if an authority includes a parcel of property in a TIF district that does not qualify for inclusion, the authority must pay to the county auditor an amount of money equal to the increment collected from the property.<sup>8</sup> If an authority spends tax increment revenues, including the proceeds of tax increment bonds, on activities outside the geographic area in which the revenues may be spent, the authority must pay to the county auditor an amount equal to the expenditures made in violation of the law.<sup>9</sup>

The TIF plan for TIF District 1-13, an economic development district with a maximum duration limit of December 31, 2014, was approved on April 20, 2005.<sup>10</sup> The TIF plan, which includes a map of the area of the district, indicates that TIF District 1-13 is comprised of four parcels of land that were removed from TIF District 1-10. The maps included in the notice calling for a public hearing, the certification request letter to the County, and the certification letter from the County all showed that four parcels of land comprise TIF District 1-13, and that the four parcels of land were removed from TIF District 1-10. The four parcels numbers are: 20-027-21-41-0006, 20-027-21-41-0010, 21-027-21-32-0004 and 21-027-21-33-0002.

Review of the records of the Cottage Grove Economic Development Authority (EDA) showed there was an improper receipt and expenditure of tax increment revenue in TIF District 1-13 involving parcel 20-027-21-41-0017 (Parcel). The OSA determined that the Parcel, a parcel not included in any of the aforementioned documents, was included in TIF District 1-13.<sup>11</sup> The owner of the Parcel is South St. Paul Agri-Properties and American AGCO, Inc.<sup>12</sup> A development agreement (Agreement) was signed for development of the Parcel on January 3, 2005, before the TIF plan for TIF District 1-13 was approved on April 20, 2005.<sup>13</sup> At the Conference, the City agreed that the Parcel was improperly included in TIF District 1-13.

The City states that the inclusion of the Parcel in TIF District 1-13 was a mistake or error. The correction of errors provision of the TIF Act provides that a county auditor may undertake one or

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<sup>8</sup>Minn. Stat. § 469.1771, subd. 2.

<sup>9</sup>Minn. Stat. § 469.1771, subd. 3.

<sup>10</sup>Modification to the Development Program for Development District No. 1 and the Tax Increment Financing Plan for the Establishment of Tax Increment Financing District No. 1-13 (an economic development district) within Development District No.1.

<sup>11</sup>Washington County Final TIF Parcel List.

<sup>12</sup>Washington County Online GIS Viewer.

<sup>13</sup>Contract for Private Development By and Between Cottage Grove Economic Development Authority and American AGCO, Inc., and South St. Paul Agri-Properties, LLC, dated January 3, 2005.

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more actions to correct an error or mistake.<sup>14</sup> The City may wish to initiate discussion with the County Auditor to determine whether the County agrees that inclusion of the Parcel was an error or mistake and whether it will take action to correct the error or mistake during the City's 60-day Response period. If a remedy cannot be found under the correction of errors section, the TIF Act requires that an authority must pay to the County an amount of money equal to the increment expended in the district.<sup>15</sup>

The OSA finds that the Parcel, a parcel certified in TIF District 1-10, was improperly included in TIF District 1-13 and the tax increment generated from the Parcel was used to make debt service payments for costs incurred in TIF District 1-13. During calendar years 2006 through 2011, **\$154,703.19** of tax increment from the Parcel was improperly received in TIF District 1-13. A majority of the improperly received money was spent to reduce the deficit and fund balances in TIF District 1-13. When the City provides documentation that it returned \$154,703.19 to the Washington County Auditor, the OSA will consider this finding resolved.

### **Finding 3. TIF District 1-10—Failure to Decertify the District**

A. Failure to Decertify. The TIF Act requires that a TIF district must be decertified and the pledge of tax increment discharged when outstanding bonds have been defeased and when sufficient money has been set aside to pay, based on the increment to be collected through the end of the calendar year, the amounts of qualified outstanding obligations authorized by statute.<sup>16</sup> No outstanding debt was reported in the City's 2009 TIF Report and the district had a positive cash/fund balance of \$123,470 on December 31, 2009, indicating TIF District 1-10 should have been decertified at the end of 2009.

Instead of decertifying TIF District 1-10 on December 31, 2009, the City collected an additional \$155,167 of tax increment from the County during calendar year 2010. On December 31, 2010, the City made an adjusting journal entry to transfer all of the remaining \$279,654 of tax increment in the TIF fund for TIF District 1-10 to pay itself for area charges and park dedication fees.<sup>17</sup> At the Conference, an explanation was offered that, if sufficient tax increments became available, uncharged area charges and dedication fees were to be treated as outstanding obligations. Available facts, when viewed as a whole, do not show the charges and fees as outstanding obligations.

B. Absence of an Outstanding Obligation. The 2009 TIF Report and 2009 CAFR filed for TIF District 1-10 showed receipt of \$269,990 of tax increment in calendar year 2009, and payment of \$800 of then-current administrative costs. The 2009 tax increment was used to

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<sup>14</sup>Minn. Stat. § 469.177, subd. 13.

<sup>15</sup>Minn. Stat. § 469.1771, subd. 2.

<sup>16</sup>Minn. Stat. § 469.1763, subd. 4 (b).

<sup>17</sup>Minn. Stat. § 469.176, subd. 4l. Park dedication fees are not eligible tax increment costs.

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eliminate the existing fund deficit and pay then-current administrative expenses, resulting in a \$123,470 surplus fund balance on December 31, 2009.<sup>18</sup> No outstanding debt was reported in the 2009 TIF report or 2009 CAFR for TIF District 1-10.

The OSA finds that TIF District 1-10 was required by law to be decertified on December 31, 2009, when no qualified outstanding debt was reported. The City received **\$155,167** in tax increment from the County in 2010, after the district had paid the qualified obligations incurred within the first five years of the district. When the City provides documentation that it returned \$155,167 to the Washington County Auditor, the OSA will consider this finding resolved.

The OSA also finds insufficient evidence to support characterization of the funds the City moved as repayment of an outstanding obligation. Transfer of the **\$279,654** (including the \$155,167 in 2010 tax increment mentioned in the previous paragraph) in tax increment remaining in the TIF fund for TIF District 1-10 was improper. When the City provides documentation that it returned \$279,654 to the Washington County Auditor, the OSA will consider this finding resolved.<sup>19</sup>

### **Finding 4. TIF District 1-13—Failure to Decertify the District**

The TIF Act requires a TIF District to be decertified and the pledge of tax increment discharged when sufficient money has been set aside to pay, based on the increment to be collected through the end of the calendar year, qualifying obligations incurred within the first five years of the district.<sup>20</sup>

No outstanding debt was reported in the 2010 TIF Report and the district had a positive cash/fund balance of \$95,277 on December 31, 2010, indicating TIF District 1-13 should have been decertified at the end of 2010.

The TIF plan for TIF District 1-13, an economic development district with a maximum duration limit of December 31, 2014, was approved on April 20, 2005. In the 2005 through 2009 TIF reports filed with the OSA, the City reported that tax increments received from parcels in the district were used to make debt service payments on an interfund loan so that \$19,777 of outstanding debt remained on December 31, 2009. In the 2009 TIF Report, the City also reported a \$25,270 tax increment receivable/deferred amount. The OSA determined the information contained in those TIF reports agreed with the information reported in the City's CAFRs.

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<sup>18</sup>Twenty percent of the tax increment may be expended outside the district. See Minn. Stat. § 469.1763, subd. 2.

<sup>19</sup>Subject to footnote 18, *ante*.

<sup>20</sup>Minn. Stat. § 469.1763, subd. 4 (b).

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In the 2010 TIF Report, the City reported the prior year receivable of \$25,270 and \$116,215 of current tax increment were used to eliminate the deficit fund balance. The City reported that on December 31, 2010, the TIF fund for TIF district 1-13 contained \$95,444 of cash, a \$167 account payable and a \$95,277 positive fund balance. No other outstanding debt was reported. The OSA determined that the information contained in the 2010 TIF Report agreed with the information reported in the City's 2010 CAFR. All obligations for TIF District 1-13 were discharged by December 31, 2010. The district should have been decertified at that time, but was not.

In addition to the OSA examination through year ending December 31, 2010, the OSA found that \$98,251 of tax increment and \$680 of interest income was received in calendar year 2011. Of that amount \$167 was used to pay the 2010 accounts payable, \$14 was used to pay for legal services, and \$462 was used to pay for County administrative expenses and publication of the annual TIF disclosure. Cash on hand at December 31, 2011, was **\$193,731.71**, which is the sum of the cash on hand on December 31, 2010, plus the calendar year 2011 activity. When the City provides documentation that it returned \$193,731.71 to the Washington County Auditor, the OSA will consider this finding resolved.

### **ADDITIONAL COMMENT**

When the City returns money specific to a finding, the OSA will consider the finding resolved. In addition to making the findings set forth above, the OSA makes the following observations. The City is not required to respond to this comment, but may do so if it wishes.

#### **Additional Comment: Failure to Follow the TIF Plan**

The TIF plan for TIF District 1-10 states that "the district includes property that is currently designed as the location of a U.S. Postal Service facility. As soon as the specific parcel is designated for this project, it will be removed from the district." The specific property was designated, the postal facility was built, and the parcels were not removed from the district. Although no tax increment revenue was generated from the parcels, the parcels should have been removed from the district in accordance with the TIF plan.

### **CONCLUSION**

The Response to these findings must be submitted in writing to the OSA within 60 days after receipt of this Initial Notice. The OSA is available to review and discuss the findings within this letter at any time during the preparation of the Response. After reviewing the Response, the OSA will issue the Final Notice.

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Mayor and Council, City of Cottage Grove

March 29, 2012

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If you have any questions, please call me at (651) 296-7979. We look forward to receiving your Response.

Very truly yours,

*/s/ Arlin Waelti*

Arlin Waelti

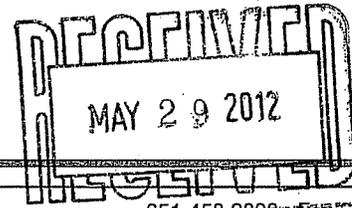
Assistant State Auditor

TIF Division Director

cc: Ryan R. Schroeder, City Administrator

Robin S. Roland, Finance Director

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**CONFIDENTIAL**

May 25, 2012

Ms. Arlin Waelti  
Assistant State Auditor  
TIF Division Director  
Office of the State Auditor  
525 Park Street, Suite 500  
Saint Paul, MN 55103-2139

**RE: Cottage Grove Economic Development Authority Tax Increment Financing District  
Nos. 1-10 and 1-13, Initial Notice of Non-Compliance**

Dear Ms. Waelti:

This is in response to your letter dated March 29, 2012, regarding the captioned tax increment financing districts and constitutes the response of the City of Cottage Grove (the "City") as required by Minnesota Statutes, Section 469.1771, subd. 1 (c).

Finding 1. TIF District 1-10 Industrial Park – Failure to Comply with Four-Year Rule.

Response to Finding 1. The City agrees with Finding 1 and has returned \$91,516.63 to the Washington County Auditor.

Finding 2. TIF District 1-13 – Improper Receipt and Expenditure of TIF Revenue.

Response to Finding 2. The City agrees with Finding 2 and has returned \$154,703.19 to the Washington County Auditor.

Finding 3. TIF District 1-10 – Failure to Decertify the District.

Response to Finding 3. The City respectfully disagrees that TIF District 1-10 should have been decertified on December 31, 2009 due to lack of an outstanding obligation. TIF District 1-10 ran a deficit cash and fund balance from its inception in 2000 until December 31, 2009. Although this deficit was not formalized with a City Council resolution as is now required, the loan was reflected on the City's financial statements (and in the annual TIF reports) made at that time as a "Due to other funds" obligation.

The statute requiring formal interfund loans became effective for loans or advances made on or after August 1, 2001 but it also "ratified and approved" all loans and advances made prior to that date. There were four parcels within TIF District 1-10 with approved development contracts prior to that date and all involved activities qualifying as part of the deficit. It is the City's position that the deficit on July 31, 2001 associated with those

four parcels constitutes a loan or advance which was in fact a ratified and approved obligation under the statute. The existence of this obligation, and to the extent that said obligation was not completely defeased, is not consistent with the stated requirement that the district be decertified on December 31, 2009.

The four parcels which had development agreements prior to August 1, 2001 were CCE (20.027.21.41.0008) signed April 19, 2000; Advanced (21.027.21.32.0005) signed April 12, 2001; Tradehome Shoes (21.027.21.32.0006) signed May 7, 2001; and AgCo #1 (20.027.21.41.0009) signed July 30, 2001.

The only activity in TIF District 1-10 from January 1, 2000 through December 31, 2001 was from these four parcels and the construction of the 97<sup>th</sup> Street project. The following spreadsheet reflects those activities (which correspond to total deficit activity on the 12/31/2001 Tax Increment Financing District report (pg 3)).

	CCE	AGCO #1	Advanced	Tradehome	97th street extension	District wide	total
1/1/2000							
Sale of land	15,579.00		5,000.00				20,579.00
Admin (Legal)	(6,443.71)		(2,211.70)	(1,678.54)		(5,915.18)	(16,249.13)
Engineering	(1,639.50)		(43.50)	(87.00)		(3,333.50)	(5,103.50)
Cost of land	(96,813.00)						(96,813.00)
12/31/2000	(89,317.21)	-	2,744.80	(1,765.54)	-	(9,248.68)	(97,586.63)
Sale of land		73,990.07	204,685.70	35,000.00			313,675.77
TIF received	1,121.81						1,121.81
Admin (Legal)	(368.65)	(6,888.49)	(7,498.53)	(9,619.85)	(6,448.92)	(2,815.52)	(33,639.96)
Engineering		(1,840.50)		(238.00)	(91,810.14)	(4,819.23)	(98,707.87)
Cost of land		(258,803.00)	(287,976.60)	(199,985.40)			(746,765.00)
Contract - project			(140,275.10)		(659,475.90)		(799,751.00)
transfer to storm water						(161,066.50)	(161,066.50)
12/31/2001	(88,564.05)	(193,541.92)	(228,319.73)	(176,608.79)	(757,734.96)	(177,949.93)	(1,622,719.38)

The balance in TIF District 1-10 on December 31, 2010 (prior to transfers) was \$279,654.00. The tax increment received for parcels 21.027.21.34.0006 and 21.027.21.42.0001, (identified in Finding #1) was returned to the Washington County Auditor. The remaining balance available (\$279,654 - \$91,516.63) was \$188,137.37. It is the City's position that this amount was retained and repaid to the trunk funds (water, sewer, storm water) which had provided interfund loans or advances totaling \$518,319 into the TIF District 1-10 project fund. The attached pages from the City's TIF reports for 2000 and 2001 and from the City's Comprehensive Annual Financial Reports for those two years constitute documents created contemporaneously with the making of the loan or advance that specify the principal amount of the loan or advance.

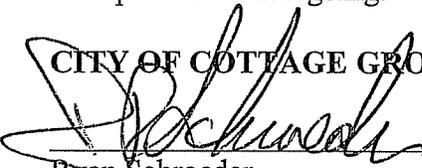
Finding 4. TIF District 1-13 – Failure to Decertify the District.

Response to Finding 4. The City agrees that TIF District 1-13 should have been decertified on December 31, 2010, and that tax increment received in 2011 should be returned to the Washington County Auditor. However, the OSA's amount of cash on hand at December 31, 2011 of \$193,731.71 overstates the amount in question because it includes \$154,703.19 which is also the subject of Finding 2. The amount due is therefore \$39,028.52 and the City has returned that amount to the Washington County Auditor.

This response letter was authorized by the City Council at their May 16, 2012 meeting and is therefore sent on their behalf.

A copy of the check sent to Washington County is also enclosed. Please contact City Finance Director Robin Roland if you have any questions with respect to the foregoing.

CITY OF COTTAGE GROVE

By:  \_\_\_\_\_  
Ryan Schroeder,  
City Administrator

Attachments

cc: Mayor and City Council  
Corrine A. Heine, City Attorney  
Shelly Eldridge, Ehlers & Associates  
Ronald H. Batty, Economic Development Authority Attorney

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REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

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1-800-627-3529 (Relay Service)

July 9, 2012

The Honorable Myron Bailey, Mayor  
The Honorable Derrick Lehrke, Council Member  
The Honorable Justin Olsen, Council Member  
The Honorable Jen Peterson, Council Member  
The Honorable Dave Thiede, Council Member

**City of Cottage Grove**

7516 80th Street South  
Cottage Grove, MN 55016

Re: City of Cottage Grove's TIF Districts – Final Notice of Noncompliance

Dear Mayor Bailey and Council Members:

On March 28, 2012, the Office of the State Auditor (OSA) sent to the City of Cottage Grove (City) an Initial Notice of Noncompliance (Initial Notice) regarding the City's TIF District 1-10 Industrial Park, TIF District 1-13, and TIF District 1-14 Werner Electric. The OSA received the City's Response (Response) from Robin Roland, Finance Director, on May 29, 2012.

This letter is the Final Notice of Noncompliance (the "Final Notice") of the Office of the State Auditor. It provides the OSA's final conclusions regarding the issues raised by the review.

## **FINDINGS OF NONCOMPLIANCE**

### **Finding 1. TIF District 1-10 Industrial Park—Failure to Comply with Four-Year Rule – RESOLVED**

In the Initial Notice, the OSA found that two parcels of land were retained in TIF District 1-10 and that they did not qualify for retention under the four-year rule.<sup>1</sup> Therefore, no tax increment should have been received from the parcels after April 21, 2004. The OSA determined that the \$91,516.63 of tax increment received after that date was improperly received, and had to be returned. The City agreed with this finding and provided documentation that it returned \$91,516.63 to the Washington County Auditor. Because corrective action has been taken, Finding 1 is considered resolved.

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<sup>1</sup>Minn. Stat. § 469.176, subd. 6. A development authority must perform certain activities (qualifying improvements) on each parcel in the TIF district in accordance with the TIF plan within four years from the date the TIF district was certified, or the parcel(s) must be removed from the TIF district. This provision is known as the "four-year rule."

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### **Finding 2. TIF District 1-13 – Improper Receipt and Expenditure of TIF Revenue – RESOLVED**

In the Initial Notice, the OSA found that a parcel certified in TIF District 1-10 was improperly included in TIF District 1-13 and that the tax increment generated from the Parcel was improperly used to make debt service payments for costs incurred in TIF District 1-13.<sup>2</sup> During calendar years 2006 through 2011, \$154,703.19 of tax increment from the parcel was improperly received in TIF District 1-13. The City agreed with this finding and provided documentation that it returned \$154,703.19 to the Washington County Auditor. Because corrective action has been taken, Finding 2 is considered resolved.

### **Finding 3. TIF District 1-10—Failure to Decertify the District – NOT RESOLVED**

#### A. Initial Notice

In the Initial Notice, the OSA noted that no outstanding debt was reported in the City's 2009 TIF Report for TIF District 1-10, and that the district had a positive cash/fund balance of **\$123,470** on December 31, 2009, indicating that TIF District 1-10 had paid the qualified obligations incurred within the first five years of the district and should have been decertified at the end of 2009.<sup>3</sup> The OSA also found that in 2010, after TIF District 1-10 should have been decertified, the City improperly received **\$155,167** in tax increment from the County.

The 2009 TIF Report and 2009 CAFR filed for TIF District 1-10 showed receipt of \$269,990 of tax increment in calendar year 2009, and payment of \$800 of then-current administrative costs. The 2009 tax increment was used to eliminate the existing fund deficit and pay then-current administrative expenses, resulting in a \$123,470 surplus fund balance on December 31, 2009.<sup>4</sup>

No outstanding debt was reported in the 2009 TIF report or 2009 CAFR for TIF District 1-10. The OSA found insufficient evidence to support characterization of the funds the City moved as repayment of an outstanding obligation, and concluded that transfer to the City of the **\$279,654** (including the \$155,167 in 2010 tax increment mentioned in the previous paragraph) in tax increment remaining in the TIF fund for TIF District 1-10 was improper.

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<sup>2</sup>Minn. Stat. § 469.1771, subd. 2 (If an authority includes a parcel of property in a TIF district that does not qualify for inclusion, the authority must pay to the county auditor an amount of money equal to the increment collected from the property.), and subd. 3 (If an authority spends tax increment revenues, including the proceeds of tax increment bonds, on activities outside the geographic area in which the revenues may be spent, the authority must pay to the county auditor an amount equal to the expenditures made in violation of the law.)

<sup>3</sup>A TIF district must be decertified and the pledge of tax increment discharged when outstanding bonds have been defeased and when sufficient money has been set aside to pay, based on the increment to be collected through the end of the calendar year, the amounts of qualified outstanding obligations authorized by statute. *See* Minn. Stat. § 469.1763, subd. 4 (b).

<sup>4</sup>Twenty percent of the tax increment may be expended outside the district. *See* Minn. Stat. § 469.1763, subd. 2.

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### B. City Response

The City makes two basic assertions in response to the violations identified in Finding 3 of the Initial Notice of Noncompliance. The OSA disagrees with both assertions, as explained below.

#### 1. 2001 Deficit Fund Balance

##### a. City Position

In its Response, the City provides information on a deficit fund balance that existed for TIF District 1-10 in 2001. The City asserts that the July 31, 2001, deficit was a valid loan or advance; and that “[t]he existence of this obligation, and to the extent that said obligation was not completely defeased is not consistent with the stated requirement that the district be decertified on December 31, 2009.”

##### b. Final Notice Analysis and Conclusion

The July 31, 2001 deficit is not in dispute. The OSA agrees that in 2001, TIF District 1-10 had a deficit fund balance of \$1,622,719. The relevant City of Cottage Grove balance sheet is included in the City’s 2001 Comprehensive Annual Financial Report (2001 CAFR). The 2001 balance sheet shows the \$1,622,719 amount as the deficit fund balance for TIF District 1-10.<sup>5</sup> Of this amount, \$1,383,598 is shown on the 2001 City balance sheet as an “Interfund Payable” liability of TIF District 1-10, which could have been considered an interfund loan; while the remaining amount arose from other, smaller asset and liability items accounted for in the fund.

The \$1,383,598 interfund payable liability can be considered an interfund loan because it existed before Minn. Stat. § 469.178, subdivision 7 became effective in 2001. *See* 2001 Minn. Laws, 1<sup>st</sup> spec. sess., ch. 5, § 21. This legislation became effective on July 31, 2001 and generally ratified and approved interfund loans and advances made before August 1, 2001. *Id.* Each interfund loan after that date must be approved by resolution of the governing body before money is transferred, advanced, or spent, whichever is earliest. Minn. Stat. § 469.178, subd. 7. In addition, the terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term. *Id.*

By December 31, 2009, however, this 2001 interfund liability had been paid off. The Initial Notice of Noncompliance pointed out that TIF District 1-10 should have been decertified at the end of 2009 because TIF District 1-10 had a positive cash/fund balance of \$123,470 on December 31, 2009, and no outstanding debt. Both the positive fund balance and the lack of any

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<sup>5</sup> Comprehensive Annual Financial Report, City of Cottage Grove Minnesota for the year ended December 31, 2001, pp. 110-110.

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interfund liability are proven by the City's 2009 Comprehensive Annual Financial Report (2009 CAFR).<sup>6</sup> The 2009 CAFR, prepared by the City and attested to by the City's auditing firm, shows there was no interfund payable or interfund loan payable for TIF District 1-10 on December 31, 2009.<sup>7</sup>

The existence of the 2001 deficit fund balance has no bearing on whether TIF District 1-10 should have been decertified in 2009. It is irrelevant to Finding 3. On December 31, 2009, TIF District 1-10 should have been decertified.

### 2. 2002 transfers totaling \$518,319.

#### a. City Position

In its Response, the City noted that it returned \$91,516.63 of the \$279,654 to the Washington County Auditor to correct the violation identified in Finding 1. About the remaining amount (\$188,137.37), the City states:

It is the City's position that this amount was retained and repaid to the trunk funds (water, sewer, storm water) which had provided interfund loans or advances totaling \$518,319 into the TIF District 1-10 project fund.<sup>8</sup>

#### b. Final Notice Analysis and Conclusion

The City's reference to \$518,319 is a reference to three 2002 transfers the City made to pay TIF District 1-10 project costs. The City's current characterization of these transfers as loans is incorrect.

First, it is quite common for a city to pay project costs. The mere transfer of money does not constitute an interfund loan. Interfund loans must be approved by resolution of the governing body before money is transferred, advanced, or spent, whichever is earliest. Minn. Stat. § 469.178, subd. 7. In addition, the terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term. *Id.*

Second, the transferred \$518,319 was not an interfund loan because the transfers did not occur until after Minn. Stat. § 469.178, subdivision 7, became effective in 2001.<sup>9</sup> After that date,

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<sup>6</sup> Comprehensive Annual Financial Report, City of Cottage Grove Minnesota for the year ended December 31, 2009, Exhibit 9 (Subcombining Balance sheet), p. 150. This is consistent with the City's TIF reporting to the Office of the State Auditor.

<sup>7</sup> *Id.*

<sup>8</sup> May 25, 2012 City of Cottage Grove Response, p. 2. As noted above, the bulk of the rest of the City's response to Finding 3 consists of details regarding 2000-2001 activity, which are irrelevant and not in dispute.

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Cottage Grove  
July 9, 2012  
Page 5

interfund loans must be approved by resolution of the governing body before money is transferred, advanced, or spent, whichever is earliest. Minn. Stat. § 469.178, subd. 7. In addition, the statute requires that the terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term. *Id.* These statutory requirements were not met.

Third, the City's audited financial statements and other City records demonstrate that the City's current characterization of these transfers as loans is inaccurate. A transfer is described by GASB as a flow of assets without an equivalent flow of assets in return and without a requirement for repayment. An interfund loan entails an expectation of repayment within a reasonable time.<sup>10</sup>

The City's financial records and audited financial statements demonstrate that the \$518,319 was not an interfund loan. These records and financial statements show the \$518,319 was transferred to TIF District 1-10 and used to reduce its interfund loan liability, to reduce its contract payables and to pay current expenses.

In addition, contemporaneous records referred to the transactions as transfers. For example, the City's journal entries identify the transactions as transfers. The City's records show the following journal entry on 12/31/02:

12/31/02 PST-JE	7394	INTERFUND TRANS FOR TRUNK	74,231.30-
12/31/02 PST-JE	7394	INTERFUND TRANS FOR TRUNK	45,382.94-
12/31/02 PST-JE	7394	INTERFUND TRANS FOR TRUNK	398,704.80-
		Detail Total:	518,319.04-

The transfer was memorialized and approved by the City Council as a transfer in Resolution No. 03, passed on April 4, 2003.<sup>11</sup> The amounts transferred to TIF District 1-10 are described in the Resolution No. 03 as follows:

FROM	TO	AMOUNT
Water Area (575)	TIF 1-10	\$ 45,382.94
Sewer Area (580)	TIF 1-10	\$ 74,231.30
Storm Area (585)	TIF 1-10	\$ 398,704.80

---

<sup>9</sup> This legislation became effective on July 31, 2001 and generally ratified and approved only those interfund loans and advances made before August 1, 2001. See 2001 Minn. Laws, 1<sup>st</sup> spec. sess., ch. 5, § 21.

<sup>10</sup> See e.g. Governmental Accounting, Auditing and Financial Reporting, Chapter 3 (Government Finance Officers Association 2005) citing GASB Statement No. 34, paragraph 112a(1).

<sup>11</sup> City of Cottage Grove 2003 Resolution No. 3, *Resolution Approving an Interfund Transfer From Water Area (575), Sanitary Sewer Area (580) and Storm Area (585) to TIF 1-10 (538), 2001 Improvements (559), 2002 Improvements (561) and 2003 Improvements (562)*.

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Cottage Grove  
July 9, 2012  
Page 6

A memorandum to the City Council from the City's Finance Director, dated April 2, 2003, and entitled "Subject: Trunk fund transfers" requests approval of the transfers.<sup>12</sup> The memorandum, states "[t]he Council should adopt a resolution approving an interfund *transfer* for trunk system improvements that were constructed during 2001 & 2002."<sup>13</sup>

The City's 2002 Comprehensive Annual Financial Report (2002 CAFR) expressly categorizes the \$518,319 as an "Operating Transfer from Capital Project Funds" to TIF District 1-10.<sup>14</sup> This operating transfer amount was not reflected in the balance sheet liabilities as an interfund loan would be.<sup>15</sup>

Finally, at the conference between the OSA and the City as part of the OSA review, City officials stated that a decision was made to handle the funds in this manner because the City did not expect there would be enough tax increment generated to cover all costs and did not wish to characterize these costs as debt.

For all of the foregoing reasons, the OSA does not accept the City's explanation and the City's response does not resolve Finding 3. The \$188,137.37 remaining after resolution of Finding 1 should be returned to the County Auditor.

### **Finding 4. TIF District 1-13—Failure to Decertify the District -- RESOLVED**

In the Initial Notice, the OSA found that no outstanding debt was reported in the 2010 TIF Report and the district had a positive cash/fund balance of \$95,277 on December 31, 2010. As a result, the OSA found that TIF District 1-13 should have been decertified at the end of 2010.<sup>16</sup>

The OSA also found in the Initial Notice that \$98,251 of tax increment and \$680 of interest income was received in calendar year 2011. Of that amount, \$167 was used to pay the 2010 accounts payable, \$14 was used to pay for legal services, and \$462 was used to pay for County

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<sup>12</sup> Ron Hedburg Memorandum to Mayor, City Council and the City Administrator ("Subject: Trunk fund transfers"), April 2, 2003.

<sup>13</sup> *Id.* (Emphasis added). The memorandum goes on to explain that cost related to over-sizing water, sewer and storm lines "are paid from the construction fund [in this case TIF District 1-10] when the contractor is paid and reimbursed from the respective area [Water, Sewer, Storm] funds on an annual basis."

<sup>14</sup> Comprehensive Annual Financial Report, City of Cottage Grove Minnesota for the year ended December 31, 2002, pp. 112-113.

<sup>15</sup> *Id.* Interfund loans are reported as increases and decreases in assets and liabilities. "Thus, the lender fund replaces the asset *cash* with the asset *due from other funds*, while the borrower fund reports an equal increase in both [the asset] *cash* and [the liability] *due to other funds*." Governmental Accounting, Auditing and Financial Reporting, Chapter 3 (Government Finance Officers Association 2005).

<sup>16</sup> A TIF District must be decertified and the pledge of tax increment discharged when sufficient money has been set aside to pay, based on the increment to be collected through the end of the calendar year, qualifying obligations incurred within the first five years of the district. See Minn. Stat. § 469.1763, subd. 4 (b).

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Cottage Grove  
July 9, 2012  
Page 7

administrative expenses and publication of the annual TIF disclosure. Cash on hand at December 31, 2011, was **\$193,731.71**, which is the sum of the cash on hand on December 31, 2010, plus the calendar year 2011 activity.

The City agreed that TIF District 1-13 should have been decertified on December 31, 2010, and that tax increment received in 2011 should be returned to the Washington County Auditor. The City noted, however, that the amount of cash on hand at December 31, 2011 (\$193,731.71) included the \$154,703.19 returned by the City to the Washington County Auditor as the City's corrective action for the violation noted in Finding 2. The additional amount to be returned based on the Finding 4 violation was therefore limited to \$39,028.52. The City returned this amount to the Washington County Auditor. The OSA accepts this recalculation. Because corrective action has been taken, Finding 4 is considered resolved.

### CONCLUSION

The City failed to resolve Finding 3. As a result, this matter is being forwarded to the Washington County Attorney as required by Minn. Stat. § 469.1771, subd. 1(b).

If you have any questions, please feel free to contact me at 651-296-7979 or [Arlin.Waelti@osa.state.mn.us](mailto:Arlin.Waelti@osa.state.mn.us), or Deputy State Auditor/General Counsel Celeste Grant at 651-297-3673 or [Celeste.Grant@osa.state.mn.us](mailto:Celeste.Grant@osa.state.mn.us).

Very truly yours,

*/s/ Arlin Waelti*

Arlin Waelti  
Assistant State Auditor  
TIF Division Director

cc: Ryan R. Schroeder, City Administrator  
Robin S. Roland, Finance Director

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# **APPENDIX E**

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REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

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(651) 296-4755 (Fax)  
state.auditor@state.mn.us (E-mail)  
1-800-627-3529 (Relay Service)

September 24, 2012

The Honorable Bob Ramsey, Mayor  
The Honorable Randy Backous, Council Member  
The Honorable David Elvig, Council Member  
The Honorable Colin McGlone, Council Member  
The Honorable Sarah Strommen, Council Member  
The Honorable Jason Tossey, Council Member  
The Honorable Jeff Wise, Council Member

**City of Ramsey**

7550 Sunwood Dr NW  
Ramsey, MN 55303

Re: City of Ramsey TIF Districts—Initial Notice of Noncompliance

Dear Mayor Ramsey and Council Members:

The Office of the State Auditor (OSA) performed a limited scope examination of various records of two tax increment financing districts (TIF Districts) located in the City of Ramsey (City). The examination covered TIF District 9 and TIF District 10.

The OSA examined evidence regarding the City's compliance with the TIF Act, including evidence available on-site at the City.<sup>1</sup> Examiners reviewed and/or tested the TIF reports filed with the OSA through the year ended December 31, 2011, TIF plans, general ledgers, development agreements, contracts, invoices and other supporting documents. No findings were made in the examination of TIF District 9. The examination of TIF District 10 resulted in one finding of noncompliance with Minnesota law.

This Initial Notice of Noncompliance (Initial Notice) contains one finding (Finding).

All data relating to this examination, including this Initial Notice and the City's Response (Response), are not public until the OSA has issued its final report.<sup>2</sup>

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<sup>1</sup> See Minn. Stat. §§ 469.174 to 469.1799 inclusive, as amended.

<sup>2</sup> See Minn. Stat. § 6.715 (Information relating to an examination is confidential and/or protected nonpublic until the audit is complete); Minn. Stat. § 13.03, subd. 4 (c) (to the extent data is sent to another government entity, the data retains the same classification).

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Ramsey  
September 24, 2012  
Page 2

State law requires the City to send its Response in writing within 60 days after receipt of the Initial Notice. The Response must state whether the City accepts the Finding, in whole or in part, and the basis for any disagreement.<sup>3</sup> After reviewing the Response, the OSA is required to forward information on any unresolved issues to the Anoka County Attorney for review.<sup>4</sup>

If the City pays to Anoka County (County) an amount equal to the amount found to be in noncompliance, the OSA will consider the Finding to be resolved. Minnesota law provides that the City will receive its proportionate share of the redistribution of the funds that have been returned to the County, if the City makes the payment within 60 days after the City receives this Initial Notice.<sup>5</sup>

### FINDING OF NONCOMPLIANCE

The OSA's finding of noncompliance regarding TIF District 10 is as follows:

#### **Finding. TIF District 10— Improper Transfer and/or use of Tax Increment**

The City purchased a 44.5 acre parcel from Waste Management in 2001, with the intention of creating an industrial park (Industrial Park). Tax increment bonds (Bonds) were issued to finance the acquisition of the property. Tax increment revenues from the City's TIF District 1, a redevelopment district established in 1985, retired the debt service on the Bonds.<sup>6</sup>

The City approved TIF District 10, an economic development district, on October 23, 2001, and requested certification of the District on November 8, 2001. The County certified the District on October 31, 2002. The geographic area of TIF District 10 is coterminous with the geographic area of the Industrial Park. The City created this District to facilitate the development of the Industrial Park. The City signed development agreements with several businesses to use tax increment to write-down the cost of the land and related charges as an inducement for the businesses to purchase the property in the Industrial Park. The City deposited the proceeds from the sales of property into the tax increment fund for TIF District 10. Proceeds from the sale of property, to the extent the property was purchased by the City with tax increments, are tax increment revenues.<sup>7</sup> The District first received tax increment revenues from property taxes in 2004. These revenues were deposited in the same fund as the proceeds from the sales of properties.

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<sup>3</sup> Minn. Stat. § 469.1771, subd. 1 (c).

<sup>4</sup> See Minn. Stat. § 469.1771, subd. 1 (b).

<sup>5</sup> Minn. Stat. § 469.1771, subd. 5.

<sup>6</sup> The OSA did not examine the records of TIF District 1.

<sup>7</sup> Minn. Stat. § 469.174, subd. 25 (2).

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Ramsey  
September 24, 2012  
Page 3

Tax increment eligible costs in excess of \$300,000 were incurred in TIF District 10 between 2002 and 2006. Tax increment, including proceeds received from the sales of property, paid the eligible costs. This tax increment also paid for additional eligible costs incurred between 2007 and 2011.

In 2011, the City recorded a transfer of \$787,803 from TIF District 10 to TIF District 1, equal to the amount of property sales proceeds received by TIF District 10. The City's explanation for this transfer was that the property sales proceeds should have been deposited into the fund for TIF District 1 since the property was purchased with money from TIF District 1.

Based on analysis of the financial activity within the fund for TIF District 10, \$377,936 of the property sales proceeds had been used to pay for costs incurred within TIF District 10 and were unavailable to be transferred to TIF District 1.<sup>8</sup> If there was \$787,803 in total property sales proceeds in the TIF District 10 fund and \$377,936 of these proceeds had already been spent, only \$409,867 of property sales proceeds could be transferred to TIF District 1. The remaining \$377,936 transferred to TIF District 1 was tax increment from property taxes generated from TIF District 10.

Tax increment revenues from TIF District 10 cannot be legally transferred to TIF District 1 because of limitations in the TIF Act. TIF District 10 is an economic development district with a certification request date after April 30, 1990. Therefore, it is subject to pooling limitations.<sup>9</sup> In addition, tax increments from an economic development district cannot be used in a redevelopment district.<sup>10</sup> The transfer of \$377,936 of tax increment from TIF District 10 to TIF District 1 is a violation of the pooling and use requirements of the TIF Act.

The OSA finds that the City improperly transferred \$377,936 of tax increment from TIF District 10 to TIF District 1.

### ADDITIONAL COMMENT

In addition to making the Finding set forth above, the OSA makes the following Comment. The City is not required to respond to this Comment, but may do so if it wishes.

#### Exceeding the Pooling Limitations

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<sup>8</sup> Minn. Stat. § 469.176, subd. 4j does not limit TIF District 1 from conveying tax increment revenues to TIF District 10. TIF District 1 was established in 1985 and Minn. Stat. § 469.176, subd. 4j was not enacted until 1989. *See* 1989 Minn. Laws, 1<sup>st</sup> Spec. Sess., ch. 1, art. 14, §§ 10, 19. Therefore, tax increment from this redevelopment district can be used for costs in an economic development district.

<sup>9</sup> Minn. Stat. § 469.1763, subd. 2. *See* 1990 Minn. Laws, ch. 604, art. 7, §§ 21, 31.

<sup>10</sup> Minn. Stat. § 469.176, subd. 4c.

## **OFFICE OF THE STATE AUDITOR**

Mayor and Council, City of Ramsey  
September 24, 2012  
Page 4

During the examination, it came to the OSA's attention that two development agreements were signed more than five years after certification of TIF District 10. This District is subject to the pooling restrictions in Minn. Stat. § 479.1763. Tax increment used to reimburse costs identified in the two development agreements would constitute costs paid outside of the District and would be subject to pooling restrictions.

### **CONCLUSION**

The Response to this Finding must be submitted in writing to the OSA within 60 days after receipt of this Initial Notice. The OSA is available to review and discuss the Finding within this letter at any time during the preparation of the Response. After reviewing the Response, the OSA will issue the Final Notice.

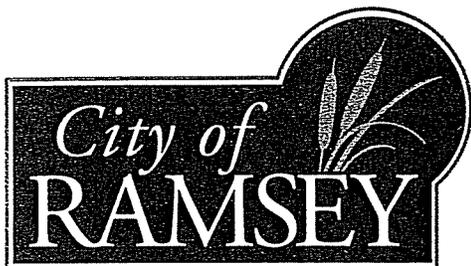
If you have any questions, please call me at (651) 296-7979. We look forward to receiving your Response.

Very truly yours,

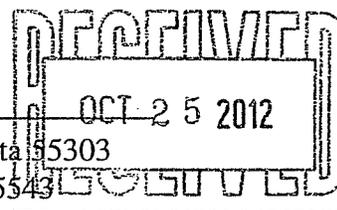
*/s/ Arlin Waelti*

Arlin Waelti  
Assistant State Auditor  
TIF Division Director

cc: Kurtis Ulrich, Administrator  
Diana Lund, Finance Director



7550 Sunwood Drive NW • Ramsey, Minnesota 55303  
City Hall: 763-427-1410 • Fax: 763-427-5343  
www.cityoframsey.com



October 22, 2012

State of Minnesota  
Office of the State Auditor  
Suite 500  
525 Park Street  
St. Paul, MN 55103-2139  
Attn: Lisa McGuire

Dear Ms. McGuire:

Please find attached a copy of the City of Ramsey's Resolution concurring with the Office of the State Auditor's finding in respect to noncompliance in its Tax Increment Financing District #10.

I have enclosed a copy of the journal entry and financial printout that shows that the noncompliance issue has been corrected via the transfer of \$377,936 from Tax Increment District #1 to Tax Increment District #10.

Thank you for your assistance in the above matter.

Sincerely,

City of Ramsey  
Diana Lund, Finance Director

Enclosure

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REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

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1-800-627-3529 (Relay Service)

November 5, 2012

The Honorable Bob Ramsey, Mayor  
The Honorable Randy Backous, Council Member  
The Honorable David Elvig, Council Member  
The Honorable Colin McGlone, Council Member  
The Honorable Sarah Strommen, Council Member  
The Honorable Jason Tossey, Council Member  
The Honorable Jeff Wise, Council Member

**City of Ramsey**

7550 Sunwood Dr NW  
Ramsey, MN 55303

Re: City of Ramsey TIF Districts – Final Notice of Noncompliance

Dear Mayor Ramsey and Council Members:

On September 24, 2012, the Office of the State Auditor (OSA) sent to the City of Ramsey (City) an Initial Notice of Noncompliance (Initial Notice) regarding the City's TIF District 10. The OSA received the City's Response (Response) on October 25, 2012.

This letter is the Final Notice of Noncompliance (the "Final Notice") of the Office of the State Auditor. It provides the OSA's final conclusion regarding the issue raised by the review.

## **FINDING OF NONCOMPLIANCE**

**Finding. TIF District 10—Improper Transfer and/or use of Tax Increment—RESOLVED.**

In the Initial Notice, the OSA found that the City improperly transferred \$377,936 of tax increment from TIF District 10 to TIF District 1. In its Response, the City agreed with the finding and provided documentation to substantiate that the transferred funds were returned to TIF District 10. The OSA considers this finding resolved. Because the Finding has been resolved, the Final Notice will not be forwarded to the county attorney, as otherwise required by law.<sup>1</sup>

---

<sup>1</sup> Minn. Stat. § 469.1771, subd. 1 (b).

**OFFICE OF THE STATE AUDITOR**

Mayor and Council, City of Ramsey

November 5, 2012

Page 2

If you have questions, would like additional information, or if we can be of any assistance, please do not hesitate to contact me. I can be reached at (651) 296-7979.

Very truly yours,

*/s/ Arlin Waelti*

Arlin Waelti

Assistant State Auditor

TIF Division Director

cc: Kurtis Ulrich, Administrator  
Diana Lund, Finance Director

# **APPENDIX F**

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REBECCA OTTO  
STATE AUDITOR

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state.auditor@state.mn.us (E-mail)  
1-800-627-3529 (Relay Service)

September 12, 2012

The Honorable Eric Peterson, Mayor  
The Honorable Roger Elmore, Council Member  
The Honorable Linda Nanko Yeager, Council Member  
The Honorable Steve Zerwas, Council Member  
The Honorable Joe Zerwas, Council Member

**City of Wyoming**

P.O. Box 188  
Wyoming, MN 55092-0188

Re: TIF District 3-2 Regal Machine – Initial Notice of Noncompliance

Dear Mayor Peterson and Council Members:

The Office of the State Auditor (OSA) reviewed the 2011 Annual Reporting Form filed by the City of Wyoming (City) for Tax Increment Financing (TIF) District 3-2 (Regal Machine), an economic development district. After reviewing the information provided by the City and after obtaining additional information from the Chisago County Auditor, the OSA finds that the City is not in compliance with the TIF Act.<sup>1</sup> This Initial Notice of Noncompliance (Initial Notice) contains the OSA's Finding.

All data relating to this examination, including this Initial Notice and the City's Response (Response), are not public until the OSA has issued its final report.<sup>2</sup>

State law requires the City to send its Response in writing within 60 days after receipt of the Initial Notice. The Response must state whether the City accepts the Finding, in whole or in part, and the basis for any disagreement.<sup>3</sup> After reviewing the Response, the OSA is required to forward information on any unresolved issues to the Chisago County Attorney for review.<sup>4</sup>

If the City pays to Chisago County (County) an amount equal to the amount found to be in noncompliance, the OSA will consider the Finding to be resolved. Minnesota law provides that the City will receive its proportionate share of the redistribution of the funds that have been

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<sup>1</sup>See Minn. Stat. §§ 469.174 to 469.1799 inclusive, as amended.

<sup>2</sup>See Minn. Stat. § 6.715 (Information relating to an examination is confidential and/or protected nonpublic until the audit is complete); Minn. Stat. § 13.03, subd. 4 (c) (to the extent data is sent to another government entity, the data retains the same classification).

<sup>3</sup>Minn. Stat. § 469.1771, subd. 1 (c).

<sup>4</sup>Minn. Stat. § 469.1771, subd. 1 (b).

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Wyoming  
September 12, 2012  
Page 2

returned to the County, if the City makes the payment within 60 days after the City receives this Initial Notice.<sup>5</sup>

### FINDING OF NONCOMPLIANCE

#### **Finding 1. TIF District 3-2 Regal Machine—Tax Increment Received after Statutory Maximum Duration**

In its 2011 Annual Reporting Form, the City reported for TIF District 3-2 a TIF plan approval date and certification request date of June 30, 2000, a first receipt of tax increment date in July 2001, and a required decertification date and actual decertification date of December 31, 2010. The City also reported that it had received \$60,249.00 of tax increment from TIF District 3-2 during calendar year 2011.<sup>6</sup>

A TIF authority may not spend or retain tax increment it receives from a TIF district after that district has reached its statutory maximum duration date. For economic development districts for which the request for certification was made before July 1, 2000, the statutory maximum duration is measured 1) nine years from the date of receipt of first tax increment, or 2) eleven years from the date of approval of the TIF plan. Being a pre-July 1, 2000, economic development district with the duration extension provided in Minn. Stat. § 469.176, subd. 1b(b), the statutory maximum duration date for TIF District 3-2 is the lesser of 1) December 31, 2010, or 2) June 30, 2011. The statutory maximum duration date for TIF District 3-2 is December 31, 2010.<sup>7</sup>

The City may not spend or retain tax increment it received from TIF District 3-2 after December 31, 2010. On August 1, 2012, the County and the City both confirmed that no tax increment had been returned to the County. The City also was reviewing whether it could retain the \$60,249.00 of improperly-received tax increment. The OSA informed the City that, if the \$60,249.00 (plus any additional tax increment received by the City in 2012) was not returned to the County on or before September 1, 2012, the OSA would issue an Initial Notice of Noncompliance.<sup>8</sup> On September 6, 2012, the County confirmed that the \$60,249.00 had not been returned.<sup>9</sup> This Initial Notice of Noncompliance follows.

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<sup>5</sup>Minn. Stat. § 469.1771, subd. 5.

<sup>6</sup>See the OSA's 2011 Annual Reporting Form, line 1 of the Revenue and Expense tab.

<sup>7</sup>Measured from the receipt of first tax increment, the date is December 31, 2010. Measured from the TIF Plan approval date, the date is June 30, 2011. The lesser of the two dates is the statutory maximum duration date: December 31, 2010.

<sup>8</sup>E-mail from Kurt Mueller, OSA, to Craig Mattson, Wyoming City Administrator/Clerk, dated August 1, 2012.

<sup>9</sup>E-mail from Kurt Mueller, OSA, to Dennis J. Freed, Chisago County Auditor, dated September 6, 2012.

## **OFFICE OF THE STATE AUDITOR**

Mayor and Council, City of Wyoming  
September 12, 2012  
Page 3

The Office of the State Auditor finds that the City of Wyoming improperly received \$60,249.00 of tax increment from TIF District 3-2 after the statutory duration limit for the district had been reached.

### **CONCLUSION**

The Response to this Finding must be submitted in writing to the OSA within 60 days after receipt of this Initial Notice. The OSA is available to review and discuss the Finding within this Initial Notice at any time during the preparation of the Response. After reviewing the Response, the OSA will issue the Final Notice.

If you have any questions, please call me at (651) 296-7979. We look forward to receiving your Response.

Very truly yours,

*/s/ Arlin Waelti*

Arlin Waelti  
Assistant State Auditor  
TIF Division Director

Cc: Craig Mattson, Administrator/Clerk

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**From:** Brenda Frechette <BFrechette@wyomingmn.org>  
**To:** "kurt.mueller@osa.state.mn.us" <kurt.mueller@osa.state.mn.us>  
**Date:** 10/9/2012 1:08 PM  
**Attachments:** 39968.tif

Kurt,

I have attached our repayment of the excess TIF district 3-2.

[cid:image001.png@01CDA61F.0D53DFD0]

Brenda L. Frechette  
Accountant  
CITY OF WYOMING  
26885 Forest Blvd  
Wyoming, MN 55092  
651-462-0575 Phone  
651-462-0576 Fax  
BFrechette@Wyomingmn.org

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REBECCA OTTO  
STATE AUDITOR

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1-800-627-3529 (Relay Service)

October 11, 2012

The Honorable Eric Peterson, Mayor  
The Honorable Roger Elmore, Council Member  
The Honorable Linda Nanko Yeager, Council Member  
The Honorable Steve Zerwas, Council Member  
The Honorable Joe Zerwas, Council Member  
**City of Wyoming**  
P.O. Box 188  
Wyoming, MN 55092-0188

Re: TIF District 3-2 Regal Machine – Final Notice of Noncompliance

Dear Mayor Peterson and Council Members:

On September 12, 2012, the Office of the State Auditor (OSA) sent to the City of Wyoming (City) an Initial Notice of Noncompliance (Initial Notice) regarding the City's TIF District 3-2 Regal Machine. The OSA received the City's Response (Response) from Brenda Frechette, Accountant, on October 9, 2012.

This letter is the Final Notice of Noncompliance (the "Final Notice") of the Office of the State Auditor. It provides the OSA's final conclusion regarding the issue raised by the review.

**FINDING OF NONCOMPLIANCE**

**Finding. TIF District 3-2 Regal Machine—Tax Increment Received after Statutory Maximum Duration—RESOLVED.**

In the Initial Notice, the OSA found that the City improperly received \$60,249 of tax increment revenues from TIF District 3-2 after the statutorily-required decertification date for the TIF district had passed. The Initial Notice was issued to the City after the OSA notified the City that it had improperly received tax increment revenues and was required to return those revenues to the County.

## OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Wyoming  
October 11, 2012  
Page 2

On October 9, 2012, the OSA received an e-mail and copy of a cancelled check, dated September 18, 2012, indicating that \$60,249 had been returned to Chisago County.<sup>1</sup> The OSA subsequently confirmed with Chisago County that it had received from the City and deposited a check dated September 18, 2012 for \$60,249.<sup>2</sup>

### CONCLUSION

Based on the information received from the City and Chisago County, the OSA considers the Finding resolved. Because the Finding has been resolved, the Final Notice will not be forwarded to the county attorney, as otherwise required by law.<sup>3</sup>

If you have questions, would like additional information, or if we can be of any assistance, please do not hesitate to contact me. I can be reached at (651) 296-7979.

Very truly yours,

*/s/ Arlin Waelti*

Arlin Waelti  
Assistant State Auditor  
TIF Division Director

Cc: Craig Mattson, Administrator/Clerk

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<sup>1</sup> E-mail from Brenda Frechette, Accountant, to Kurt Mueller, OSA, dated October 9, 2012.

<sup>2</sup> E-mail from Dennis Freed, Chisago County, to Kurt Mueller, OSA, dated October 9, 2012.

<sup>3</sup> Minn. Stat. § 469.1771, subd. 1 (b).