Call to order

1. City Garage South Proposal

Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.
August 17, 2017

**Council Memorandum No. 78**

The Honorable Mayor  
and  
Members of the City Council

Subject: Nicolai Apartments Proposal

Council Members and Commissioners:

At a work session on July 7, 2017, Steven Nicolai of Nicolai Apartments presented preliminary plans for a multi-family housing development on the south half of the former City Garage property (7700 Pillsbury Avenue). Due to time constraints, that presentation was cut short.

On Monday, August 21 at 5:45 p.m., Mr. Nicolai will return to a joint work session of the City Council, HRA, and Planning Commission to continue that presentation and garner feedback from policy-makers.

Respectfully submitted,

Steven L. Devich  
City Manager

SLD:jcs  
Email: Planning Commission  
        Assistant City Manager  
        Department Directors
Call to order

1. Economic Development Authority's 2018 Budget

Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.
CITY OF RICHFIELD, MINNESOTA
Office of City Manager

August 17, 2017

Council Memorandum No. 79

The Honorable Mayor
and
Members of the City Council

Subject: Economic Development Authority Budget

Council Members and Commissioners:

The newly formed Richfield Economic Development Authority (EDA) will be meeting on August 21 to consider their 2018 budget. The City Council had expressed an ongoing desire to provide feedback to the EDA in budgetary matters as well as major programming. In accordance with that desire, there will be a joint work session of the City Council and the coincidental Board of Commissioners of the EDA and HRA at 6:30 p.m. on Monday, August 21.

The proposed EDA budget includes the following:

- Transformation Home Loans: $131,000
- Kids@Home: $130,150
- Pilot Apartment Rehabilitation Loan/Grant Fund: $100,000
- Pilot Business Development/Assistance Loan/Grant: $100,000
- Personnel: $54,980
- Professional Services, Memberships, Marketing, etc.: $4,140
- Operating Reserve: $37,090

Respectfully submitted,

Steven L. Devich
City Manager

SLD:jcs
Email: Assistant City Manager
Department Directors
Call to Order

Approval of the minutes of the: (1) Regular Housing and Redevelopment Authority meeting of July 17, 2017; and (2) Special Housing and Redevelopment Authority meeting of August 3, 2017.

AGENDA APPROVAL

1. Approval of the Agenda

2. Consent Calendar contains several separate items which are acted upon by the HRA in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further HRA action on these items is necessary. However, any HRA Commissioner may request that an item be removed from the Consent Calendar and placed on the regular agenda for HRA discussion and action. All items listed on the Consent Calendar are recommended for approval.
   
   A. Consideration of the approval of a resolution consenting to the inclusion by Inland Development Partners/Chamberlain LLC of certain property with respect to land use approvals.

   Staff Report No. 28

3. Consideration of items, if any, removed from Consent Calendar

RESOLUTIONS

4. Consideration of the approval of a resolution authorizing the purchase of real property at 6409 16th Avenue.

   Staff Report No. 29

5. Consideration of approval of a resolution approving a loan to Aeon Seasons Park LLC in the amount of $150,000 to assist with the purchase of the Seasons Park apartment complex.

   Staff Report No. 30

6. Consideration of the approval of resolutions approving proposed property tax levy for payable 2018 for certification to Hennepin County.

   Staff Report No. 31

OTHER BUSINESS

7. Consideration of the ratification of an Escrow Agreement in which the Housing and Redevelopment Authority agree to pay up to $30,000 for remediation of environmental contaminates and $1,400 for well-sealing on property sold to Interstate Development LLC by the Housing and Redevelopment Authority for development of the Plaza 66 commercial development.

   Staff Report No. 32
8. HRA Discussion Items

EXECUTIVE DIRECTOR REPORT

9. Executive Director's Report

CLAIMS AND PAYROLLS

10. Claims and Payrolls

11. Adjournment

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

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

**HRA Members Present:** Mary Supple, Chair; Pat Elliott; Michael Howard; Doris Rubenstein; and Sue Sandahl.

**Staff Present:** John Stark, Community Development Director; and Julie Urban, Housing Specialist.

## APPROVAL OF THE MINUTES OF THE REGULAR HRA MEETING OF MAY 15, 2017

M/Howard, S/Rubenstein to approve the minutes of the regular HRA meeting of May 15, 2017.

Motion carried 5-0.

## Item #1  HRA APPROVAL OF THE AGENDA

M/Howard, S/Rubenstein, to approve the agenda.

Motion carried 5-0.

## Item #2  PUBLIC HEARING AND CONSIDERATION OF THE APPROVAL OF A RESOLUTION APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY TO INTERSTATE LLC AND APPROVING A PURCHASE AGREEMENT WITH RESPECT THERETO (S.R. NO. 26)

Community Development Director Stark presented Staff Report No. 26.

M/Rubenstein, S/Howard, to close the public hearing.

Motion carried 5-0.

M/Elliott, S/Howard, to approve a resolution conveying certain real property to Interstate LLC and a purchase agreement with respect thereto.

Motion carried 5-0.

## Item #3  HRA DISCUSSION ITEMS
Community Development Director Stark gave an update on the Cedar Point II development stating that a market analysis is currently being done by Maxfield. He confirmed that the area is zoned for medium density multi-family housing and that the market analysis will take a look at the viability of for sale townhomes and condos.

Commissioner Elliott stressed the importance of asking any potential developer to pay options, so the HRA knows they’re serious about moving forward.

<table>
<thead>
<tr>
<th>Item #4</th>
<th>EXECUTIVE DIRECTOR REPORT</th>
</tr>
</thead>
</table>

Community Development Director Stark provided an update on the Plaza 66 and Chamberlain housing developments.

<table>
<thead>
<tr>
<th>Item #9</th>
<th>CLAIMS AND PAYROLL</th>
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</thead>
</table>

M/Rubenstein, S/Howard, that the following claims and payroll be approved:

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<tr>
<td>HRA Checks: 33110 – 33145</td>
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<table>
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<tr>
<td>TOTAL</td>
<td>$196,918.92</td>
</tr>
</tbody>
</table>

Motion carried 5-0.

| ADJOURNMENT |

The meeting was adjourned by unanimous consent at 7:14 p.m.

Date Approved: August 21, 2017

Mary B. Supple
HRA Chair

Julie Urban
Housing Specialist

Steve Devich
Executive Director
HOUSING AND REDEVELOPMENT AUTHORITY MEETING MINUTES
Richfield, Minnesota

Special Meeting
August 3, 2017

CALL TO ORDER

The meeting was called to order by Vice Chair Elliott at 8:27 a.m.

HRA Members Present: Pat Elliott; Michael Howard; and Sue Sandahl.

HRA Members Absent: Mary Supple, Chair; and Doris Rubenstein.

Staff Present: Steven L. Devich, Executive Director; Melissa Poehlman, City Planner; and Jared Voto, Executive Aide/Analyst.

ITEM #1 SPECIAL MEETING ITEMS

- CONSIDERATION OF THE APPROVAL OF AN AGREEMENT ALLOWING AMES CONSTRUCTION TO TEMPORARILY STORE MATERIALS RELATED TO 66TH STREET CONSTRUCTION ON HRA PROPERTIES LOCATED AT 1405 AND 1407 66TH STREET EAST (S.R. NO. 27)

Vice Chair Elliott presented Staff Report No. 27.

Executive Director Devich provided additional information on the item.

M/Elliott, S/Sandahl to approve an agreement allowing Ames Construction to temporarily store materials and equipment related to the 66th Street project at 1405 and 1407 66th Street East.

Motion carried 3-0.

ADJOURNMENT

The meeting was adjourned by unanimous consent at 8:31 a.m.
Date Approved: August 21, 2017

Mary Supple  
Chair

Kate Aitchison  
Housing Specialist

Steven L. Devich  
Executive Director
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of a resolution consenting to the inclusion by Inland Development Partners/Chamberlain LLC of certain property with respect to land use approvals.

EXECUTIVE SUMMARY:
Inland Development Partners (formerly Anderson Companies and also known as Chamberlain LLC) first presented a preliminary concept plan for a multi-family development in the Cedar Corridor area to the Housing and Redevelopment Authority (HRA), City Council, and Planning Commission at a work session on September 22, 2015. The Developer has refined the project based on feedback from two neighborhood open houses (October 21, 2015 and July 13, 2017) and the city's revised alignment for Richfield Parkway. The most recent plans were presented at a work session of the HRA, City Council, and Planning Commission on June 19, 2017.

Response to the proposal from the policy makers was favorable, so the developer is pursuing the project. The HRA currently owns the majority of the land in the proposed development area (29 of 33 parcels). In order for the Developer to apply for land-use approvals, the HRA must give its consent for inclusion in the land-use planning applications.

By giving its consent for inclusion, the HRA is not agreeing to or obligated to sell the property to the developer, nor is it implying approval of the Developer's land-use proposal.

RECOMMENDED ACTION:
By Motion: Approve a resolution consenting to the inclusion by Inland Development Partners/Chamberlain LLC of certain property with respect to land use approvals.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   - Inland Development Partners (IDP) is proposing to acquire 3 privately-owned multi-family properties and 29 HRA-owned properties within the planned project area. IDP has acquired and removed one single-family property in the planned project area (6715 18th Avenue).
   - If approved by the City Council, the proposed project would include 284 new housing units and rehabilitation of 33 existing units.
B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**
   - The Comprehensive Plan guides these properties for medium density multi-family housing and mixed use, which includes multi-family housing. An amendment to the Comprehensive Plan would be necessary on the west side of 18th Avenue/Richfield Parkway.

C. **CRITICAL TIMING ISSUES:**
   - If approved, IDP would begin construction in the spring of 2018.

D. **FINANCIAL IMPACT:**
   - None

E. **LEGAL CONSIDERATION:**
   - None

**ALTERNATIVE RECOMMENDATION(S):**
   - Do not approve the resolution.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
   - None

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resolution</td>
<td>Resolution Letter</td>
</tr>
</tbody>
</table>
RESOLUTION CONSENTING TO THE INCLUSION BY INLAND DEVELOPMENT PARTNERS/CHAMBERLAIN LLC OF CERTAIN PROPERTY WITH RESPECT TO LAND USE APPROVALS

WHEREAS, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) owns certain real property legally described in the attached Exhibit A (the “Property”) in the City of Richfield, Minnesota (the “City”); and

WHEREAS, Inland Development Partners/Chamberlain LLC, a Delaware limited liability company (the “Developer”), has proposed to acquire the Property for redevelopment purposes; and

WHEREAS, the Developer has requested that the Authority consent to the inclusion of the Property in the Developer’s applications to the City for land use approvals, including but not limited to a planned unit development; and

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

1. The Board of Commissioners of the Authority hereby consents to and authorizes the Developer to include the Property in its applications to the City for any and all of its land use approvals with respect to the redevelopment of the Property, including but not limited to a planned unit development.

2. The Chairperson and the Executive Director are hereby authorized to execute and deliver any documents or certificates deemed necessary to carry out the intentions of this resolution.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of August, 2017.

Mary Supple, Chair

ATTEST:

Doris Rubenstein, Secretary
## HRA Property

<table>
<thead>
<tr>
<th>Address</th>
<th>Parcel Identification No.</th>
<th>Legal Descriptions</th>
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<tr>
<td>6700 Cedar Avenue South</td>
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<td>Lots 1 and 2, Block 4, Wexler’s Addition</td>
</tr>
</tbody>
</table>
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of a resolution authorizing the purchase of real property at 6409 16th Avenue.

EXECUTIVE SUMMARY:
The owner of 6409 16th Avenue has approached the HRA about purchasing his property. The property recently appraised at $198,000, and the HRA made an offer of this amount to the homeowner. The property owner has made a counter-offer to the HRA of $205,000.

The property is one of the remaining 12 single family homes that will need to be acquired for the eventual redevelopment of the Cedar Point Housing Redevelopment Area (the 6300 and 6400 blocks of 16th Avenue and Richfield Parkway). The area is currently occupied by single-family houses, but is zoned MR-3, High Density Residential.

Funding is available through the HRA's Development Fund.

RECOMMENDED ACTION:
By motion: Approve the resolution authorizing the purchase of real property at 6409 16th Avenue for $198,000.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
In 2015, two homes on 16th Avenue were purchased to facilitate the redevelopment of the Cedar Point Housing Redevelopment area:
1. 6333 16th Avenue was acquired for $184,300
   • The home was listed on the Multiple Listing Service (MLS) for $189,000.
   • At the time of purchase, the appraised value of the home was $179,000.
2. 6401 16th Avenue was acquired for $185,000
   • The first appraisal valued the property at $185,000.
   • An updated appraisal valued the property at $180,000.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):
The 2009 Richfield Comprehensive Plan Housing Goals and Policies direct the policy work related to Land Use and Community Facilities. Specifically, this acquisition is supported and encouraged by the following goals and policies, as stated in the 2009 Richfield Comprehensive Plan.

- **Goal: Beyond the City Center, develop identifiable nodes, corridors and gateways throughout the community.**
  - Facilitate an intense mixed pattern of regional and community-oriented land uses along regional corridor routes including I-494 and Cedar Avenue.
  - Encourage a mix of uses that serve a market in and around Richfield in community commercial nodes.
  - Create meeting places in multi-unit complexes to allow for interaction between its residents and between its residents and surrounding neighbors.
  - Improve gateways to create a visual means of welcoming people to Richfield.

C. **CRITICAL TIMING ISSUES:**
- The owner has not listed his home on the MLS, but is interested in selling his home. He is willing to close by October 31, 2017.
- At this time, no developers are actively involved in a redevelopment project on the site.
- A market-study for the Cedar Point Housing Area is currently being conducted and will inform future decisions about the redevelopment of the site.

D. **FINANCIAL IMPACT:**
- Funding is available through the HRA’s Development Fund.
- The purchase would be voluntary, so the owners are not eligible for relocation assistance.

E. **LEGAL CONSIDERATION:**
- The HRA Attorney has drafted and will approve the final purchase agreements.

**ALTERNATIVE RECOMMENDATION(S):**
- Approve a resolution authorizing the purchase of real property at 6409 16th Avenue for $205,000, or an amount to be determined by the HRA.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
None

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Type</th>
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<tbody>
<tr>
<td>Resolution</td>
<td>Resolution Letter</td>
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<tr>
<td>Purchase Agreement</td>
<td>Backup Material</td>
</tr>
<tr>
<td>Counter-Offer Letter</td>
<td>Backup Material</td>
</tr>
</tbody>
</table>
HRA RESOLUTION NO._______

RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR AND CHAIRPERSON TO NEGOTIATE PURCHASE OF REAL PROPERTY AT 6409 16TH AVENUE

WHEREAS, the Housing and Redevelopment Authority (HRA) in and for the City of Richfield, Minnesota is supportive of the furthering the goals of the Cedar Avenue Corridor Redevelopment Area;

WHEREAS, the City of Richfield, Minnesota desires to purchase certain real properties pursuant to and in furtherance of the Cedar Avenue Corridor Redevelopment Area, said properties being described as:

6409 16th Avenue South
Lot 2, Block 2, Iverson’s 2nd Addition, Hennepin County (Abstract)

WHEREAS, the HRA proposes to hold the property for as part of the future redevelopment in the Cedar Avenue Corridor area; and

WHEREAS, HRA Development Funds are available for acquisition and removal purposes; and

WHEREAS, the HRA is authorized by Minnesota Statutes Section 469.012 to acquire real property within its area of operation;

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

1. The purchase price for the property identified as 6409 16th Avenue is approved in an amount not to exceed $198,000 (purchase price plus closing costs).

2. The Chairperson and Executive Director are authorized to execute the Purchase Agreements and to take other actions necessary to purchase the properties for the amount set forth in this resolution.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of August, 2017.

______________________________
Mary B. Supple, Chair

ATTEST:

_______________________________
Doris Rubenstein, Secretary
PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (the “Agreement”) is made as of this day of _____________, 20__, by and between Daniel E. Schertner, single (“Seller”), and the Housing and Redevelopment Authority in and for the City of Richfield, a public body corporate and politic under the laws of the State of Minnesota (“Buyer”).

RECITALS

Seller is the owner of property located at 6409 16th Avenue South, Richfield, Minnesota, which is legally described on the attached Exhibit A (“Property”).

The Property includes includes all plants, shrubs and trees, storm windows and/or inserts, storm doors, screens, awnings, window shades, blinds, curtain-traverse-drapery rods, attached lighting fixtures with bulbs, plumbing fixtures, water heater, heating system, humidifier, central air conditioning, electronic air filter, automatic garage door opener with controls, water softener, cable television outlets and cabling, and built-ins, including dishwasher, garbage disposal, trash compactor, oven(s), cook top stove, microwave oven, hood-fan, intercom and installed carpeting located on the premises which are the property of Seller. The property also includes the following personal property: NONE. Seller is responsible for removal of all personal property. Seller may remove the following items, provided Seller does not cause any unnecessary damage to the Property:

________________________________________________________________________

________________________________________________________________________

AGREEMENT

1. **Offer/Acceptance for Sale of Property.** The Seller agrees to sell to Buyer the Property and Buyer agrees to purchase the same, according to the terms of this Agreement.

2. **Purchase Price for Property and Terms.**

   A. **PURCHASE PRICE:** The total purchase price for the Property is One hundred and ninety-eight thousand and 00/100ths Dollars ($198,000) (the “Purchase Price”).

   B. **TERMS:**

      (1): **EARNEST MONEY.** The sum of zero Dollars ($0.00) (the “Earnest Money”) shall be paid by Buyer to Seller.

      (2): **BALANCE DUE SELLER.** Buyer agrees to pay by check or electronic transfer of funds on the date of closing on the Property (the “Closing Date”) any remaining balance of the Purchase Price due to Seller according to the terms of this Agreement.
(3): **DEED/MARKETABLE TITLE.** Subject to performance by Buyer, Seller agrees to execute and deliver a Warranty Deed or Personal Representative’s Deed conveying marketable title to the Property to Buyer, subject only to the following exceptions:

a. Building and zoning laws, ordinances, state and federal regulations.

b. Reservation of minerals or mineral rights to the State of Minnesota, if any.

c. Public utility and drainage easements of record which will not interfere with Buyer’s intended use of the Property.

(4): **DOCUMENTS TO BE DELIVERED AT CLOSING BY SELLER.** In addition to the Warranty Deed required at paragraph 2B(3) above, Seller shall deliver to Buyer:

a. Standard form Affidavit of Seller.

b. A “bring-down” certificate, certifying that all of the warranties made by Seller in this Agreement remain true as of the Closing Date.

c. Certificate that Seller is not a foreign national.

d. If an environmental investigation by or on behalf of Buyer discloses the existence of petroleum product or other pollutant, contaminant or other hazardous substance on the Property, either (i) a closure letter from the Minnesota Pollution Control Agency (MPCA) or other appropriate regulatory authority that remediation has been completed to the satisfaction of the MPCA or other authority; or (ii) Agreement for remediation/indemnification and security as Buyer may require.

e. Well disclosure certification, if required, or, if there is no well on the Property, the Warranty Deed or Personal Representative’s Deed given pursuant to paragraph 2B(3) above must include the following statement: “The Seller certifies that Seller does not know of any wells on the described real property.”

If Seller is unaware of the location of a well and there is a building permit issued for the Property prior to installation of a City water system, Buyer agrees to have a licensed well contractor examine the Property for purposes of locating a well and assumes responsibility for sealing the well at Buyer’s expense.
f. Any other documents reasonably required by Buyer’s title insurance company or attorney to evidence that title to the Property is marketable and that Seller has complied with the terms of this Agreement.

3. **Contingencies.** Buyer’s obligation to buy is contingent upon the following:
   
   a. Buyer’s determination of marketable title pursuant to paragraph 4 of this Agreement;
   
   b. Buyer’s determination, in its sole discretion, that the results of any environmental investigation of the Property conducted pursuant to this Agreement are satisfactory to Buyer;
   
   c. Approval of this Agreement by Buyer’s Board.

Buyer shall have until the Closing Date to remove the foregoing contingencies. The contingencies at a., and b., are solely for the benefit of Buyer and may be waived by Buyer. The contingency at c. may not be waived by either party. If Buyer or its attorney gives written notice to Seller that the contingencies at a., b., and c. are duly satisfied or waived, Buyer and Seller shall proceed to close the transaction as contemplated herein.

If one or more of Buyer’s or Seller’s contingencies is not satisfied, or is not satisfied on time, and is not waived, this Agreement shall thereupon be void at the written option of Buyer and Seller shall return the Earnest Money, if any, to Buyer, and Buyer and Seller shall execute and deliver to each other a termination of this Agreement. As a contingent Agreement, the termination of this Agreement is not required pursuant to Minnesota Statutes, Section 559.21, et. seq.

4. **Title Examination/Curing Title Defects.** As soon as reasonably possible after execution of this Agreement by both parties,

   (a) Seller shall surrender any abstract of title and a copy of any owner’s title insurance policy for the property, if in Seller’s possession or control, to Buyer or to Buyer’s designated title service provider; and

   (b) Buyer shall obtain the title evidence determined necessary or desirable by Buyer.

The Buyer shall have 20 days from the date it receives such title evidence to raise any objections to title it may have. Objections not made within such time will be deemed waived. The Seller shall have 90 days from the date of such objection to affect a cure; provided, however, that Seller shall have no obligation to cure any objections, and may inform Buyer of such. The Buyer may then elect to close notwithstanding the uncured objections or declare this Agreement null and void, and the parties will thereby be released from any further obligation hereunder.
5. **Environmental Investigation.** The Seller warrants that the Property has not been used for production, storage, deposit or disposal of any toxic or hazardous waste or substance, petroleum product or asbestos product during the period of time Seller has owned the Property. The Seller further warrants that Seller has no knowledge or information of any fact which would indicate the Property was used for production, storage, deposit or disposal of any toxic or hazardous waste or substance, petroleum product or asbestos product prior to the date Seller purchased the Property. Notwithstanding the above, Seller's warranty regarding petroleum products does not preclude the presence of heating oil or other similar products used as a heating fuel for the dwelling but Seller does warrant that if there was a fuel tank on the Property used for the storage of heating oil or other similar product, Seller has no knowledge of any leak in the tank or contamination caused thereby.

Seller hereby grants to Buyer and Buyer's agents a license to enter and evaluate the Property for the purpose of conducting an environmental assessment. The Buyer is required to perform an environmental assessment prior to committing federal Community Development Block Grant (CDBG) funds. Further, Buyer or Buyer's agent shall have the right pursuant to the license to bring persons and equipment onto the Property, make inspections and perform tests and analyses as Buyer may deem reasonable to determine the presence of any toxic or hazardous waste, substance, or petroleum product or asbestos product, and ascertain soil conditions on the Property. Buyer shall bear the cost of the environmental assessment. If the results of the environmental assessment are not to the satisfaction of Buyer, including a release from environmental conditions related to the commitment and expenditure of CDBG funds, Buyer at its sole discretion may cancel this Agreement. If Buyer cancels this Agreement pursuant to this provision, Buyer shall restore the Property to its original condition or nearly so as is reasonably practicable.

6. **Real Estate Taxes and Special Assessments.** Real estate taxes payable in the year of closing will be pro-rated between Buyer and Seller to the Closing Date. Seller shall pay all real estate taxes payable in previous years, the entire unpaid balance of special assessments, and all installments of special assessments levied and pending, including special assessments installments payable after the year of closing. Seller also agrees to pay all assessments related to service charges furnished to the Property prior to the Closing Date (e.g., delinquent water or sewer bills, removed or diseased trees), including those charges levied, pending, or certified to taxes payable in the year of closing. If closing occurs prior to the date the amount of real estate taxes due in the year of closing are available from Hennepin County, the current year’s taxes will be pro-rated based on the amount due in the prior year.

7. **Closing Date.** The Closing Date will be on or before October 31, 2017. Delivery of all papers and the closing shall be made at the offices of Buyer, 6700 Portland Avenue South, Richfield, Minnesota 55423, or at such other location as is mutually agreed upon by the parties. All deliveries and notices to Buyer shall be made to the above address and marked to the attention of Housing Specialist.

8. **Possession/Utilities/Removal of Property/Escrow.**

(a) **Possession.** The Seller agrees to deliver possession not later than the Closing
(b) **Utilities.** City water and sewer charges, electricity and natural gas charges, fuel oil and liquid petroleum gas shall be pro-rated between the parties as of the Closing Date. Seller shall arrange for final readings as of the Closing Date.

(c) **Personal Property.** The Seller agrees to remove all debris and all personal property not included herein from the Property before the possession date. Personal property not so removed shall be deemed forfeited to and shall become the property of Buyer. The Buyer may inspect the Property immediately prior to closing and deduct from the purchase price payable at closing an amount reasonably necessary to pay for the cost of removal of any debris or personal property then remaining on the Property. The provisions of this paragraph shall not merge with the deed and shall survive closing on the property.

(d) **Escrow.** Seller agrees that, at closing, Buyer may retain Five Hundred Dollars ($500.00) from the purchase price for the Property as an Escrow for payment of personal property removal, disposal charges and utility charges. The retained amount, less deductions provided for this in paragraph 8, will be delivered to Seller no later than 60 days following the Closing Date or delivery of possession, whichever is later. Said funds shall be held by Kennedy & Graven, Chartered, as Escrow Agent, pursuant to the terms of the Escrow Agreement attached here as Exhibit C.

(e) **Amounts Due.** The Buyer’s ability to deduct amounts due under this paragraph from the retained escrow is not exclusive but is in addition to Buyer's rights at law and equity to collect such amounts from Seller. The Seller is responsible for the amounts due under this paragraph even if: (i) Buyer neglects to deduct the amount from escrow; or (ii) the escrowed amount is insufficient to pay all amounts due under this paragraph 8.

9. **Seller Warranties.**

(a) **Sewer and Water.** Seller warrants that the Property is connected to City sewer and City water.

(b) **Mechanics' Liens.** Seller warrants that, prior to the closing, Seller shall pay in full all amounts due for labor, materials, machinery, fixtures or tools furnished within the 120 days immediately preceding the closing in connection with construction, alteration or repair of any structure upon or improvement to the Property.

(c) **Notices.** Seller warrants that it has not received any notice from any governmental authority as to violation of any law, ordinance or regulation in connection with the Property.

(d) **Tenants.** Seller warrants that the Property is not now occupied by tenants and was not occupied by tenants at the time Seller first received Buyer's written offer to purchase the Property.
(e) **Broker Commission.** Each party represents to the other that it has not utilized the services of any real estate broker or agent in connection with this Agreement or the transaction contemplated by this Agreement. Each party agrees to indemnify, defend, and hold harmless the other party against and in respect of any such obligation and liability based in any way upon agreements, arrangements, or understandings made or claimed to have been made by the party with any third person.

(f) **Structures.** The Seller warrants that the buildings, if any, are entirely within the boundary lines of the Property. The parties acknowledge that the Property is being sold in "as is" condition relating to the structural, operational, and mechanical systems.

10. **Closing Costs/Recording Fees/Deed Tax.** The Buyer will pay: (a) the closing fees charged by the title insurance or other closing agent, if any, utilized to close the transaction contemplated by this Agreement; (b) fees for title evidence obtained by Buyer; and (c) the recording fee for the deed transferring title to Buyer. Seller will pay all other fees normally paid by sellers, including (a) any transfer taxes, recording fees and Well Disclosure fees required to enable Buyer to record its deed from Seller under this Agreement, and (b) fees and charges related to the filing of any instrument required to make title marketable. Each party shall pay its own attorney fees.

11. **Inspections.** From the date of this Agreement to the Closing Date, Buyer, its employees and agents, shall be entitled to enter upon the Property to conduct such surveying, inspections, investigations, soil borings and testing, and drilling, monitoring, sampling and testing of groundwater monitoring wells, as Buyer shall elect; provided, that Seller is given at least 24 hours’ notice.

12. **Risk of Loss.** If there is any loss or damage to the Property between the date hereof and the Closing Date, for any reason including fire, vandalism, flood, earthquake or act of God, the risk of loss shall be on Seller. If the Property is destroyed or substantially damaged before the closing date, this Agreement shall become null and void, at Buyer’s option. At the request of Buyer, Seller agrees to sign a cancellation of Agreement.

13. **Default/Remedies.** If Buyer defaults in any of the covenants herein, Seller may terminate this Agreement, and on such termination all payments made hereunder shall be retained by Seller as liquidated damages, time being of the essence. This provision shall not deprive either party of the right to enforce specific performance of this Agreement, provided this Agreement has not terminated and action to enforce specific performance is commenced within six months after such right of action arises. In the event Buyer defaults in its performance of the terms of this Agreement and Notice of Cancellation is served upon Buyer pursuant to Minn. Stat. Section 559.21, the termination period shall be thirty (30) days as permitted by Minn. Stat., Section 559.21, Subd. 4.

14. **Notice.** Any notice, demand, request or other communication which may or shall be given or served by the parties, shall be deemed to have been given or served on the date the same is personally served upon one of the following indicated recipients for notices or is deposited in the United States Mail, registered or certified, return receipt requested, postage prepaid and
addressed as follows:

**SELLER:**  
Daniel E. Schertner  
6409 16th Avenue  
Richfield, MN 55423

**BUYER:**  
Housing and Redevelopment Authority of the City of Richfield  
Attn: Housing Specialist  
6700 Portland Avenue South  
Richfield, MN 55423

**AGENT:**  
Kennedy & Graven, Chartered  
ATTN: Julie Eddington and Catherine B. Rocklitz  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, MN 55402

15. **Entire Agreement.** This Agreement, Exhibits, and other amendments signed by the parties, shall constitute the entire Agreement between Seller and Buyer and supersedes any other written or oral agreements between the parties relating to the Property. This Agreement can be modified only in a writing properly signed on behalf of Seller and Buyer.

16. **Survival.** Notwithstanding any other provisions of law or court decision to the contrary, the provisions of this Agreement shall survive closing.
IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date and year above.

Buyer:  
Housing and Redevelopment Authority of the City of Richfield

By: ________________________________
   Its Chair

And by: ________________________________
   Its Executive Director

Seller:

______________________________________
EXHIBIT A

Legal Description of Property

Lot 2, Block 2, Iverson’s Second Addition, Hennepin County, Minnesota
EXHIBIT B

Escrow Agreement

THIS AGREEMENT entered into this _____ day of ____________, 20__, by and between ________________ ("Seller"), the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, a Minnesota municipal corporation ("Buyer"), and KENNEDY & GRAVEN, CHARTERED ("Escrow Agent" or "Agent").

RECITALS

A. Seller and Buyer have entered into a Purchase Agreement dated ______________, 20__ ("Purchase Agreement") for the sale of property located at 6409 16th Avenue, Richfield, Minnesota and legally described on the attached Exhibit One (the ("Property").

B. The parties desire to close the sale of the Property on ______________.

AGREEMENT

The parties agree as follows:

1. Delivery of Possession. Seller shall deliver possession of the Property to Buyer in accordance with the Purchase Agreement entered into by the parties. The Purchase Agreement requires Seller to pay all utilities and to remove all personal property from the Property upon closing.

2. Escrow. (a) Upon closing and execution of this Agreement, Seller agrees to deposit into escrow the sum of $500.00 (the "Escrowed Funds") from the purchase price, to be held by Agent in a non-interest bearing account.

(b) Within 7 days after requested by Agent, Buyer shall provide to Agent (with copy to Seller) evidence of expenses incurred for the removal and disposal of personal property and for payment of utility charges for services provided to the Property prior to date of possession, if any. Agent shall reimburse Buyer for the incurred expenses from the Escrowed Funds within 7 days following receipt of such evidence from Buyer.

(c) Agent shall deliver to Seller the balance of the Escrowed Funds on deposit, less deductions provided for in paragraph 2(b) above, no later than 30 days following vacation of the Property by Seller.

(d) The sole duties of Agent shall be those described herein, and Agent shall be under no obligation to determine whether the other parties hereto are complying with any requirements of law or the terms and conditions of any other
agreements among said parties. Agent shall have no duty or liability to verify any amounts deducted from the retained amount and Agent's sole responsibility shall be to act expressly as set forth in this Escrow Agreement.

3. **Escrow Agent Liability.** The sole duties of Escrow Agent shall be those described herein, and Escrow Agent shall be under no obligation to determine whether the other parties hereto are complying with any requirements of law or the terms and conditions of any other agreements among said parties. Escrow Agent may conclusively rely upon and shall be protected in acting on any notice believed by it to be genuine and to have been signed or presented by the proper party or parties, consistent with reasonable due diligence on Escrow Agent's part. Escrow Agent shall have no duty or liability to verify any such notice, and its sole responsibility shall be to act expressly as set forth in this Escrow Agreement.

Seller and Buyer understand that Agent is legal counsel to Buyer and each consents to Agent's serving as Escrow Agent notwithstanding such representation. In the event Agent determines, in its sole discretion, that it cannot continue to serve as Escrow Agent herein, Agent shall deposit the funds with Old Republic National Title Insurance Company or such other Escrow Agent acceptable to Seller and Buyer. Seller consents to Agent's continued representation of Buyer after a deposit is made, and Buyer agrees to pay all escrow fees charged by the substitute Escrow Agent.

4. Notices to be sent to the parties to this Agreement shall be sent by mail or personal delivery to:

**SELLER:**
Daniel E. Schertner
6409 16th Avenue
Richfield, MN 55423

**BUYER:**
Housing and Redevelopment Authority
in and for the City of Richfield
Attn: Housing Specialist
Richfield City Hall
6700 Portland Avenue South
Richfield, MN 55423

**AGENT:**
Kennedy & Graven, Chartered
ATTN: Julie Eddington and
Catherine B. Rocklitz
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402

IN WITNESS WHEREOF, the parties have executed this agreement as of the date written above.

B-2
SELLER:                   BUYER:

HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE
CITY OF RICHFIELD

___________________________

By: ______________________________

Its Chair

And by: __________________________

Its Executive Director

ESCROW AGENT:
KENNEDY & GRAVEN, CHARTERED

By: ______________________________
Exhibit One
Legal Description of Property

Lot 2, Block 2, Iverson’s Second Addition, Hennepin County, Minnesota
08/08/2017

Kate Aitchison
City of Richfield

Ms. Aitchison

I have reviewed the Richfield HRA’s offer to purchase my home at 6409 16th Ave So Richfield, MN. I believe that a fair purchase price for my home is $205,000. The reasons are:

- The current market supports this amount.
- My family and I have been living in the redevelopment area for nearly 14 years, the entire time I have owned the property, and have been dealing with the ups and downs of the project process.
- I had originally felt that a price of $210,000, when first contacted by the HRA, would be fair and this is a “meet in the middle” amount.
- I am in the position to “fast close” the property by the end of October, 2017.

Please feel free to contact me, either via phone or email, if you have any questions or comments.

Sincerely,

Dan Schertner
ITEM FOR COUNCIL CONSIDERATION:
Consideration of approval of a resolution approving a loan to Aeon Seasons Park LLC in the amount of $150,000 to assist with the purchase of the Seasons Park apartment complex.

EXECUTIVE SUMMARY:
On April 25, the HRA and the City Council met with Aeon representatives to discuss the potential purchase of the 422 unit Seasons Park apartment complex. Aeon's goal would be to both preserve the "naturally occurring affordable housing" that exists there and to rehabilitate units and common areas to ensure that the complex meets the community's desire for quality affordable housing. Following those discussions, Aeon entered into a purchase agreement for the property.

Aeon has concluded that they could likely acquire the property with their current financial capacity, but that rehabilitation will require additional outside funding. As discussed in HRA Memo No. 23 dated August 10, 2017, Aeon has requested that the City/HRA/EDA provide $150,000 in up-front financing and $175,000 in both 2018 and 2019 for recurring rehabilitation costs. After review of the HRA and EDA budgets for 2017 and 2018, staff is recommending that the HRA approve a $150,000 no-interest loan to Aeon at the time of purchase (closing scheduled for September 7). The source of this funding would be the HRA's "Housing and Redevelopment Fund." The HRA is asked to approve this loan tonight.

Staff is also recommending that a $100,000 forgivable loan be provided to Aeon in 2018 for rehabilitation of affordable housing units. This funding would come from the EDA levy that has been anticipated for apartment rehabilitation. This funding is anticipated to be part of an annual program and Aeon would be invited to apply again in 2019 along with any other eligible entities. The EDA will consider this action later tonight as part of the 2018 budget.

RECOMMENDED ACTION:
By motion: Approve a resolution approving a loan in the amount of $150,000 to Aeon Seasons Park LLC.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT
   - The Seasons Park apartment complex was almost bought by a for-profit developer planning to
renovate the building. This would likely have caused displacement of existing tenants as the rents would like have risen due to the renovations. The amount of naturally occurring affordable housing within the City of Richfield is shrinking.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**
   - None

C. **CRITICAL TIMING ISSUES:**
   - Aeon plans to purchase the building on September 7 and will need the loan at that time.

D. **FINANCIAL IMPACT:**
   - The loan will be paid back but will be deferred for 30 years.
   - No interest will accrue on the loan.

E. **LEGAL CONSIDERATION:**
   - HRA Attorney drafted the loan agreement.
   - Senior lenders will require the HRA to subordinate its interest in the $150,000 to the senior debt obtained for the acquisition.

**ALTERNATIVE RECOMMENDATION(S):**
- The HRA Board may choose to not approve the resolution.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
Representatives of Aeon

**ATTACHMENTS:**

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<tr>
<th>Description</th>
<th>Type</th>
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<tbody>
<tr>
<td>Resolution</td>
<td>Resolution Letter</td>
</tr>
<tr>
<td>Loan Agreement</td>
<td>Contract/Agreement</td>
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<td>Promissory Note</td>
<td>Contract/Agreement</td>
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<td>Mortgage</td>
<td>Contract/Agreement</td>
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<td>Declaration of Restrictive Conenants</td>
<td>Contract/Agreement</td>
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RESOLUTION APPROVING A LOAN AND THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS RELATED TO AN AFFORDABLE HOUSING PROJECT IN THE CITY OF RICHFIELD

WHEREAS, Aeon Seasons Park LLC, Minnesota limited liability company or another affiliate of Aeon (the “Borrower”), proposes to acquire the 422 unit Seasons Park apartment complex (the “Project”) on certain property located at 951 East 77th Street in the City of Richfield, Minnesota (the “City”); and

WHEREAS, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) has proposed to make a loan to the Borrower in the principal amount of $150,000 (the “Authority Loan”) in order to make the Project more economically feasible and to preserve affordable housing in the City, pursuant to the terms of a Loan Agreement (the “Loan Agreement”) between the Authority and the Borrower; and

WHEREAS, the Borrower will execute and deliver to the Authority a Promissory Note (the “Note”) and a Mortgage (the “Mortgage”) to secure its repayment obligations to the Authority and will also execute and deliver a Declaration of Restrictive Covenants (the “Declaration”) which will set forth the affordability covenants for the Project;

WHEREAS, the Borrower will obtain a loan for the acquisition of the Project and the lender (the “Senior Lender”) will likely require that such loan be secured by a mortgage, among other security; and

WHEREAS, the Senior Lender may require that the Authority subordinate its interests under the Loan Agreement and the Note to the interests of the Senior Lender under the Senior Lender’s loan documents; and

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

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

1. The Authority Loan is hereby approved and shall be a deferred loan, the repayment of which shall be as provided by the terms of the Loan Agreement.

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

3. If a subordination agreement is required by the Senior Lender, the Chair and the Executive Director are hereby authorized and directed to execute a subordination agreement following review and comment by Authority staff and Authority’s legal counsel.
4. The Authority hereby approves the forms of the Note and the Mortgage in substantially the forms on file.

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

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of August, 2017.

________________________________________

Mary Supple, Chair

ATTEST:

________________________________________

Doris Rubenstein, Secretary
LOAN AGREEMENT

THIS LOAN AGREEMENT is made this September ___, 20 17 (the “Agreement”), between Aeon Seasons Park LLC, Minnesota limited liability company (the “Borrower”), and the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic of the State of Minnesota (the “Lender”).

RECITALS

The Borrower has proposed to acquire the 422 unit Seasons Park apartment complex (the “Project”) on certain property located at 951 East 77th Street in the City of Richfield, Minnesota (the “City”) and legally described in EXHIBIT A attached hereto (the “Property”). In order to make the Project more economically feasible and to preserve affordable housing in the City, the Lender has proposed to make a loan to the Borrower in the amount of $150,000 (the “Loan”).

In consideration for the Loan, the Borrower will execute and deliver to the Lender a Declaration of Restrictive Covenants of even date herewith (the “Declaration of Restrictive Covenants”), setting forth the affordability covenants for the Project.

[IF SUBORDINATION NEEDED The repayment of the Loan by Borrower shall be subordinate to the repayment obligation of the Borrower with respect to a loan in the principal amount of $_______ (the “_______ Loan”) to be advanced to the Borrower by ________________ under the [loan agreement]. The _________ Loan is being provided to Borrower in connection with the Project. The terms of the subordination is set forth in the Subordination Agreement of even date herewith (the “Subordination Agreement”) between the Borrower, ________________, and the Lender.]

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

1. The Loan Amount. Subject to and upon the terms and conditions of this Agreement, the Lender agrees to make the Loan to the Borrower in the amount of One Hundred Fifty Thousand and no/100ths Dollars ($150,000), or so much thereof as is disbursed to Borrower in accordance with this Agreement. The Loan shall be evidenced by a Promissory Note of even date herewith (the “Note”), payable by the Borrower to the Lender, which Note shall be secured by a Mortgage of even date herewith (the “Mortgage”) from the Borrower in favor of the Lender.

2. Repayment of Loan. The Loan shall be repaid as follows:

(a) So long as no Event of Default (hereinafter defined) exists under this Agreement or the Declaration of Restrictive Covenants, interest shall not accrue on the Loan.

(b) The entire unpaid balance of principal and interest shall be due and payable in full on the earliest of the following: (i) subject to Section 11 hereof, thirty (30) days after written notification by the Lender to the Borrower of the occurrence of an Event of Default and demand
of payment according to Section 6 hereof; or (ii) ten (10) days after the Borrower makes or allows to be made any total or partial transfer, sale, assignment, conveyance, lease (except a lease to a residential tenant of a unit within the Project), or transfer in any other mode, of the Project; or (iii) September___, 2047, unless extended by written agreement between the Lender and the Borrower.

3. **Disbursement of Loan Proceeds.**

   (a) The Loan proceeds shall be paid to the Borrower on the date hereof or such other date as the parties hereto agree (the “Loan Closing Date”).

   (b) The following events shall be conditions precedent to the payment of the Loan proceeds to the Borrower on the Loan Closing Date:

      (i) the Borrower having provided evidence of financing for the acquisition of the Project to the Authority;

      (ii) the Borrower having executed and delivered to the Lender on or prior to the Loan Closing Date, without expense to the Lender, executed copies of this Agreement, the Mortgage, the Declaration of Restrictive Covenants, and the Note;

      (iii) the Borrower having paid all attorney fees, costs, and expenses incurred by the Lender in connection with this Agreement, the Mortgage, the Declaration of Restrictive Covenants, and the Note.

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

   (a) The Borrower is a limited liability company duly organized and existing in good standing under the laws of the State of Minnesota.

   (b) The Borrower is duly authorized and empowered to execute, deliver, and perform this Agreement, the Note, the Declaration of Restrictive Covenants, and the Mortgage and to borrow money from the Lender.

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

   (d) The execution and delivery of this Agreement has been duly approved by all necessary action of the Borrower, and this Agreement has in fact been duly executed and delivered by the Borrower and constitutes its lawful and binding obligation, legally enforceable against it.

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

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

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

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

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

   (c) the Borrower is dissolved, liquidated, or wound up, or fails to maintain its existence as a going concern in good standing (excepting, reorganizations, consolidations and/or mergers into or with affiliates owned by, owning or under common control of or with such entity or into the parent of such entity, provided the succeeding organization assumes and accepts such entity’s obligations hereunder).

6. **Lender’s Remedies upon Borrower’s Default.** Upon an Event of Default by the Borrower and after receipt of written notice from the Lender, the Lender shall, subject to the terms of the Note, have the right to exercise any or all of the following remedies (and any other rights and remedies available to it):

   (a) declare the principal amount of the Loan and any accrued interest thereon to be immediately due and payable upon providing written notice to Borrower;

   (b) suspend its performance under this Agreement; and

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

7. **Lender’s Costs of Enforcement of Agreement.** If an Event of Default has occurred as provided herein, then upon demand by the Lender, the Borrower will pay or reimburse the Lender for all expenses, including all reasonable fees and disbursements of legal counsel, incurred by the Lender in connection with the enforcement of this Agreement, or in connection with the protection or enforcement of the interests of the Lender in any litigation or bankruptcy or insolvency proceeding or in any action or proceeding relating in any way to the transactions contemplated by this Agreement.
8. **Miscellaneous.**

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

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

   (c) **Law Governing; Other Matters.** This Agreement shall be governed by the substantive laws of the State of Minnesota. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement or in any other agreement between the Borrower and the Lender shall survive the execution, delivery and performance of this Agreement and the creation and payment of any indebtedness to the Lender. The Borrower waives notice of the acceptance of this Agreement by the Lender.

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

   To the Lender:        Housing and Redevelopment Authority in and for the
                        City of Richfield, Minnesota
                        6700 Portland Avenue South
                        Richfield, MN  55423
                        Attention:  Executive Director

   To the Borrower:    [BORROWER]
                        [ADDRESS]
                        Attn:  _______________________

9. **Indemnification.** The Borrower shall and does hereby agree to indemnify against and to hold the Lender, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage which it may or might incur by reason of or arising from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained herein. Should the Lender, or its officers, agents, or employees incur any such liability or be required to defend against any such claims or demands, or should a judgment be entered against the Lender, the amount thereof, including costs, expenses, and reasonable attorneys’ fees, shall bear interest thereon at the rate then in effect on the Note, shall be added to the Loan, and the Borrower shall reimburse the Lender for the same immediately upon demand, and upon the failure of the Borrower so to do, the Lender may declare the Loan immediately due and payable.
10. **Nonrecourse.** Notwithstanding anything to the contrary herein or in the Note, the Loan shall be nonrecourse as to the Borrower, and the Lender’s sole recourse with respect to the Loan shall be as set forth in the Mortgage.

11. **Subordination.** The indebtedness evidenced by the Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a promissory note in the principal amount of $__________, executed by the Borrower and payable to the order of ___________ (the “_________ Note”), to the extent and in the manner provided in the Subordination Agreement. The Mortgage (and any exhibits) securing the Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the mortgage securing the ___________ Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of the Note under the Mortgage (and any exhibits) securing the Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of the Note shall be deemed, by virtue of such holder’s acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Lender under the Subordination Agreement. Any capitalized terms used specifically in this Section that are otherwise not defined shall have the meanings assigned such terms in the Subordination Agreement.

12. **Extended Low-Income Housing Commitment.** The Borrower agrees that at all times during the Qualified Project Period (as defined in the Declaration of Restrictive Covenants), at least twenty percent (20%) of the units within the Project shall be reserved for occupancy by individuals whose income is fifty percent (50%) or less of the area’s median gross income constructed and satisfy the income requirements for a qualified residential rental project as defined in Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”). The Declaration of Restrictive Covenants shall be recorded against the Property.

13. **Cure Rights.** Any member or partner of the Borrower shall have the right, but not the obligation, to cure any Event of Default by the Borrower under this Agreement or any default under the Note, the Declaration of Restrictive Covenants, or the Mortgage, and the Lender shall accept performance by the member or partner of the Borrower of any obligation of the Borrower thereunder as though tendered by the Borrower itself, provided such performance by the member or partner of the Borrower has occurred during the applicable cure period, if any, provided to the Borrower thereunder with respect to such default or Event of Default.

(The remainder of this page is intentionally left blank.)
IN WITNESS WHEREOF, the undersigned officers of the Lender and the Borrower have executed this Loan Agreement as of the date and year first written above.

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

By ________________________________
Its Chair

By ________________________________
Its Executive Director
Execution page of Borrower to the Loan Agreement, dated as of the date and year first written above.

AEON SEASONS PARK LLC

By ________________________________
Its ________________________________
EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

[Insert legal description]
PROMISSORY NOTE

$150,000 September ____, 2017

Aeon Seasons Park LLC, Minnesota limited liability company (the “Maker”), for value received, hereby promises to pay to the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic of the State of Minnesota (the “Authority”), or its assigns (the Authority and any assigns are hereinafter referred to as the “Holder”), at its designated principal office or such other place as the Holder may designate in writing, the principal sum of One Hundred Fifty Thousand and No/100ths Dollars ($150,000), or so much thereof as may be advanced under this Note, with interest as hereinafter provided, in any coin or currency which at the time or times of payment is legal tender for the payment of private debts in the United States of America. All terms capitalized herein and not defined have the definitions given such terms in the Loan Agreement of even date herewith (the “Loan Agreement”) between the Maker and the Holder.

The principal of and interest on this Note is due and payable as follows:

1. The funds loaned by the Holder to the Maker (the “Loan”) pursuant to the terms of the Loan Agreement shall not bear interest as long as no default exists under the Loan Agreement or the Declaration of Restrictive Covenants.

2. The entire unpaid balance of principal shall be due and payable in full on the earliest of the following: (i) subject to Section 12 hereof, thirty (30) days after written notification by the Holder to the Maker of the occurrence of an Event of Default and demand of payment according to Section 6 of the Loan Agreement; or (ii) ten (10) days after Maker makes or allows to be made any total or partial transfer, sale, assignment, conveyance, lease (except a lease to a residential tenant of a unit within the Project (as defined in the Loan Agreement)), or transfer in any other mode, of the Project; or (iii) September ____, 2047, unless extended by written agreement between the Maker and the Holder.

3. The Maker shall have the right to fully or partially prepay this Note at any time without penalty. Any partial prepayment shall be applied first to any unpaid, accrued interest with the balance, if any, applied to principal.

4. This Note is given pursuant to the Loan Agreement, as the same may be amended from time to time, and is secured by a Mortgage of even date herewith (the “Mortgage”) by the Maker in favor of the Authority, covering certain real property located in Hennepin County and legally described in the Mortgage (the “Property”). All of the agreements, conditions, covenants, provisions, and stipulations contained in the Loan Agreement, the Declaration of Restrictive Covenants, and the Mortgage are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. It is agreed that time is of the essence of this Note.

5. If an Event of Default occurs under the Loan Agreement or the Declaration of Restrictive Covenants, then the Holder of this Note may, at its right and option, but subject in all respects to Section 12 hereof, declare immediately due and payable the principal balance of this Note and interest accrued thereon, without notice, demand or presentment for payment to Maker or others. The remedies of Holder, as provided herein and in the Loan Agreement, the Declaration of Restrictive Covenants, and the Mortgage, shall be cumulative and concurrent, may be pursued singly, successively, or together, and, at
the sole discretion of the Holder of this Note, and may be exercised as often as occasion therefor shall occur, subject in all respects to the provisions of Section 12 hereof.

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

7. If any Event of Default occurs, and if the Holder engages legal counsel or others in connection with advice to the Holder or the Holder’s rights and remedies under the Loan Agreement or this Note, the Maker shall pay all reasonable expenses incurred by the Holder for such persons, irrespective of whether any suit or other proceeding has been or is filed or commenced. Any such expenses, costs and charges shall constitute additional principal, payable upon demand, and subject to this Note, the Loan Agreement, and the Declaration of Restrictive Covenants.

8. Except as otherwise provided in this Note, the Loan Agreement, or the Declaration of Restrictive Covenants, the Maker hereby (a) waives demand, presentment for payment, notice of nonpayment, protest, notice of protest, and all other notice; (b) agrees to any substitution, exchange, addition, or release of any party or person primarily or secondarily liable hereon; (c) agrees that Holder shall not be required first to institute any suit or to exhaust its remedies against the Maker or any other person or party in order to enforce payment of this Note; (d) consents to any extension, rearrangement, renewal, or postponement of time or payment of this Note and to any other indulgence with respect hereto without notice, consent, or consideration to any of them.

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

10. It is intended that this Note is made with reference to and shall be construed as a Minnesota contract and governed by the laws thereof.

11. Notwithstanding anything to the contrary herein, this Note shall be nonrecourse, and the Holder’s sole recourse with respect to the Note shall be as set forth in the Mortgage.

IF SUBORDINATION REQUIRED 12. The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a promissory note in the principal amount of $__________, executed by the Maker and payable to the order of ___________ (the “_________ Note”), to the extent and in the manner provided in that certain Subordination Agreement of even date herewith (the “Subordination Agreement”) between the Maker, ____________, and the Holder. The Mortgage (and any exhibits) securing the ___________ Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the mortgage securing the ___________ Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage (and any exhibits) securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder’s acquisition of this Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Holder under the Subordination Agreement. Any
capitalized terms used specifically in this Section that are otherwise not defined shall have the meanings assigned such terms in the Subordination Agreement.]

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

(The remainder of this page is intentionally left blank.)
IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed as of the date and year first written above.

AEON SEASONS PARK LLC

By ________________________________
Its ________________________________
MORTGAGE

THIS MORTGAGE, made as of September __, 2017 (the “Mortgage”), is by AEON SEASONS PARK LLC, Minnesota limited liability company, as mortgagor (the “Mortgagor”), in favor of the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, MINNESOTA, a public body corporate and politic of the State of Minnesota, as mortgagee (the “Mortgagee”).

WITNESSETH:

That the Mortgagor, in consideration of the sum of One Hundred Fifty Thousand ($150,000.00) Dollar and other good, valuable and sufficient consideration, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, and convey unto the Mortgagee, its successors and assigns, forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota and legally described in EXHIBIT A attached hereto (the “Land”).

To have and to hold the same, together with the hereditaments and appurtenances thereto belonging to the Mortgagee, its successors and assigns, forever. And the Mortgagor, for itself, and its successors and assigns, does covenant with the Mortgagee, its successors and assigns, as follows: That it is lawfully seized of said premises and has good right to sell and convey the same; that the same are free from all encumbrances, save and except reservations, restrictions and easements set forth on EXHIBIT B attached hereto; that the Mortgagee, its successors and assigns, shall quietly enjoy and possess the same; and that the Mortgagor will warrant and defend the title to the same against all lawful claims not hereinbefore specifically excepted; and

Provided, nevertheless, that if the Mortgagor, its successors and assigns, shall keep and perform each and every one of its obligations under and pursuant to that certain Promissory Note of even date herewith (the “Note”), given by the Mortgagor to the Mortgagee, and shall keep and perform all the covenants and agreements herein contained, then this deed to be null and void, and to be released at the Mortgagor’s expense.

This Mortgage secures a principal debt in the amount of One Hundred Fifty Thousand Dollars ($150,000) payable by the Mortgagor to the Mortgagee under the terms of the Note and the Loan Agreement of even date herewith (the “Loan Agreement”) between the Mortgagor and the Mortgagee, which Note matures no later than September __, 2047, unless extended by written agreement between the Mortgagor and the Mortgagee.

Notwithstanding the provisions of this Mortgage or any other document, the Mortgagor shall not be personally liable for payment of the indebtedness evidenced by the Note, and the Mortgagee’s sole
recourse for payment of such indebtedness upon the occurrence of an Event of Default (hereinafter defined) shall be to pursue the security provided by this Mortgage and other instruments securing payment of the Note. Nothing in this Section shall affect, limit or impair (i) the security provided by this Mortgage or any other document, (ii) the right to seek monetary judgment against the Mortgagor or any owner of the mortgaged property to the extent necessary to permit foreclosure of this Mortgage by action (except that the Mortgagor shall not be personally liable for payment of any such judgment to the extent that the judgment is for payment of the indebtedness evidenced by the Note and no deficiency judgment will be sought or obtained against the Mortgagor for payment of the indebtedness evidenced by the Note), (iii) the enforcement by the Mortgagee of any other legal or equitable rights or remedies or any other provision of any instrument by which the Note is secured, or (iv) the personal liability of the Mortgagor for the failure to observe or perform any of the covenants or obligations of the Mortgagor and other instruments securing payment of the Note other than the obligation to pay the indebtedness evidenced by the Note.

1. The Mortgagor, for itself, and its successors and assigns, does hereby covenant and agree with the Mortgagee, its successors and assigns, to perform its obligations as above specified, to pay all taxes and assessments now due or that may hereafter become liens against said premises at least ten (10) days before penalty attaches thereto; to pay, when due, both principal and interest of all prior liens or encumbrances, if any, above mentioned and to keep said premises free and clear of all other prior liens or encumbrances; to commit or permit no waste on said premises and to keep them in good repair; to complete forthwith any improvements which may hereafter be under course of construction thereon, and to pay any other expenses and attorneys’ fees incurred by the Mortgagee, its successors or assigns, by reason of litigation with any third party for the protection of the lien of this Mortgage.

2. The Mortgagor does further covenant and agree that if any lien for labor, skill or material shall be filed for record during the life of this Mortgage, upon or against the premises hereby mortgaged, the Mortgagor will, within thirty (30) days after the date of its filing for record, either pay off the said lien and secure its satisfaction of record, or will protect the Mortgagee against any loss or damage growing out of its enforcement, by furnishing a bond for the same amount in the form and with the sureties to be approved by the Mortgagee.

3. In case of failure to pay said taxes and assessments, prior liens or encumbrances, expenses and attorneys’ fees as above specified, or to insure said buildings and deliver the policies as aforesaid, the Mortgagee, its successors or assigns, may pay such taxes, assessments, prior liens, expenses and attorneys’ fees and interest thereon, or effect such insurance, and the sums so paid shall bear interest at the highest rate permitted by law from the date of such payment, shall be impressed as an additional lien upon said premises, and be immediately due and payable from the Mortgagor, its successors or assigns, to the Mortgagee, it successors or assigns, and this Mortgage shall from date thereof secure the repayment of such advance with interest.

4. In case of default in any of the foregoing covenants (each an “Event of Default”), the Mortgagor confers upon the Mortgagee the option, of declaring a default and hereby authorizes and empowers the Mortgagee, its successors and assigns, to foreclose this Mortgage by judicial proceedings or to sell said premises at public auction and convey the same to the purchaser in fee simple in accordance with the statute, and out of the money arising from such sale to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorneys’ fee permitted by law, which costs, charges and fees the Mortgagor herein agrees to pay.

5. Any member or partner of the Mortgagor shall have the right, but not the obligation, to cure any Event of Default by the Mortgagor under this Mortgage or any default under the Note, the Loan Agreement, or the Declaration of Restrictive Covenants, and the Mortgagee shall accept performance by
the member or partner of the Mortgagor of any obligation of the Mortgagor thereunder as though tendered by the Mortgagor itself, provided such performance by the member or partner of the Mortgagor has occurred during the applicable cure period, if any, provided to the Mortgagor thereunder with respect to such default or Event of Default.

[INCLUDE IF SUBORDINATION REQUIRED 6. The indebtedness evidenced by the Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a promissory note in the principal amount of $_________________, executed by the Mortgagor and payable to the order of ____________ (the “_________ Note”), to the extent and in the manner provided in that certain Subordination Agreement of even date herewith (the “Subordination Agreement”) between the Mortgagor, ________________, and the Mortgagee. This Mortgage (and any exhibits) securing the Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the mortgage securing the ____________ Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of the Note under this Mortgage (and any exhibits) securing the Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of the Note shall be deemed, by virtue of such holder’s acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Mortgagee under the Subordination Agreement. Any capitalized terms used specifically in this Section that are otherwise not defined shall have the meanings assigned such terms in the Subordination Agreement.]

(The remainder of this page is intentionally left blank.)
IN WITNESS WHEREOF, the Mortgagor has executed this Mortgage as of the date and year first written above.

AEON SEASONS PARK LLC

By ________________________________
Its ______________________________

STATE OF MINNESOTA )
COUNTY OF __________ ) SS

The foregoing instrument was acknowledged before me this ___ day of ________, 2017, by
_________________________, the ______________________ of Aeon Seasons Park LLC, a Minnesota limited liability company, on behalf of the Mortgagor.

Notary Public

This instrument drafted by:

Kennedy & Graven, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN  55402
612-337-9300
EXHIBIT A

DESCRIPTION OF LAND

[Insert legal description]
EXHIBIT B

PERMITTED ENCUMBRANCES

[Insert list of permitted encumbrances]
DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this September ___, 2017 (the “Declaration”), by Aeon Seasons Park LLC, Minnesota limited liability company, for the benefit of the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”).

RECITALS

WHEREAS, The Borrower has proposed to acquire the 422 unit Seasons Park apartment complex (the “Project”) on certain property located at 951 East 77th Street in the City of Richfield, Minnesota (the “City”) and legally described in EXHIBIT A attached hereto (the “Property”); and

WHEREAS, the Authority and the Borrower entered into that certain Loan Agreement of even date herewith (the “Loan Agreement”) pursuant to which the Authority agreed to make a loan to the Borrower in the amount of $150,000 (the “Loan”) in order to make the Project more economically feasible and to improve and retain affordable housing in the City; and

WHEREAS, in consideration for the Loan, the Borrower will agree to cause compliance with certain affordability covenants for the Project; and

WHEREAS, the Borrower intends, declares, and covenants that the restrictive covenants set forth herein will be and are covenants running with the Property for the term described herein and binding upon all subsequent owners of the Property for the term described herein, and are not merely personal covenants of the Borrower; and

WHEREAS, capitalized terms in this Declaration have the meaning provided in the Loan Agreement unless otherwise defined herein.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower agrees as follows:

1. Term of Restrictions.

   (a) Occupancy Restrictions. The term of the Occupancy Restrictions set forth in Section 3 of this Declaration will commence on the date hereof. The period from commencement to termination is the “Qualified Project Period.”
(b) **Termination of Declaration.** This Declaration will terminate upon the date that is thirty (30) years after the commencement of the Qualified Project Period.

(c) **Removal from Real Estate Records.** Upon termination of this Declaration, the Authority will, upon request by the Borrower or its assigns, file any document appropriate to remove this Declaration from the real estate records of Hennepin County, Minnesota.

2. **Project Restrictions.**

(a) the Borrower represents, warrants, and covenants that:

(i) All leases of units to Qualifying Tenants (as defined in Section 3(a)(i) hereof) will contain clauses, among others, wherein each individual lessee:

   (1) Certifies the accuracy of the statements made in its application and Eligibility Certification (as defined in Section 3(a)(ii) hereof); and

   (2) Agrees that the family income at the time the lease is executed will be deemed substantial and material obligation of the lessee’s tenancy; that the lessee will comply promptly with all requests for income and other information relevant to determining low or moderate income status from the Borrower or the Authority, and that the lessee’s failure or refusal to comply with a request for information with respect thereto will be deemed a violation of a substantial obligation of the lessee’s tenancy.

(ii) the Borrower will permit any duly authorized representative of the Authority to inspect the books and records of the Borrower pertaining to the income of Qualifying Tenants residing in the Project.

3. **Occupancy Restrictions.**

(a) **Tenant Income Provisions.** The Borrower represents, warrants, and covenants that:

(i) **Qualifying Tenants.** From the commencement of the Qualified Project Period, at least twenty percent (20%) (i.e., ________) of the rental units on the Property (the “Rental Housing Units”) will be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants. Qualifying Tenants means those persons and families who are determined from time to time by the Borrower to have combined adjusted income that does not exceed fifty percent (50%) of the Minneapolis-St. Paul metropolitan statistical area (the “Metro Area”) median income for the applicable calendar year. For purposes of this definition, the occupants of a residential unit will not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are “students,” as defined in Section 151(c)(4) of the Internal Revenue Code of 1986, as amended (the “Code”), not entitled to an exemption under the Code. The determination of whether an individual or family is of low or moderate income will be made at the time the tenancy commences and on an ongoing basis thereafter, determined at least annually. If during the tenancy a Qualifying Tenant’s income exceeds one hundred forty percent (140%) of the maximum income qualifying as low or moderate income for a family of its size, the next available unit (determined in accordance with the Code and applicable regulations) (the “Next Available Unit Rule”) must be leased to a Qualifying Tenant or held vacant and available for occupancy by a Qualifying Tenant. If the
Next Available Unit Rule is violated, such unit will not continue to be treated as a Qualifying Unit.

(ii) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant will be required annually to sign and deliver to the Borrower a Certification of Tenant Eligibility substantially in the form attached as EXHIBIT B hereto, or in any other form as may be approved by the Authority (the “Eligibility Certification”), in which the prospective Qualifying Tenant certifies as to qualifying as low or moderate income. In addition, the person will be required to provide whatever other information, documents, or certifications are deemed necessary by the Authority to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that the tenant continues to be a Qualifying Tenant within the meaning of Section 3(a) hereof. Eligibility Certifications will be maintained on file by the Borrower with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year.

(iii) Lease. The form of lease to be utilized by the Borrower in renting any units in the Project to any person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by the person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by the person with respect to the Eligibility Certification.

(iv) Annual Report. The Borrower covenants and agrees that during the term of this Declaration, it will prepare and submit to the Authority on or before January 31 of each year, a certificate substantially in the form of EXHIBIT C hereto, executed by the Borrower, (a) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants in the Project, including the percentage of the dwelling units of the Project which were occupied by Qualifying Tenants (or held vacant and available for occupancy by Qualifying Tenants) at all times during the year preceding the date of the certificate; (b) describing all transfers or other changes in ownership of the Project or any interest therein; and (c) stating, that to the best knowledge of the person executing the certificate after due inquiry, all the units were rented or available for rental on a continuous basis during the year to members of the general public and that the Borrower was not otherwise in default under this Declaration during the year.

(v) Notice of Non-Compliance. The Borrower will immediately notify the Authority if at any time during the term of this Declaration the dwelling units in the Project are not occupied or available for occupancy as required by the terms of this Declaration.

4. Transfer Restrictions. The Borrower covenants and agrees that the Borrower will cause or require as a condition precedent to any conveyance, transfer, assignment, or any other disposition of the Project prior to the termination of the Rental Restrictions and Occupancy Restrictions provided herein (the “Transfer”) that the transferee of the Project pursuant to the Transfer assume in writing, in a form acceptable to the Authority, all duties and obligations of the Borrower under this Declaration, including this Section 5, in the event of a subsequent Transfer by the transferee prior to expiration of the Rental Restrictions and Occupancy Restrictions provided herein (the “Assumption Agreement”). The Borrower will deliver the Assumption Agreement to the Authority prior to the Transfer.

5. Enforcement.

(a) The Borrower will permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority to inspect any books and records of the Borrower regarding the Project with respect to the incomes of Qualifying Tenants.
(b) The Borrower will submit any other information, documents or certifications requested by the Authority which the Authority deems reasonably necessary to substantial the Borrower’s continuing compliance with the provisions specified in this Declaration.

(c) The Borrower acknowledges that the primary purpose for requiring compliance by the Borrower with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in the Loan Agreement, and by reason thereof, the Borrower, in consideration for assistance provided by the Authority under the Loan Agreement that makes possible the construction of the Project on the Property, hereby agrees and consents that the Authority will be entitled, for any breach of the provisions of this Declaration, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Borrower of its obligations under this Declaration in a state court of competent jurisdiction. The Borrower hereby further specifically acknowledges that the Authority cannot be adequately compensated by monetary damages in the event of any default hereunder.

(d) The Borrower understands and acknowledges that, in addition to any remedy set forth herein for failure to comply with the restrictions set forth in this Declaration, the Authority may exercise any remedy available to it under the Loan Agreement.

6. Indemnification. The Borrower hereby indemnifies, and agrees to defend and hold harmless, the Authority from and against all liabilities, losses, damages, costs, expenses (including attorneys’ fees and expenses), causes of action, suits, allegations, claims, demands, and judgments of any nature arising from the consequences of a legal or administrative proceeding or action brought against them, or any of them, on account of any failure by the Borrower to comply with the terms of this Declaration, or on account of any representation or warranty of the Borrower contained herein being untrue.

7. Severability. The invalidity of any clause, part or provision of this Declaration will not affect the validity of the remaining portions thereof.

8. Notices. All notices to be given pursuant to this Declaration must be in writing and will be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to any other place as a party may from time to time designate in writing. The Borrower and the Authority may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications are sent. The initial addresses for notices and other communications are as follows:

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

To the Borrower: [BORROWER] [ADDRESS] Attn: _______________________

9. Governing Law. This Declaration is governed by the laws of the State of Minnesota and, where applicable, the laws of the United States of America.
10. **Attorneys’ Fees.** In case any action at law or in equity, including an action for declaratory relief, is brought against the Borrower to enforce the provisions of this Declaration, the Borrower agrees to pay the reasonable attorneys’ fees and other reasonable expenses paid or incurred by the Authority in connection with the action.

11. **Declaration Binding.** This Declaration and the covenants contained herein will run with the real property comprising the Project and will bind the Borrower and its successors and assigns and all subsequent owners of the Project or any interest therein, and the benefits will inure to the Authority and its successors and assigns for the term of this Declaration as provided in Section 1(b) hereof.

(The remainder of this page is intentionally left blank.)
IN WITNESS WHEREOF, the Borrower has caused this Declaration of Restrictive Covenants to be signed by its respective duly authorized representatives, as of the day and year first written above.

AEON SEASONS PARK LLC

By

Its

STATE OF MINNESOTA )
COUNTY OF _________ ) SS

The foregoing instrument was acknowledged before me this ___ day of ________, 2017, by _________________________, the _________________________ of Aeon Seasons Park LLC, a Minnesota limited liability company, on behalf of the Mortgagor.

_____________________________________
Notary Public

This instrument drafted by:

Kennedy & Graven, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
612-337-9300
This Declaration is acknowledged and consented to by:

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

By ________________________________
Its Chair

By ________________________________
Its Executive Director

STATE OF MINNESOTA )
) SS.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this _____________, 2017, by Mary B. Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

________________________________
Notary Public

STATE OF MINNESOTA )
) SS.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this _____________, 2017, by Steven L. Devich, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

________________________________
Notary Public
EXHIBIT A

LEGAL DESCRIPTION

[Insert legal description]
EXHIBIT B

CERTIFICATION OF TENANT ELIGIBILITY

(INCOME COMPUTATION AND CERTIFICATION)

Project: [Address]

Owner:

Unit Type: _____ 1 BR _____ 1 BR + Den _____2 BR

1. I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully, frankly and personally each of the following questions for all persons (including minors) who are to occupy the unit in the above apartment development for which application is made, all of whom are listed below:

<table>
<thead>
<tr>
<th>Name of Members of the Household</th>
<th>Relationship To Head of Household</th>
<th>Age</th>
<th>Place of Employment</th>
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</table>

Income Computation

2. The anticipated income of all the above persons during the 12-month period beginning this date,

(a) including all wages and salaries, overtime pay, commissions, fees, tips and bonuses before payroll deductions; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness); interest and dividends; the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts; payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation and severance pay; the maximum amount of public assistance available to the above persons; periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling; and all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; but

(b) excluding casual, sporadic or irregular gifts; amounts which are specifically for or in reimbursement of medical expenses; lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen’s compensation), capital gains and settlement for personal or property losses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and

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equipment, but in either case only to the extent used for these types of purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments received pursuant to participation in ACTION volunteer programs, is as follows: $_____________.

3. If any of the persons described above (or whose income or contributions was included in item 2) has any savings, bonds, equity in real property or other form of capital investment, provide:

   (a) the total value of all such assets owned by all such persons: $____________;

   (b) the amount of income expected to be derived from such assets in the 12 month period commencing this date: $_____________; and

   (c) the amount of such income which is included in income listed in item 2: $__________.

4. (a) Will all of the persons listed in item 1 above be or have they been full-time students during five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

   Yes _________________   No ________________

   (b) Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

   Yes _________________   No ________________

THE UNDERSIGNED HEREBY CERTIFY THAT THE INFORMATION SET FORTH ABOVE IS TRUE AND CORRECT. THE UNDERSIGNED ACKNOWLEDGE THAT THE LEASE FOR THE UNIT TO BE OCCUPIED BY THE UNDERSIGNED WILL BE CANCELLED UPON 10 DAYS WRITTEN NOTICE IF ANY OF THE INFORMATION ABOVE IS NOT TRUE AND CORRECT.

____________________________
Head of Household

____________________________
Spouse

FOR COMPLETION BY OWNER
(OR ITS MANAGER) ONLY
1. Calculation of Eligible Tenant Income:
   (a) Enter amount entered for entire household in 2 above: $__________
   (b) If the amount entered in 3(a) above is greater than $5,000, enter the greater of
       (i) the amount entered in 3(b) less the amount entered in 3(c) or (ii) 10% of the amount entered in
       3(a): $__________
   (c) TOTAL ELIGIBLE INCOME (Line 1(a) plus Line 1(b)): $__________

2. The amount entered in 1(c) is less than or equal to fifty percent (50%) of median income
   for the area in which the Project is located, as defined in the Declaration. Fifty percent (50%)
   is necessary for status as a “Qualifying Tenant” under Section 3(a) of the Declaration.

3. Rent:
   (a) The rent for the unit is $______________.
   (b) The amount entered in 3(a) is less than or equal to the maximum rent permitted
       under the Declaration.

4. Number of apartment unit assigned: ___________.

5. This apartment unit was ____ was not ____ last occupied for a period of at least 31
   consecutive days by persons whose aggregate anticipated annual income as certified in the above manner
   upon their initial occupancy of the apartment unit was less than or equal to fifty percent (50%) of Median
   Income in the area.

6. Check as applicable: ______ Applicant qualifies as a Qualifying Tenant (tenants of at
   least __ units must meet), or ____ Applicant otherwise qualifies to rent a unit.

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE HAS NO KNOWLEDGE OF ANY
FACTS WHICH WOULD CAUSE HIM/HER TO BELIEVE THAT ANY OF THE INFORMATION
PROVIDED BY THE TENANT MAY BE UNTRUE OR INCORRECT.

[DEVELOPER]

By ________________________________
Its ________________________________
EXHIBIT C
CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Certificate of
Continuing Program Compliance

Date: ___________________

The following information with respect to the Project located at ________________, Richfield, Minnesota (the “Project”), is being provided by Aeon Seasons Park LLC (the “Owner”) to the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”), pursuant to that certain Declaration of Restrictive Covenants dated September ___, 2017 (the “Declaration”), with respect to the Project:

(A) The total number of residential units which are available for occupancy is 422. The total number of these units occupied is ________________.

(B) The following residential units (identified by unit number) are currently occupied by “Qualifying Tenants,” as the term is defined in the Declaration (for a total of ____ units):

1 BR Units:

1 BR + Den Units:

2 BR Units:

(C) The following residential units which are included in (B) above, have been re-designated as units for Qualifying Tenants since ________________, 20___, the date on which the last “Certificate of Continuing Program Compliance” was filed with the Authority by the Owner:

<table>
<thead>
<tr>
<th>Unit Number</th>
<th>Previous Designation of Unit (if any)</th>
<th>Replacing Unit Number</th>
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</table>
(D) The following residential units are considered to be occupied by Qualifying Tenants based on the information set forth below:

<table>
<thead>
<tr>
<th>Unit Number</th>
<th>Name of Tenant</th>
<th>Number of Persons Residing in the Unit</th>
<th>Number of Bedrooms</th>
<th>Total Adjusted Gross Income</th>
<th>Date of Initial Occupancy</th>
<th>Rent</th>
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(E) The Owner has obtained a “Certification of Tenant Eligibility,” in the form provided as EXHIBIT B to the Declaration, from each Tenant named in (D) above, and each such Certificate is being maintained by the Owner in its records with respect to the Project. Attached hereto is the most recent “Certification of Tenant Eligibility” for each Tenant named in (D) above who signed such a Certificate since _____________ _, _____, the date on which the last “Certificate of Continuing Program Compliance” was filed with the Authority by the Owner.

(F) In renting the residential units in the Project, the Owner has not given preference to any particular group or class of persons (except for persons who qualify as Qualifying Tenants); and none of the units listed in (D) above have been rented for occupancy entirely by
students, no one of which is entitled to file a joint return for federal income tax purposes. All of
the residential units in the Project have been rented pursuant to a written lease, and the term of
each lease is at least twelve (12) months.

(G) The information provided in this “Certificate of Continuing Program
Compliance” is accurate and complete, and no matters have come to the attention of the Owner
which would indicate that any of the information provided herein, or in any “Certification of
Tenant Eligibility” obtained from the Tenants named herein, is inaccurate or incomplete in any
respect.

(H) The Project is in continuing compliance with the Declaration.

(I) The Owner certifies that as of the date hereof at least __ of the residential
dwelling units in the Project are occupied or held open for occupancy by Qualifying Tenants, as
defined and provided in the Declaration.

(J) The rental levels for each Qualifying Tenant comply with the maximum
permitted under the Declaration.

IN WITNESS WHEREOF, I have hereunto affixed my signature, on behalf of the Owner, on ________________, 20__. 

AEON SEASONS PARK LLC

By _________________________________

Its _________________________________
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the approval of resolutions approving proposed property tax levy for payable 2018 for certification to Hennepin County.

EXECUTIVE SUMMARY:
The bylaws of the Richfield Housing and Redevelopment Authority (HRA) require that an annual budget be submitted to the HRA Commissioners for approval. Accordingly, the 2018 Proposed Budget and Tax Levy and 2017 Revised Budget are presented for approval.

In addition, Minnesota State Statutes require adoption of a preliminary tax levy from each taxing authority. The proposed tax levy must be certified to the Hennepin County Auditor by September 29, 2017. Any amendments to the proposed budget, which would increase the property tax levy, must be made prior to September 29, 2017. No increases in the tax levy are permissible after that date, only reductions. Final certification of the HRA tax levy is part of the City’s budget process.

The tax levy as proposed is the maximum levy established by law and represents a 7.56% increase from the previous year’s levy.

RECOMMENDED ACTION:
By motion: Adopt resolutions approving the 2018 Proposed Housing and Redevelopment Authority Budget and Tax Levy and 2017 Revised Housing and Redevelopment Authority Budget.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   - N/A
B. POLICIES (resolutions, ordinances, regulations, statutes, etc):
   - Minnesota Statutes require adoption of a preliminary levy from each taxing authority.
   - The budget and accompanying proposed levy for 2018 are ready for consideration.
   - Even though a public hearing for the HRA tax levy is not required by State Statute, this does not preclude the HRA from opening this item up for public discussion if the HRA desires to do so.
C. CRITICAL TIMING ISSUES:
As required by State Statutes, each taxing authority must certify its proposed tax levy for the payable year 2018 to the County Auditor on or before September 29, 2017.

D. **FINANCIAL IMPACT:**
   - The Proposed 2018 HRA levy represents a 7.56% increase from the previous year’s levy. This equates to a $40,182 increase.
   - The levy as proposed is for the maximum levy established by law of the .0185% of the City’s total taxable market value net of the market value exclusion.

E. **LEGAL CONSIDERATION:**
   - N/A

**ALTERNATIVE RECOMMENDATION(S):**
   - The HRA could adopt a preliminary levy less than the one proposed herein. However, that would not provide for programs that are recommended in the 2018 Proposed/2017 Revised budget.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
None

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Type</th>
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</thead>
<tbody>
<tr>
<td>2018 HRA Proposed Budget and Tax Levy</td>
<td>Resolution Letter</td>
</tr>
</tbody>
</table>
HRA RESOLUTION NO.

RESOLUTION APPROVING PROPOSED 2018 HOUSING AND REDEVELOPMENT AUTHORITY BUDGET AND CERTIFYING THE 2018 TAX LEVY

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

Section 1. The budget for the Housing and Redevelopment Authority General Fund of Richfield for the year 2018 in the amount of $452,790 is hereby ratified.

Section 2. The estimated gross revenue of the Housing and Redevelopment Authority General Fund of Richfield from all sources, including general ad valorem tax levies as hereinafter set forth for the year 2018, and as the same are more fully detailed in the Executive Director’s official copy of the budget for the year 2018, in the amount of $573,490 is hereby approved.

Section 3. There is hereby levied upon all taxable property in the City of Richfield an ad valorem tax in 2017, payable in 2018 for the following purposes:

Housing and Redevelopment Authority $571,905

Section 4. A certified copy of this resolution shall be transmitted to the County Auditor.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of August, 2017.

Mary Supple, Chair

ATTEST:

Doris Rubenstein, Secretary
HRA RESOLUTION NO.

RESOLUTION AUTHORIZING REVISION OF THE 2017 BUDGET OF THE HOUSING AND REDEVELOPMENT AUTHORITY OF RICHFIELD

WHEREAS, Resolution No. 1234 appropriated funds for personal services and other expenses and capital outlay for the Housing and Redevelopment Authority for the year 2017, and

WHEREAS, The Executive Director has requested a revision of the 2017 budget as detailed in the 2018 budget document.

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

Section 1. That the 2017 appropriation for the Housing and Redevelopment Authority General Fund is revised as follows:

$470 decrease

Section 2. Estimated 2017 gross revenue of the Housing and Redevelopment Authority General Fund from all sources, as the same is more fully detailed in the Executive Director’s official copy of the 2018 budget document, are hereby revised as follows:

$1,000 increase

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

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of August, 2017.

________________________________________
Mary Supple, Chair

ATTEST:

________________________________________
Doris Rubenstein, Secretary
ITEM FOR COUNCIL CONSIDERATION:
Consideration of the ratification of an Escrow Agreement in which the Housing and Redevelopment Authority agree to pay up to $30,000 for remediation of environmental contaminates and $1,400 for well-sealing on property sold to Interstate Development LLC by the Housing and Redevelopment Authority for development of the Plaza 66 commercial development.

EXECUTIVE SUMMARY:
Following execution of a purchase agreement between the Housing and Redevelopment Authority (HRA) and Interstate Development LLC ("Interstate") on July 17, 2017, Interstate representatives were made aware of environmental contaminates on the property (6608 17th Avenue and adjacent remnant parcels). These contaminates stem from a former dry cleaner at 1537 66th Street East (now Richfield Orthodontics). Typically, in a commercial transaction, the buyer would request that the seller bear the cost of clean-up. In this case, Interstate is willing to pay half the costs and has asked the HRA to share in the cost. The agreement states that the HRA will hold $30,000 in escrow to help pay for up to 50% of the remediation costs.

Additionally, the Agreement states that the HRA will pay for the cost of sealing a well found on 6608 17th Avenue. The HRA will hold $1,400 in escrow to cover sealing the well.

In order to close on the properties as planned on August 1, 2017, this agreement was signed by the Executive Director; however, no escrow funds may be used until the HRA Board approves the Escrow Agreement. The HRA is asked to ratify the Agreement tonight.

RECOMMENDED ACTION:
By motion: Ratify the Escrow Agreement in which the Housing and Redevelopment Authority agree to pay up to $30,000 for remediation of environmental contaminates and $1,400 for well-sealing on property sold to Interstate Development LLC by the Housing and Redevelopment Authority for development of the Plaza 66 commercial development.

BASIS OF RECOMMENDATION:
A. HISTORICAL CONTEXT
   • None
B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**
   - None

C. **CRITICAL TIMING ISSUES:**
   - None

D. **FINANCIAL IMPACT:**
   - Costs to the HRA will not exceed $30,000 for remediation and $1,400 for well sealing. Any money remaining in the escrow account upon completion shall be returned to the HRA.

E. **LEGAL CONSIDERATION:**
   - The HRA would be required to pay all costs of remediation in a typical commercial transaction.
   - The Escrow Agreement was drafted by the HRA Attorney.

**ALTERNATIVE RECOMMENDATION(S):**
- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**
None

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Type</th>
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<tbody>
<tr>
<td>Escrow Agreement</td>
<td>Exhibit</td>
</tr>
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</table>
ESCROW AGREEMENT

THIS ESCROW AGREEMENT, entered into August 1, 2017 (the “Escrow Agreement”), is between the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHLFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), PLAZA 66 RETAIL LLC, a Minnesota limited liability company, its successors and assigns (the “Buyer”), and FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, its successors and assigns (the “Escrow Agent”).

RECITALS

A. The Authority and Interstate Development LLC, a Minnesota limited liability company (“Interstate”) have entered into a Revised Purchase Agreement, dated July 17, 2017 (the “Purchase Agreement”), for the sale of a portion of the property legally described in EXHIBIT A attached hereto and the building and improvements constructed or located thereon (the “Property”). The purchase price of the Property is $450,000 (the “Purchase Price”).

B. Interstate has assigned its interest and obligations under the Purchase Agreement and other related agreements to the Buyer pursuant to an Assignment and Assumption of Purchase Agreements and Development Documents, dated July 21, 2017 (the “Assignment Agreement”).

C. The parties closed on the sale of the Property on August 1, 2017.

D. Following the execution of the Purchase Agreement and the Assignment Agreement, the Buyer was made aware of environmental contaminates on or in the Property that require remediation.

E. The Authority has agreed to share the costs of remediation of the environmental contaminates with the Buyer in an amount of up to $30,000, subject to approval by the Board of Commissioners on August 21, 2017.

F. Following the execution of the Purchase Agreement and the Assignment Agreement, the Authority was made aware of an unsealed well on the Property.

G. The Authority has agreed to pay for the costs of sealing the well.

H. This Escrow Agreement provides for the establishment of an escrow, the disbursement of funds from the escrow, and the return of remaining escrow funds to the Seller.

NOW, THEREFORE, in consideration of this Escrow Agreement, the Authority, the Buyer, and the Escrow Agent agree as follows:

1. Remediation and Sealing of Well. The Buyer shall contract for and undertake all actions necessary to complete the necessary remediation of the environmental contaminates on the Property and to seal the well on the Property.

2. Remediation Escrow Deposit. The Authority has agreed to deposit $30,000 of the Purchase Price paid by the Buyer (the “Remediation Escrow”) with the Escrow Agent to be held in an escrow account and disbursed by the Escrow Agent pursuant to the provisions of this Escrow Agreement for the purposes of remediation of environmental contaminates on the Property. The Authority has further agreed to deposit $1,400 of the Purchase Price paid by the Buyer (the “Well Escrow”) with the
Escrow Agent to be held in an escrow account and disbursed by Escrow Agent pursuant to the provisions of this Escrow Agreement for the purposes of sealing the well on the Property. Such funds are collectively referred to herein as the “Escrowed Funds.” The Escrow Agent shall deposit the Escrowed Funds into an interest bearing trust account. The Escrow Agent agrees to hold the Escrowed Funds in accordance with the terms of this Escrow Agreement. All interest earned on the Escrowed Funds shall be held in accordance with the terms of this Escrow Agreement. All interest on the Escrowed Funds shall accrue to the benefit of Authority.

3. **Use of Funds in Remediation Escrow.** The funds in the Remediation Escrow shall be disbursed for expenditures incurred by the Buyer for the following remediation activities on the Property:

   (a) the remediation of soil contamination or any other environmental contaminants on or in the Property related to removal of all underground tanks present in and on the Property;

   (b) the construction and installation of a vapor barrier under the proposed building slab;

   (c) the construction and installation of with an active vapor ventilation system; and

   (d) other related remediation activities.

The expenditures described above shall be referred to herein as “Qualified Expenditures.”

4. **Disbursement of Remediation Escrow.** Subject to the provisions of Section 6 hereof, the Escrow Agent shall disburse funds in the Remediation Escrow within ten (10) days after receipt of a request from the Buyer with written evidence of Qualified Expenditures, including invoices for such expenditures. Upon receipt of the invoices for Qualified Expenditures, the Escrow Agent shall split the cost evenly between (i) the Authority and (ii) the Buyer. The Buyer shall provide the written request for disbursement of funds in the Remediation Escrow to the Authority at the same time it is sent to the Escrow Agent. The Buyer shall notify the Escrow Agent and the Authority in writing upon completion of the work related to the remediation activities described herein and provide any documentation received from the Minnesota Pollution Control Agency related to the remediation to the Authority. In no event shall the amount paid by the Authority for Qualified Expenditures exceed the lesser of (i) half of the Qualified Costs; or (ii) $30,000. Any amounts in excess of (i) half of the Qualified Costs; or (ii) $30,000 shall be paid by the Buyer. The Escrow Agent shall notify the other parties hereto in writing if and when the Remediation Escrow is depleted.

5. **Return of Escrow Funds – Remediation Escrow.** If the costs of the activities described in Section 3 exceed $60,000, the Buyer shall be required to pay any additional costs incurred by the Buyer. If the costs of the activities described in Section 3 are less than $60,000, the balance of the remaining undistributed Remediation Escrow will be returned to the Authority upon receipt of written notification from the Buyer that the work related to the activities described in Section 3 hereof are complete. Notwithstanding the foregoing, the remaining funds in the Remediation Escrow shall be returned to the Authority no later than December 31, 2017.

6. **Contingency.** The agreements of the Authority set forth in this Escrow Agreement are specifically contingent upon the ratification of this Escrow Agreement by the Board of Commissioners of the Authority at its meeting on August 21, 2017. In the event that the Board of Commissioners of the Authority does not approve this Escrow Agreement, the Escrow Agent shall immediately return the funds in the Remediation Escrow to the Authority.
7. **Well Escrow.** The funds in the Well Escrow shall be disbursed for expenditures incurred by the Buyer related to sealing the well on the Property. The Escrow Agent shall disburse funds from the Well Escrow within ten (10) days after receipt of an invoice from the Buyer for the sealing of the well on the Property. Any amounts remaining in the Well Escrow shall be returned to the Authority.

8. **Notices.** Notices to be sent to the parties to this Escrow Agreement shall be sent by mail or personal delivery to:

   **If to the Authority:** Housing and Redevelopment Authority in and for the City of Richfield, Minnesota
   6700 Portland Avenue South
   Richfield, MN 55423
   Attention: Executive Director

   **With a copy to:** Kennedy & Graven, Chartered
   200 South Sixth Street, Suite 470
   Minneapolis, MN 55402
   Attn: Julie Eddington

   **If to the Buyer:** Plaza 66 Retail LLC
   6390 Carlson Drive
   Eden Prairie, MN 55346
   Attention: Lonnie Provencher

   **If to the Escrow Agent:** First American Title Insurance Company
   National Commercial Services
   801 Nicollet Mall, Suite 1900
   Minneapolis, MN 55402
   Attention: James L. Erickson

9. **Escrow Agent Duties.** The sole duties of the Escrow Agent shall be those described herein, and the Escrow Agent shall be under no obligation to determine whether the other parties hereto are complying with any requirements of law or the terms and conditions of any other agreements among said parties. The Escrow Agent may conclusively rely upon and shall be protected in acting upon any notice, consent, order or other document believed by it to be genuine and to have been signed or presented by the proper party or parties, consistent with reasonable due diligence on the Escrow Agent’s part. The Escrow Agent may consult the advice of counsel with respect to any issue concerning the interpretation of its duties hereunder. The Authority, the Buyer, and the Assignee hereby acknowledge such fact and indemnify and hold harmless the Escrow Agent form any action taken by it in good faith in reliance thereon. The Escrow Agent shall have no duty or liability to verify any such notice, consent, order or other document, and its sole responsibility shall be to act as expressly set forth in this Escrow Agreement. The Escrow Agent shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Escrow Agreement. If any dispute arises with respect to the disbursement of any monies, the Escrow Agent may continue to hold the same or commence any action in interpleader and in connection therewith remit the same to a court of competent jurisdiction pending resolution of such dispute, and the parties hereto hereby indemnify and hold harmless the Escrow Agent for any action taken by it in good faith in the execution of its duties hereunder.

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IN WITNESS WHEREOF, the Authority and the Buyer have executed this Escrow Agreement as of the date and year first written above.

HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHELIEU, MINNESOTA

By

its Executive Director
Execution page of the Buyer to the Escrow Agreement, dated as of the date and year first written above.

PLAZA 66 RETAIL LLC

By

[Signature]

John L. Provencher
Its President
Execution page of the Escrow Agent to the Escrow Agreement, dated as of the date and year first written above.

FIRST AMERICAN TITLE INSURANCE COMPANY

By

Its

S-3
EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 1, Block 1 Plaza 66 in Richfield, Hennepin County, Minnesota