



**REGULAR HOUSING AND REDEVELOPMENT AUTHORITY MEETING
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS
NOVEMBER 21, 2016
7:00 P.M.**

Call to order

1. Approval of the minutes of the Regular HRA Meeting of October 17, 2016
2. HRA approval of the agenda
3. **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 a resolution accepting contributions for the 2016 Tour of Remodeled Homes.

Staff Report No. 31
 - B. Consideration of a resolution to acquire redevelopment property from the City of Richfield

Staff Report No. 32
4. Consideration of an amendment to the Contract for Private Development between the Richfield Housing and Redevelopment Authority and Mesaba Capital Development, LLC for the development of the former City Garage property at 211 West 76th Street/7644 Pillsbury Avenue

Staff Report No. 33
5. Consideration of the terms of a Community Development Block Grant Homebuyer Assistance Secondary Mortgage relating to the purchase of a home recently remodeled under the New Home Program at 7305 17th Avenue, pending final attorney approval.

Staff Report No. 34
6. HRA discussion items
 - Reschedule Jan. & Feb. 2017 HRA Meetings due to Holidays (1/16 to 1/17; 2/20 to 2/21)
7. Executive Director report
8. Claims and payroll

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.



HOUSING AND REDEVELOPMENT AUTHORITY MEETING MINUTES

Richfield, Minnesota

Regular Meeting

October 17, 2016

CALL TO ORDER

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

ATTENDANCE

HRA Members Present: Mary Supple, Chair; Pat Elliott; Debbie Goettel and Doris Rubenstein

HRA Members Absent: David Gepner

Staff Present: Steve Devich, Executive Director,
John Stark, Director of Community Development,
Karen Barton, Assistant Director of Community Development
Kate Aitchison, Housing Specialist/Acting City Clerk

Item #1

**APPROVAL OF THE MINUTES OF THE REGULAR HRA MEETING OF
SEPTEMBER 19, 2016**

M/Elliott, SGoettel, to approve the minutes.

Motion carried 4-0.

Item #2

HRA APPROVAL OF THE AGENDA

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

Motion carried 4-0.

Item #3

**PROJECT UPDATE FROM BOISCLAIR DEVELOPMENT, LLC,
REGARDING THE CEDAR POINT II HOUSING REDEVELOPMENT AREA**

Lori Boisclair, President of Boisclair Corporation, gave an update on the project dynamics for the Cedar Point II Housing Redevelopment area.

Ms. Boisclair discussed the economics of land acquisition and redevelopment financing. In working on the project, Boisclair is encountering a gap between the amount of financing

that will be underwritten by a lender, and the amount of money required to complete the project.

Ms. Boisclair described various ways that they are working with city staff to close this gap and make the project feasible. They are considering 'phasing' the project, beginning on developing the for-sale townhomes first, and then constructing the rental apartments in the second phase.

Chair Supple expressed her approval of project phasing if that is what is needed to see the project move forward. Commissioner Goettel stated that it may help bolster confidence of underwriters to see the first phase of the project successfully completed.

Two residents were invited to speak and ask questions related to the development.

Andrea Bolstad, of 6339 16th Avenue, asked three questions: 1) What comparables were used from the Minneapolis Nokomis area? 2) What is the updated timing of acquiring the single family homes? And 3) Is this work an extension of the original development work that was begun to combat low frequency airport noise?

Ms. Boisclair explained that the comparable sales in the Nokomis area were newer projects of similar size. It is completely at the discretion of the lenders and underwriters. Community Development Assistant Director Barton explained the timing of grants, expecting the first grant that would help with acquisition to be awarded in February. Executive Director Devich answered the third question, stating that the Cedar Point Development helped with low frequency airport noise by providing buffers with large retail buildings.

Ms. Bolstad asked an additional question: would the financial problems of the project trickle down and affect the offered purchase prices of the homes along 16th Avenue.

Community Development Director Stark explained that certain details will be outlined in the development contract with Boisclair, but that the real litmus test will be if the homeowners are satisfied and accept the offered price. Executive Director Devich affirmed that everyone wants to see the acquisitions work out for the best.

Carl Kowal of 6327 16th Avenue, reiterated the neighborhood's frustrations with the delays to the project, stating that people have been avoiding making investments in their homes since they will not recapture the money in the purchase price. He acknowledged all of the City Staff's hard work. He stated that the neighbors feel that they have been forgotten by the developer.

Item #4	CONSIDERATION OF A RESOLUTION AUTHORIZING AN INTERFUND LOAN UP TO \$650,000 FOR LYNDALE GATEWAY WEST TAX INCREMENT DISTRICT DEBT SERVICE PAYMENTS
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Community Development Director John Stark presented Staff Report No. 30.

Community Development Director Stark pointed out that, at the time, the Lyndale Gateway West development was in a similar position to what is currently being seen at Cedar Point II. It's the only time the city has issued General Obligation Bonds for a redevelopment project. He stated that each year the HRA will receive and update, and that the market could improve, meaning less debt service would be required.

Executive Director Devich explained that the HRA could choose to levy to pay the debt service, but he did not recommend that course of action.

Chair Supple clarified that the amount would not exceed \$650,000.

M/Goettel, S/Elliott, to approve the following resolution:

HRA RESOLUTION No. 1238
 APPROVING INTERFUND LOAN TO THE LYNDALE GATEWAY WEST TAX INCREMENT
 DISTRICT ACCOUNT FOR DEBT SERVICE PAYMENTS WITH RESPECT TO CERTAIN
 GENERAL OBLIGATION BONDS OF THE CITY OF RICHFIELD

Motion carried 4-0. This resolution appears as HRA Resolution No. 1238

Item #5	HRA DISCUSSION ITEMS
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Chair Supple acknowledged the success of the recent Renovation Celebration Home Tour and stated that she was impressed with the materials and outcome.

Commissioner Rubbenstein asked about the reconstruction of 66th Street, and if there are plans for redevelopment.

Community Development Director Stark stated that there may be residential property remnants that can be acquired for the Richfield Rediscovered or New Home programs.

Commissioner Goettel stated she has heard that 'pocket parks' may also be possible with some of the remnant land.

Item #6	EXECUTIVE DIRECTOR REPORT
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Executive Director Devich had no news to report.

Commissioner Rubbenstein asked about the native plants that have been removed at the Lyndale Gardens site, specifically wondering what will replace them. Community Development Assistant Director Barton answered that the site will be fully landscaped upon completion, but will not be returned to its native state.

Item #7	CLAIMS AND PAYROLL
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M/Goettel, S/Elliott, that the following claims and payroll be approved:

U.S. BANK	10/17/16
Section 8 Checks: 128090 - 128175	\$ 164,866.99
HRA Checks: 32850 - 32875	\$ 45,616.93
TOTAL	\$ 210,483.92

Motion carried 4-0.

ADJOURNMENT

The meeting was adjourned by unanimous consent at 7:56 p.m.

Date Approved: November 21, 2016

Mary B. Supple
HRA Chair

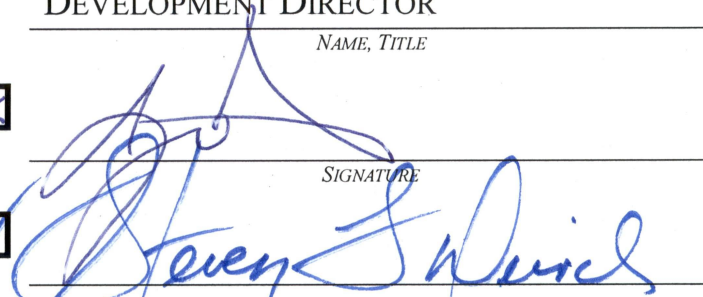
Kate Aitchison
Acting City Clerk

John Stark
Acting Executive Director



STAFF REPORT

HOUSING AND REDEVELOPMENT AUTHORITY MEETING NOVEMBER 21, 2016

REPORT PREPARED BY:	JULIE URBAN, HOUSING SPECIALIST
	<small>NAME, TITLE</small>
REPORT PRESENTER:	KAREN BARTON, ASSISTANT COMMUNITY DEVELOPMENT DIRECTOR
	<small>NAME, TITLE</small>
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/> 
	<small>SIGNATURE</small>
REVIEWED BY EXECUTIVE DIRECTOR:	<input checked="" type="checkbox"/>

ITEM FOR HRA CONSIDERATION:
Consideration of a resolution accepting contributions for the 2016 Tour of Remodeled Homes.

I. RECOMMENDED ACTION:
By Motion: Approve a resolution allowing the acceptance of monetary support solicited for the 2016 Tour of Remodeled Homes.

II. EXECUTIVE SUMMARY

The Community Development Department solicited financial sponsorships for the 2016 Renovation Celebration: Tour of Remodeled Homes in Richfield (Tour). Three builders and one realtor donated \$200 each to sponsor the Tour. The funds were used to provide gift cards to participating homeowners and for marketing expenses. State law requires the Housing & Redevelopment Authority (HRA) to receive the funds by resolution.

III. BASIS OF RECOMMENDATION

A. BACKGROUND

- A tour of remodeled homes was held on October 8, 2016. Six homes were open to the public from 1:00 to 5:00 pm. 450 people attended

the Tour to learn about the remodeling projects from the homeowners, builders and architects. Information about HRA housing programs and how various projects impact a home's value was also provided.

- Day Construction, Awad + Koontz Architects Builders, and Conceptual Carpentry participated in the Tour and provided \$200 to be a Tour sponsor. They were present at the Tour and their names and logos were part of marketing materials.
- Steve Schneeberger, Keller Williams Realty also sponsored the Tour. He was present at one home and offered information on how various remodeling projects impact a home's value.
- The funds were used to defray marketing expenses for the Tour and to provide gift cards to the six homeowners for participating.

B. POLICY

- The Tour was part of the HRA's housing marketing plan that was adopted in 2014. The Tour highlighted investment in the local housing stock and offered information on the HRA's remodeling programs.

C. CRITICAL TIMING ISSUES

- A resolution accepting the donations needs to be passed before the end of the 2016 calendar year.

D. FINANCIAL

- The HRA received \$800 in donations towards Tour expenses.
- Three builders and one realtor donated \$200 each to sponsor the Tour.

E. LEGAL

- Minnesota Statute 465.03 requires that every acceptance of a grant or devise of real or personal property on terms prescribed by the donor be made by resolution.

IV. ALTERNATIVE RECOMMENDATION(S)

- Direct staff to return the donations to the donors.

V. ATTACHMENTS

- Resolution approving the acceptance of donations.
- List of donations and specified areas for the donation to be applied.

VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- NA

RESOLUTION NO.

**RESOLUTION AUTHORIZING RICHFIELD COMMUNITY DEVELOPMENT
DEPARTMENT TO ACCEPT DONATIONS FROM THE LISTED BUSINESSES FOR
DESIGNATED USES**

WHEREAS, the Community Development Department received checks from the following for the 2016 Renovation Celebration: Tour of Remodeled Homes;

Day Construction
Awad + Koontz Architects Builders, Inc.
Conceptual Carpentry
Steve Schneeberger, Keller Williams Realty

and,

WHEREAS, Minnesota Statute requires every acceptance of a grant or devise of real or personal property on terms prescribed by the donor be made by resolution; and,

WHEREAS, the donated funds will be used towards the designated events sponsored by the Community Development Department.

NOW, THEREFORE, BE IT RESOLVED that the Director of Community Development will accept and distribute the donations as specified.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of November, 2016.

Mary B. Supple, Chairperson

ATTEST:

Doris Rubenstein, Secretary

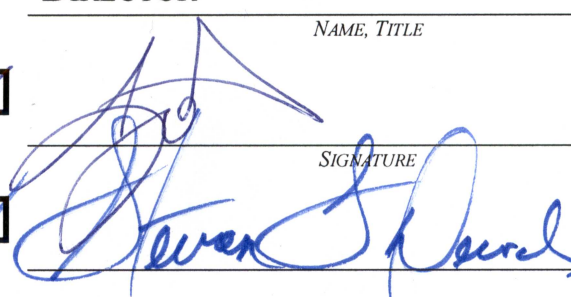
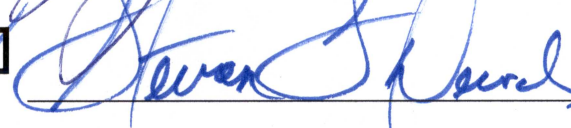
Checks Received
2016

Business Name	Amount of Donation	Designation
Day Construction	\$200.00 (used for gift cards and marketing expenses)	Remodeled Home Tour
Awad + Koontz Architects Builders	\$200 (used for gift cards and marketing expenses)	Remodeled Home Tour
Conceptual Carpentry	\$200 (used for gift cards and marketing expenses)	Remodeled Home Tour
Steve Schneeberger, Keller Williams Realty	\$200 (used for gift cards and marketing expenses)	Remodeled Home Tour
Total:	\$800	



STAFF REPORT

HOUSING AND REDEVELOPMENT AUTHORITY MEETING NOVEMBER 21, 2016

REPORT PREPARED BY:	JOHN STARK, COMMUNITY DEVELOPMENT DIRECTOR <i>NAME, TITLE</i>
REPORT PRESENTER:	JOHN STARK, COMMUNITY DEVELOPMENT DIRECTOR <i>NAME, TITLE</i>
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/>  <i>SIGNATURE</i>
REVIEWED BY EXECUTIVE DIRECTOR:	<input checked="" type="checkbox"/> 

ITEM FOR HRA CONSIDERATION:
Consideration of a resolution to acquire redevelopment property from the City of Richfield.

I. RECOMMENDED ACTION:
By Motion: Approve a resolution authorizing the acquisition of certain property within the City of Richfield.

II. EXECUTIVE SUMMARY

City staff presented a Memorandum (City Council Memo No. 28) to the City Council on April 23, 2015 followed by a worksession on April 28, 2015 at which it was advised that the City transfer properties held for the purpose of redevelopment to the Richfield Housing and Redevelopment Authority (HRA).

The reasons for this advice are because State Statutes have established a more streamlined process for HRAs to buy and sell land for redevelopment purposes. HRA legal counsel provided the City Council with further information on the HRA's roles and abilities related to the ownership, sale and leasing of publicly owned land.

For these reasons, and based on the advice of HRA legal counsel, the City conveyed 38 properties it owned for redevelopment to the Richfield HRA in

December 2015 and February 2016. The HRA authorized the acquisition of these properties by resolution in November 2015 and February 2016.

At that time, however, the properties at 6600 17th Avenue and 6601 16th Avenue were inadvertently omitted.

The City Council held a first reading of an ordinance authorizing the conveyance of these properties owned by the City of Richfield to the Richfield HRA on November 15, 2016. The second reading of this ordinance is scheduled for December 13, 2016.

III. BASIS OF RECOMMENDATION

A. BACKGROUND

- Staff provided City Council members with a memo (Council Memorandum No. 28) on April 23, 2015 in which this action was recommended.
- At its worksession on April 28, 2015 City Council members discussed this topic and directed staff to draft an ordinance for formal consideration.

B. POLICY

- State Statutes prescribe a process allowing a City's HRA to purchase and sell properties for redevelopment purposes.

C. CRITICAL TIMING ISSUES

- None

D. FINANCIAL

- The conveyance of the properties would result in a one-time expenditure (in the book value of the properties) to City accounts and commensurate revenue to HRA accounts. This transaction would be reflected in the 2016 financial reports for both the City and HRA.

E. LEGAL

- HRA legal counsel has advised this action and drafted the attached resolution.

IV. ALTERNATIVE RECOMMENDATION(S)

- None

V. ATTACHMENTS

- Resolution

VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- N/A

HRA RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN
PROPERTY WITHIN THE CITY OF RICHFIELD**

WHEREAS, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (“the HRA”) desires to obtain certain real property as described in the attached Exhibit A (“the Properties”) currently owned by the City of Richfield, pursuant to and in furtherance of its redevelopment efforts;

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

WHEREAS, the HRA has determined that acquisition of said property is in furtherance of its redevelopment purposes.

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

1. The conveyance of the Property by the City to the HRA is hereby approved.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota on this 21st day of November, 2016.

Mary B. Supple, Chair

ATTEST:

Doris Rubenstein, Secretary

EXHIBIT A

City of Richfield properties to be conveyed to Richfield HRA

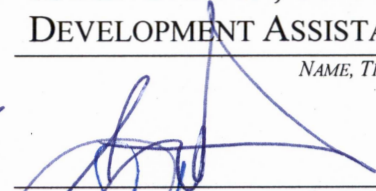
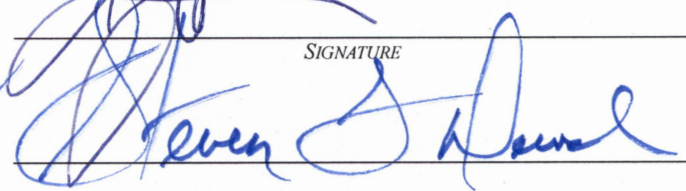
Lot 001, Block 001, "Cedar-Sunrise Addition", Hennepin County, Minnesota - 6600-17th Avenue

Lot 016, Block 001, "Cedar-Sunrise Addition", Hennepin County, Minnesota – 6601 16th Avenue



STAFF REPORT

HOUSING AND REDEVELOPMENT AUTHORITY MEETING NOVEMBER 21, 2016

REPORT PREPARED BY:	KAREN BARTON, COMMUNITY DEVELOPMENT ASSISTANT DIRECTOR <i>NAME, TITLE</i>
REPORT PRESENTER:	KAREN BARTON, COMMUNITY DEVELOPMENT ASSISTANT DIRECTOR <i>NAME, TITLE</i>
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/>  <i>SIGNATURE</i>
REVIEWED BY EXECUTIVE DIRECTOR:	<input checked="" type="checkbox"/> 

ITEM FOR HRA CONSIDERATION:

Consideration of an amendment to the Contract for Private Development between the Richfield Housing and Redevelopment Authority and Mesaba Capital Development, LLC for the development of the former City Garage property at 211 West 76th Street/7644 Pillsbury Avenue.

I. RECOMMENDED ACTION:
By Motion: Approve the resolution approving the First Amendment to the Contract for Private Development with Mesaba Capital Development, LLC.

II. EXECUTIVE SUMMARY

On February 16, 2016 the Richfield Housing and Redevelopment Authority (HRA) and Mesaba Capital Development, LLC (Developer) entered into a Contract for Private Development (Agreement) for the development of the former City Garage property located at 211 W. 76th Street/7644 Pillsbury Avenue.

The Agreement set forth the terms of the sale of the property, specifying the closing to occur on or before August 31, 2016 and commencement of construction to begin by November 1, 2016. Due to a delay in approvals by the Minnesota Pollution

Control Agency (MPCA), the Developer requested the closing be extended to October 31, 2016, as was permitted under the terms of the Agreement, provided certain provisions were met by the Developer.

Unfortunately, the delay in the MPCA approvals subsequently resulted in a delay of financing approvals, which prevented the Developer from closing on the property by October 31, 2016. The Developer is therefore requesting an extension of the closing to occur on or before March 31, 2017, with commencement of construction to begin no later than June 30, 2017.

Additionally, the Developer is proposing to enter into an agreement with Avinity for the development of the property. Avinity currently owns and operates Mainstreet Village Senior Housing at 76th Street and Lyndale Avenue. The Agreement between the HRA and Mesaba would be amended to allow for transfer of the development property and the minimum improvements to Avinity or any affiliate of Avinity so long as the HRA, the Developer, and Avinity enter into a written assignment and assumption agreement whereby Avinity is bound by all the Developer's obligations under the original Agreement.

III. BASIS OF RECOMMENDATION

A. BACKGROUND

- The Developer is proposing to construct a multifamily housing development with 88 units designed for seniors, including approximately 60 assisted living units and 28 memory care units on the former City Garage site.
- The HRA created the Tax Increment Financing District No. 2014-1 (City Garage Site) in order to facilitate redevelopment of certain property in the Redevelopment Project area and promote the development of affordable housing within the City.
- The Developer applied for and received land-use approvals on March 22, 2016.

B. POLICY

- In order for private redevelopment with public assistance to occur, a developer must have an Agreement with the HRA.
- 2008 Comprehensive Plan:
 - *Maintain a housing supply that meets changing needs while sustaining the integrity of existing neighborhoods;*
 - *Maintaining a diversity of housing types and price ranges.*

C. CRITICAL TIMING ISSUES

- Land use approvals require "substantial completion" of the improvements by March 22, 2017. Given that the closing may not occur until after that date, the Developer will need to apply for an extension of the land use approvals prior to that date.

- In the event that the closing has not taken place by March 31, 2017, and unless extended by mutual agreement of the parties, the Agreement will terminate and be of no further force and effect, and the parties will be relieved of any further obligations.
- All TIF eligible expenses for the project must be incurred by March 28, 2021.

D. FINANCIAL

- On the effective date of this First Amendment to Agreement, the Developer shall provide nonrefundable earnest money in the amount of \$40,000 to the Authority.
- The closing shall occur on or before March 31, 2017, at which time the Developer shall pay the Authority \$975,000, less the earnest money to be deposited with the Authority pursuant to Section 3.2(f) hereof. The Authority will be reimbursed for the remaining portion of the development property purchase price (\$244,000) with available Tax Increment generated by the development property.
- To reimburse the Developer for certain public redevelopment costs, the Authority shall issue and deliver and the Developer shall purchase the TIF Note in the principal amount of \$2,176,055.
- The Authority and the Developer agree that the consideration from the Developer for the purchase of the TIF Note shall consist of the Developer's payment of the public redevelopment costs in at least the principal amount of the TIF Note.
- The tax increment will be distributed "pay as you go", meaning that payments will only be made subject to sufficient taxes being collected on the property to meet the payment obligations.

E. LEGAL

- In the event that the closing has not taken place by March 31, 2017, and unless extended by mutual agreement of the parties, the Agreement will terminate and be of no further force and effect, and the parties will be relieved of any further obligations.
- The closing will not take place until the Developer has obtained all necessary land use approvals from the City, has met any requirements of the City regarding subdivision of the development property, and has executed the Declaration of Restrictive Covenants.
- The Agreement between the HRA and Mesaba would be amended to allow for transfer the development property and the minimum improvements to Avinity or any affiliate of Avinity so long as the HRA, the Developer, and Avinity enter into a written assignment and assumption agreement whereby Avinity is bound by all the Developer's obligations under the original Agreement.
- The Amendment was drafted by the HRA Attorney.

IV. ALTERNATIVE RECOMMENDATION(S)

- Do not approve the resolution approving the Amendment.

V. ATTACHMENTS

- Resolution
- First Amendment to Contract for Private Development

VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- Representatives of Mesaba Capital, LLC
- HRA Attorney

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

RESOLUTION NO. _____

**RESOLUTION APPROVING FIRST AMENDMENT TO CONTRACT FOR PRIVATE
DEVELOPMENT WITH MESABA CAPITAL DEVELOPMENT, LLC**

BE IT RESOLVED By the Board of Commissioners (the "Board") of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the "Authority") as follows:

WHEREAS, the Authority owns certain real property located within Tax Increment Financing District No. 2014-1 (City Garage Site) (the "Development Property"), which was created within the Richfield Redevelopment Project (the "Redevelopment Project") in the City of Richfield, Minnesota (the "City"); and

WHEREAS, Mesaba Capital Development, LLC, a Minnesota limited liability company (the "Developer"), has proposed to construct a multifamily housing development with 88 units designed for seniors, including approximately 60 assisted living units and 28 memory care units (the "Minimum Improvements"), on the Development Property; and

WHEREAS, in order to promote the redevelopment of land that is underused and underutilized in the City, the Authority has agreed to convey the Development Property to the Developer for the purpose of constructing the Minimum Improvements thereon; and

WHEREAS, the Authority and the Developer have previously entered into a Contract for Private Development, dated February 16, 2016 (the "Original Agreement"), in order to set forth the terms of the conveyance by the Authority of the Development Property to the Developer and the Developer's construction of the Minimum Improvements; and

WHEREAS, there has been presented before this Board a First Amendment to Contract for Private Development (the "First Amendment") proposed to be entered into between the Authority and the Developer, which will amend and supplement the Original Agreement to modify certain provisions of the Original Agreement, including but not limited to the provisions with respect to the conveyance of the Development Property and the transfer by the Developer of the Development Property; and

WHEREAS, the Board is satisfied that the terms thereof carry out the intentions of the parties and are necessary and appropriate.

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

1. The proposed First Amendment is hereby approved in all respects.
2. The Chair and Executive Director are hereby authorized to execute and deliver the First Amendment in substantially the form on file with the Authority, with such additions, deletions, and other changes as are approved by the Chair and Executive Director. The Chair and Executive Director are further directed to take all steps and do all things necessary to effectuate the provisions of the First Amendment.
3. The Executive Director is authorized to extend the deadline for the closing on the property to be conveyed by the Authority to the Developer by three months if the Developer has completed the

following actions: (i) submitted all paperwork necessary to the City to obtain all required building permits for the Minimum Improvements; and (ii) obtained a commitment from a lender to provide financing for the Minimum Improvements.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of November, 2016.

Mary B. Supple, Chair

ATTEST:

Doris Rubenstein, Secretary

FIRST AMENDMENT TO CONTRACT FOR PRIVATE DEVELOPMENT

THIS FIRST AMENDMENT TO CONTRACT FOR PRIVATE DEVELOPMENT, made as of the ____ day of _____, 2016 (the "First Amendment to Agreement"), is by and between 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"), and MESABA CAPITAL DEVELOPMENT, LLC, a Minnesota limited liability company (the "Developer").

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.001 to 469.047, as amended (the "HRA Act") and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Richfield ("City"); and

WHEREAS, the Authority has undertaken a program to promote redevelopment and development of land that is underused or underutilized within the City, and in this connection the Authority administers a redevelopment project known as the Richfield Redevelopment Project ("Redevelopment Project") pursuant to the HRA Act; and

WHEREAS, pursuant to the HRA Act, the Authority is authorized to acquire real property, or interests therein, and to undertake certain activities to facilitate the redevelopment of real property by private enterprise and promote the development of affordable housing within the City; and

WHEREAS, within the Redevelopment Project, the Authority has created the Tax Increment Financing District No. 2014-1 (City District Garage Site) ("TIF District") in order to facilitate redevelopment of certain property in the Redevelopment Project and promote the development of affordable housing within the City; and

WHEREAS, the Developer proposes to acquire certain property from the Authority (the "Development Property") within the TIF District and construct a multifamily housing development with 88 units designed for seniors, including approximately 60 assisted living units and 28 memory care units (the "Minimum Improvements"); and

WHEREAS, in order to achieve the objectives of the Redevelopment Plan for the Redevelopment Project and make the Minimum Improvements economically feasible for the Developer to construct, the Authority has agreed to convey the Development Property to the Developer and reimburse the Developer for a portion of the land acquisition costs and certain site improvement costs related to the Minimum Improvements; and

WHEREAS, the Authority and the Developer entered into a Contract for Private Development, dated February 16, 2016 (the "Original Agreement"), in order to set forth the terms of the conveyance by the Authority of the Development Property (as legally described in Exhibit A attached thereto) to the Developer and the Developer's construction of the Minimum Improvements; and

WHEREAS, the Authority and the Developer are entering into this First Amendment to Agreement, which amends and supplements the Original Agreement, to modify certain provisions of the Original Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I

Amendments

Section 1.1. Amendments to Section 3.2 of Original Agreement. Section 3.2 of the Original Agreement is hereby deleted and replaced with the following:

Section 3.2. Conveyance of Development Property.

(a) The Authority will convey the Development Property to the Developer via a quit claim deed. The Development Property will be conveyed "as-is" and "where-is". Within 30 days following execution of this Agreement, the Authority will provide the Developer with a commitment for title insurance from a title insurance company acceptable to Developer. The Developer will be responsible for reimbursing the Authority for the cost of preparation of the commitment for title insurance. The Developer shall pay for the cost of obtaining a policy of title insurance. Without limitation, the Developer is responsible for satisfying itself as to matters such as contamination, soils and soil stability, title and survey. The Authority shall have no obligation to cure any defect or other matter, but agrees to cooperate, at no cost or expense to it, in any efforts by Developer to achieve such a cure.

(b) On the date the Development Property is conveyed to the Developer (the "Closing"), the Authority will execute and deliver to the Developer the following, in form and content reasonably acceptable to the Developer:

- i. A quit claim deed conveying the Development Property to the Developer.
- ii. A non-foreign affidavit, properly executed, containing such information as is required by Internal Revenue Code section 1445(b)(2) and its regulations.
- iii. A standard form Seller's Affidavit.
- iv. A well certificate in the form required by law.
- v. Any affidavit and disclosures required by law pertaining to private sewage treatment systems.

(c) The Developer acknowledges that the Authority will be conveying the Development Property to the Developer for a purchase price of \$1,219,000 (the "Development Property Purchase Price"). The Closing shall occur on or before March 31, 2017, at which time the Developer shall pay the Authority \$975,000, less the earnest money to be deposited with the Authority pursuant to Section 3.2(f) hereof. The Authority will be reimbursed for the remaining portion of the Development Property Purchase Price (\$244,000) with Available Tax Increment generated by the Development Property, as more fully described in Section 3.4.

(d) The Closing will not take place until the Developer has obtained all necessary land use approvals from the City, has met any requirements of the City regarding subdivision of the Development Property, and has executed the Declaration of Restrictive Covenants set forth in EXHIBIT E.

(e) In the event that the Closing has not taken place by March 31, 2017, and unless extended by mutual agreement of the parties, this Agreement will terminate and be of no further force and effect, and the parties will be relieved of any further obligations hereunder.

(f) On the effective date of this First Amendment to Agreement, the Developer shall provide non-refundable earnest money in the amount of \$40,000 to the Authority. If the Closing does not occur, the Earnest Money will be forfeited by Buyer.

Section 1.2. Amendments to Section 3.3 of Original Agreement. Section 3.3 of the Original Agreement is hereby deleted and replaced with the following:

Section 3.3. Issuance of Pay-As-You-Go TIF Note. (a) To reimburse the Developer for certain Public Redevelopment Costs, the Authority shall issue and deliver and the Developer shall purchase the TIF Note in the principal amount of \$2,176,055 in substantially the form set forth in Schedule A of the Authorizing Resolution attached as EXHIBIT B. The Authority and the Developer agree that the consideration from the Developer for the purchase of the TIF Note shall consist of the Developer's payment of the Public Redevelopment Costs in at least the principal amount of the TIF Note.

The Authority shall deliver the TIF Note upon delivery by the Developer of an investment letter in substantially the form attached to this Agreement as EXHIBIT C, together with evidence reasonably satisfactory to the Authority that the Developer has paid the Public Redevelopment Costs in at least the principal amount of the TIF Note. The principal of and interest on the TIF Note shall be payable each Payment Date solely with Available Tax Increment.

Section 1.3. Amendment to Section 4.3 of Original Agreement. Section 4.3 of the Original Agreement is hereby amended as follows (deleted language is stricken, and new language is underlined):

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Developer will commence the construction of the Minimum Improvements by June 30, 2017, and substantially complete construction of the Minimum Improvements by August 31, 2018. All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in substantial conformity with the Construction Plans as submitted by the Developer and approved by the Authority. If the Closing is postponed, the Developer shall commence construction of the Minimum Improvements within sixty (60) days of the Closing.

The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Minimum Improvements.

Section 1.4. Amendment to Section 8.2 of Original Agreement. Section 8.2 of the Original Agreement is hereby amended to include the following paragraph at the end of Section 8.2:

Notwithstanding anything to the contrary in this Section 8.2, the Developer may transfer the Development Property and the Minimum Improvements to Avinity or any affiliate of Avinity so long as the Authority, the Developer, and Avinity enter into a written assignment and assumption agreement whereby Avinity is bound by all the Developer's obligations under the Original Agreement, as amended by this First Amendment to Agreement and all other subsequent amendments to the Original Agreement.

ARTICLE II

Miscellaneous

Section 2.1. Definitions. Any capitalized terms used herein but not otherwise defined shall have the meanings assigned to such terms in the Original Agreement. Any references to the “Agreement” or “this Agreement” in the Original Agreement shall refer to the Original Agreement, as amended and supplemented by this First Amendment to Agreement and as may be further amended and supplemented.

Section 2.2. Effective Date. The amendments and supplements made to the Original Agreement, as amended and supplemented by this First Amendment to Agreement, shall be effective as of November 22, 2016.

Section 2.3. Additional Deposit for Administrative Costs. On the Effective Date of this First Amendment to Agreement, the Developer has deposited an additional \$10,000 with the Authority to reimburse the Authority for Administrative Costs pursuant to the provisions of Section 3.6 of the Original Agreement.

Section 2.4. Confirmation of Agreement. Except as specifically amended by this First Amendment to Agreement, the Original Agreement is hereby ratified and confirmed, and remains in full force and effect.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Authority has caused this First Amendment to Contract for Private Development to be duly executed in its name and behalf and its seal to be hereunto duly affixed and the Developer has caused this First Amendment to Contract for Private Development to be duly executed in its name and behalf as of the date first above written.

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

By _____
Its Chair

(SEAL)

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 2016, 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 _____, 2016, 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

This document was drafted by:
KENNEDY & GRAVEN, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: 612-337-9300

MESABA CAPITAL DEVELOPMENT, LLC

By _____
Its _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____, 2016, by
_____, the _____ of the Developer, on behalf of the Developer.

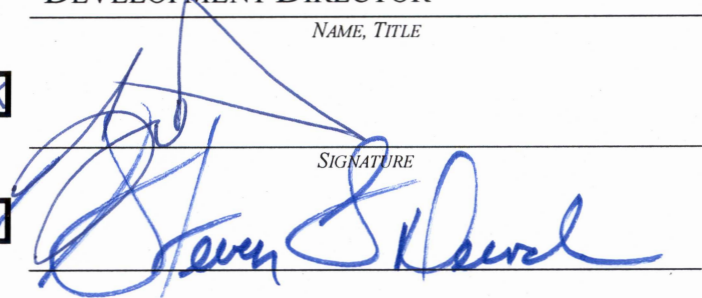

Notary Public

(Signature Page of Developer to the First Amendment to Contract for Private Development)



STAFF REPORT

HOUSING AND REDEVELOPMENT AUTHORITY MEETING NOVEMBER 21, 2016

REPORT PREPARED BY:	KATE AITCHISON/JULIE URBAN, HOUSING SPECIALISTS <small>NAME, TITLE</small>
REPORT PRESENTER:	KAREN BARTON, ASSISTANT COMMUNITY DEVELOPMENT DIRECTOR <small>NAME, TITLE</small>
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/>  <small>SIGNATURE</small>
REVIEWED BY EXECUTIVE DIRECTOR:	<input checked="" type="checkbox"/> 

ITEM FOR HRA CONSIDERATION:
Consideration of the terms of a Community Development Block Grant Homebuyer Assistance Secondary Mortgage relating to the purchase of a home recently remodeled under the New Home Program at 7305 17th Avenue, pending final attorney approval.

I. RECOMMENDED ACTION:
By Motion: Approve the terms of a Community Development Block Grant Homebuyer Assistance Secondary Mortgage for the purchase of 7305 17th Avenue, pending final attorney approval.

II. EXECUTIVE SUMMARY

In the spring of 2016 the Greater Metropolitan Housing Corporation (GMHC) purchased a distressed property at 7305 17th Avenue on behalf of the Richfield Housing and Redevelopment Authority (HRA). This home was purchased as part of the HRA's New Home Program, utilizing Community Development Block Grant (CDBG) funds, with the intention of renovating it and selling it to a qualified buyer.

CDBG funding requires the property be sold to a household earning 80% of the Area Median Income (AMI), or less. In an effort to recoup a portion of the HRA's investment into the property, while still maintaining affordability, staff is

recommending the buyer be required to enter into a second mortgage with the HRA for an amount not to exceed \$15,000. This 0% interest, deferred loan will be due and payable upon the sale of the home, or at the end of 30 years from the date of the mortgage, whichever occurs first. The funds will assist in making the home more affordable to the buyer (by allowing for a larger down payment), but will be required to be paid back and returned to the City upon resale to be recycled back into CDBG programming areas. A home-buyer education course may also be required as part of the secondary mortgage financing.

III. BASIS OF RECOMMENDATION

A. BACKGROUND

- The property was purchased by GMHC on behalf of the Richfield HRA in May 2016 for \$150,500. The property is listed at \$214,900. The house is required to be sold to a household earning 80% AMI or less.
- CDBG funds from the 2016 allocation have been reserved to cover the 'gap' between the funds required to purchase and renovate the home, and the resulting sale proceeds.
- Attempts were made to sell the property to the Western Hennepin Affordable Housing Land Trust, but the timing of the acquisition was unfeasible for the non-profit.

B. POLICY

- The goal of the New Home program is to develop new housing opportunities for low and moderate income families, elderly, and disabled persons.
- In 2016 CDBG funds were allocated for the acquisition and rehabilitation of distressed properties in Richfield, for future sale to income-qualified buyers. These funds will be utilized to cover the development 'gap' of this project, as well as the secondary financing.
- The secondary mortgage assists in relieving some of the cost-burden through a more robust down payment, and provides for funding to be recycled back into the program for future projects.
- Upon sale of the home or if the home ceases to be the primary residence of the buyer, the loan will be due and payable in full.

C. CRITICAL TIMING ISSUES

- The renovation of the home is complete, and GMHC is preparing to list the home on MLS.

D. FINANCIAL

- As part of the development process for this undertaking, CDBG funds from the 2016 allocation have been reserved to cover GMHC's gap between the funds required to purchase and renovate the home and the resulting sale proceeds.
 - The home will be listed on the MLS for \$214,900.
 - Development costs totaled approximately \$280,000, including acquisition.

- The development gap is estimated to be approximately \$65,000.
- In order to assist income-eligible buyers in qualifying to purchase the home, a secondary mortgage of up to \$15,000 will be provided by the Richfield HRA, using available CDBG funding. The secondary mortgage will be used towards down payment and closing cost expenses. The borrower may not receive any portion of these funds as cash.
- To qualify, the borrower must have a Housing Ratio (principal, interest, taxes, mortgage insurance, and homeowner's insurance to gross household income) of, at maximum 33%, but not lower than 28%. The secondary mortgage will help borrowers meet that requirement.

E. LEGAL

- HRA's legal representative has reviewed the program guidelines, mortgage and note.
- The CDBG Homebuyer Assistance funds will be secured by a Promissory Note and Mortgage with the Richfield HRA, separate from other funding.
- Hennepin County, who administers Richfield's CDBG funding, has approved the usage of these funds for homebuyer assistance.

IV. ALTERNATIVE RECOMMENDATION(S)

- None

V. ATTACHMENTS

- Draft Richfield CDBG Homebuyer Assistance Guidelines
- Draft Mortgage
- Draft Promissory Note

VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- None

CDBG Homebuyer Assistance Guidelines

1. Program Summary:

The CDBG Homebuyer Assistance provides up to \$15,000 down payment and closing cost assistance.

2. Loan terms:

- a) Zero percent interest.
- b) No monthly payment.
- c) The loan is due and payable upon any of the following occurring, whichever comes first:
 - i. Home is sold;
 - ii. Ownership of home is transferred;
 - iii. Home is not the Borrower's principal place of residency within sixty (60) days of closing;
 - iv. Home is not maintained as the Borrower's principal place of residence; and
 - v. 30 years from the date of the mortgage.
- d) These loans are considered a "Special Mortgage" under the terms of Minn. Stat. Section 58.13(23). If the Borrower chooses to refinance their primary loan and pay off this mortgage, the Borrower will be required to provide proof of the completion of the counseling described in Minn. Stat. Section 58.13(23) prior to receiving a satisfaction of mortgage.
- e) Greater Metropolitan Housing Corporation ("GMHC") administers the loan program, but the Mortgagee is the City of Richfield.

3. Loan amount:

- a) The Borrower may receive up to \$14,999 to help pay closing costs and/or a down payment to help them qualify for their primary mortgage. The Borrower may receive all the money necessary to help them qualify for their primary mortgage loan and, whenever possible, to bring the housing ratio (principal, interest, taxes, mortgage insurance, and homeowner's insurance compared to income) to 30%, but not lower than 28%. Borrowers who have a housing ratio in excess of 33% must show mitigating factors in order to qualify (e.g. _____).

4. Use of funds

The funds may be used to for a down payment and normal and usual closing costs. The Borrower may not receive any portion of these funds as cash.

5. Eligible Properties:

Properties built or renovated with CDBG funds from the City of Richfield.

6. Borrower Eligibility:

- a) Must be a US Citizen or be a legal US Resident (have legal immigration status).
- b) The Borrower's household income must not exceed 80% of the metropolitan area median income.

- c) The Borrower must have applied and qualify for and receive a traditional (prime or A-rated) fixed-rate first mortgage loan.
- d) Prior to approval of the assistance, income eligibility will be determined by GMHC using the definition of income found at 24 CFR Part 5.609. Household income refers to the annual projected income from the date of the Certification Application, from all sources and before taxes and withholding of all adults that will live in the housing unit. Gross income includes, but is not limited to salary, commissions, bonuses, earnings from full or part-time employment, interest, dividends, tips, gains on sale of securities, annuities, pension, royalties, veterans administration compensation, net rental income from all sources, alimony, child support, public assistance, sick pay, social security benefits, income from assets, business activity or investments, unemployment, estate or trust income and miscellaneous income. (Note: Only \$480 of the income from full-time adult students is counted.)

The income from any of the following assets with a value over \$5,000 will be computed as the greater of 1) actual interest income; and 2) imputed income based on the percentage rate established by HUD from time to time (currently six tenths percent (.06%)):

- Cash in Checking and Savings Accounts;
 - Certificates of Deposit;
 - Retirement accounts such as IRAs, 401Ks and Deferred Compensation the Borrower has access to;
 - Investment accounts, i.e., securities, stocks/bonds and U.S. Savings Bonds;
 - Life Insurance death benefits.
 - Redemption value of Life Insurance Policies; and/or
 - The current market value of all interests in real estate minus the current loan amount and cost to sell the property.
- e) The Borrower does not have to be a first time buyer.
 - f) The CDBG assisted property must be the primary residence of the Borrower.
 - g) The Borrower must occupy the property within 60 days following the closing, or in the case of a property that will be rehabilitated after closing, within 60 days following completion of construction.
 - h) The Borrower must contribute a minimum of \$1,000 of his/her/their own funds as down payment on the property.
 - i) The Borrower must have a housing ratio (principal, interest, taxes, mortgage insurance, and homeowner's insurance compared to income) of 33% or less after all assistance has

been applied. Borrowers who have a housing ratio in excess of 33% must show mitigating factors in order to qualify for a loan (e.g. _____).

- j) The Borrower may have a cosigner that does not occupy the property, however, the cosigner must sign an affidavit attesting that they will not reside at the property.

7. Homeownership Counseling:

First time home buyers must complete homeownership counseling through the Home Stretch counseling program sponsored by the Minnesota Home Ownership Center (telephone 651-659-9336 or online at www.hocmn.org) or a comparable approved counseling program prior to closing of the loan.

8. Combining funds:

- a) Eligible primary financing:
 - i. The loan may be offered in connection with any fixed-rate FHA, VA, Fannie Mae, or Freddie Mac insured or uninsured loan product that is generally considered in the lending industry to be a "prime" or "A" lending product.
 - ii. This loan may not be used with sub-prime lending products.
- b) CDBG Homebuyer Assistance loan funds may be combined with other assistance programs to provide greater opportunity for the Borrower to secure the purchase of a home.

9. Loan security

- a) The CDBG Homebuyer Assistance loan funds will be secured by a Promissory Note and Mortgage.
- b) The loan may be secured in a subordinate lien position behind other program funds.
- c) Title insurance is required.

10. Catastrophic Language

In the event the Mortgage holder and the servicer, in their sole and absolute discretion, after a loss mitigation analysis, find that a catastrophic event, including but not limited to Borrower's death or extended illness, or the extended illness of a close family member who depends primarily on the Borrower for support, has occurred which substantially and permanently impairs their ability to repay the loan and requires them to sell the Property for an amount less than the existing balance on the Promissory Note and Mortgage, the portion of the loan secured by the Promissory Note and Mortgage that cannot be satisfied from the proceeds of such sale shall be released.

**MORTGAGE (NO INTEREST)
FIRST TIME HOMEBUYER PROGRAM**

(THIS MORTGAGE IS EXEMPT FROM THE PAYMENT OF MORTGAGE REGISTRATION TAX UNDER MINN. STAT. § 287.04(F) IN THAT THE MORTGAGE RELATES TO A LOAN MADE UNDER A LOW AND MODERATE INCOME HOUSING PROGRAM BY A LOCAL GOVERNMENT AGENCY.)

THIS MORTGAGE is made this day of between the Mortgagor, , a (“Borrower”), and the Mortgagee, THE CITY OF RICHFIELD, a Minnesota municipal corporation, whose address is 6700 Portland Avenue, Richfield, Minnesota 55423 (“City”).

WHEREAS, Borrower is indebted to City in the principal sum of and 00/100 Dollars (\$), which indebtedness is evidenced by Borrower's promissory note dated (“Note”), a copy of which is attached as Exhibit A, with the balance of indebtedness, if not sooner paid pursuant to the terms of the attached Note, due and payable on (the “Maturity Date”). All of the terms, conditions, and agreements of the Promissory Note are hereby made a part of this instrument to the same extent and with the same force and effect as if fully set forth herein.

TO SECURE to City the repayment of the indebtedness evidenced by the Note and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby grant and convey to City, forever, with power of sale, the real property located in the County of Hennepin, State of Minnesota, legally described on the attached Exhibit B, which has the address , Richfield, Minnesota (the “Property Address”);

TOGETHER with all the buildings, improvements, fixtures and equipment now or hereafter attached to the property including, but not limited to, all heating, air conditioning, ventilation, plumbing, cooling, electrical and lighting fixtures and equipment, all landscaping, all exterior and interior improvements, all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights, profits, water, water rights, and water stock, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage, and all of the foregoing, together with said property are herein collectively referred to as the “Property”.

Borrower covenants that Borrower is lawfully seized of the Property and has the right to grant and convey the same; that the Property is free from all encumbrances, except for a first mortgage in favor of , its successors and assigns; and that the Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to declarations, easements or restrictions of record,

if any. Borrower represents that all statements made in any certificate or other statement given by Borrower to obtain the loan secured by this Mortgage are true and correct.

For and in consideration of the terms herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Borrower and City covenant and agree as follows:

1. Payment of Principal. Borrower shall promptly pay when due the principal and interest of the indebtedness evidenced by the Note.

2. Charges; Liens. Borrower shall pay all taxes and assessments now due or that may hereafter become liens against the Property before penalty attaches thereto.

3. Hazard Insurance. Borrower shall keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, hazards within the term "extended coverage," vandalism, malicious mischief, and other hazards as the City may require and in at least the amount of the replacement cost at all times while any amount remains unpaid under this Mortgage and any prior liens.

Each insurance policy shall contain a loss payable clause in favor of the City affording all rights and privileges customarily provided under the so-called standard mortgage clause. In the event of damage to the Property by fire or other casualty, Borrower shall promptly give notice of such damage to City and the insurance company. The insurance shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to City. The insurance policies shall provide for not less than 30 days written notice to City before cancellation, non-renewal, termination, or change in coverage, and Borrower shall deliver to City a duplicate original or certificate of such insurance policies.

Unless City and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration of the property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to City within 30 days from the date notice is mailed by City to Borrower that the insurance carrier offers to settle a claim for insurance benefits, City is authorized to collect and apply the insurance proceeds at City's option either to restoration or repair of the Property or to the sums secured by this Mortgage. However, this mortgage is subordinate to the first mortgage.

4. Preservation and Maintenance of Property. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property. If this Mortgage encumbers a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration of covenants creating or governing the condominium or planned unit development, the bylaws and regulations of the condominium or planned unit development, and constituent documents. If a condominium or planned unit development rider is executed by Borrower and recorded together with this Mortgage, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider were a part hereof.

5. Protection of City Security. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects City's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then City at City's option, upon notice to

Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect City's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by City pursuant to this paragraph, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and City agree to other terms of payment, such amounts shall be payable upon notice from City to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. Nothing contained in this paragraph shall require City to incur any expense or take any action hereunder.

6. Inspection. City may make or cause to be made reasonable entries upon and inspections of the Property, provided that City shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to City's interest in the Property.

7. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to City. However, this mortgage is subordinate to the rights of the first mortgage.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and City otherwise agree in writing, the condemnation proceeds shall be applied to the sums secured by this Mortgage in proportion to the ratio that the secured sums bear to the fair market value of the Property immediately before the taking.

8. Accelerations; Remedies. Unless the Maturity Date has occurred, upon Borrower's breach of any covenant, representation or agreement of Borrower in this Mortgage or the Note, including the covenants to pay when due any sums secured by this Mortgage, Borrower confers upon the City the option of declaring the unpaid balance of the Note, together with all sums advanced hereunder, and the interest accrued thereon, if any, immediately due and payable without notice, and hereby authorizes and empowers City to foreclose this Mortgage by judicial proceedings or to sell the Property at public auction and convey the same to the purchaser in fee simple in accordance with the statute, and out of the monies arising from such sale to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorney's fee permitted by law, which costs, charges and fees Borrower agrees to pay.

City agrees that, if it intends to foreclose, City will give Borrower written notice of any default under the terms and conditions of the Note or this Mortgage, by sending the notice to Borrower as provided in paragraph 16 hereof. The notice of default shall contain the following provisions:

- A. the nature of the default by Borrower;
- B. the action required to cure the default;
- C. a date, not less than 30 days from the date the notice is mailed to Borrower, by which such default must be cured;
- D. that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property;
- E. that Borrower has the right to reinstate this Mortgage after acceleration; and
- F. that Borrower has the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale.

9. Assignment of Rents; Appointment of Receiver. As additional security hereunder, Borrower hereby assigns to City the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 8 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 8 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following sale of the Property, City shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents and income from the Property collected by the receiver shall be applied first to the costs of management of the Property and collection of rents, including, but not limited to the receiver's fees, premiums on the receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

10. Satisfaction/Release. Upon payment of all sums secured by this Mortgage, City shall provide Borrower with a satisfaction/release of Mortgage without charge to Borrower. Borrower shall pay all recording costs.

11. Subject to First Mortgage. This Mortgage is subject and subordinate to a first mortgage of even date herewith given by _____ to _____.

12. Borrower Not Released. Extension of the time for payment of the sums secured by this Mortgage granted by City shall not operate to release, in any manner, the liability of original Borrower and Borrower's successors in interest.

13. Forbearance Not a Waiver. Any forbearance by City in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by City shall not be a waiver of City's right to accelerate the indebtedness secured by this Mortgage.

14. Remedies Cumulative. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

15. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of City and Borrower. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

16. Notice. Except for any notice required under applicable law to be given in another manner, notices shall be given by mailing the notice by certified mail, return receipt requested, to: (a) Borrower at the Property Address or such other address as Borrower may designate by notice to City; and (b) City at the address stated herein or such other address as City may designate by notice to Borrower. Notice is deemed to have been given upon mailing.

17. Governing Law; Severability. This Mortgage is governed by Minnesota law. In the event that any provision or clause of this Mortgage or the Note conflicts with Minnesota law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without

the conflicting provisions, and to this extent the provisions of the Mortgage and the Note are declared to be severable.

18. Nonrecourse. The obligation of the Borrower is nonrecourse, and the City may look for payment of the Note solely to the Property.

19. Death of Borrower. This lien may pass to Borrower's heirs provided they continue to occupy the property as their principal place of residence.

20. Borrower's Compliance with Federal Regulations. Borrower agrees to comply with all U.S. Department of Housing and Urban Development regulations that govern the City's First Time Homebuyer Program, including but not limited to Community Development Block Grant regulations and Lead Based Paint Regulations.

IN WITNESS WHEREOF, BORROWER HAS EXECUTED THIS MORTGAGE ON THE DAY AND YEAR FIRST ABOVE-WRITTEN.

, Borrower

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ___ day of _____, _____
by _____, a _____.

Notary Public

This instrument was drafted by:
Housing & Redevelopment Authority in and for the City of Richfield, Minnesota
6700 Portland Avenue
Richfield, MN 55423

[IF PROPERTY CO-OWNED BY SOMEONE OTHER THAN SPOUSE, REQUIRE CO-OWNER TO ACKNOWLEDGE THE MORTGAGE]

DRAFT

PROMISSORY NOTE

\$ _____

Richfield, Minnesota
_____, ____

FOR VALUE RECEIVED, the undersigned _____, _____ a (the "Borrower", whether one or more) jointly and severally agree(s) to pay to the order of the CITY OF RICHFIELD (the "Holder" or "City"), at 6700 Portland Avenue, Richfield, Minnesota 55423, or at such other place as the Holder, or its assigns, may from time to time designate, the principal sum of _____ Dollars (\$ _____). No interest shall accrue on the unpaid principal balance. The principal balance shall be payable in coin or currency which at the time of payment is legal tender for the payment of public or private debts in the United States of America. This Note evidences a loan, which includes all extensions, renewals, modifications and substitutions ("Loan").

1. SECURED BY MORTGAGE. This Note is secured by a mortgage (the "City Mortgage") on certain real property situated in Hennepin County, Minnesota (the "Property"). The Property is the Collateral for the repayment of the loan evidenced by this Note. All of the terms, conditions, and agreements of the City Mortgage are hereby made a part of this instrument to the same extent and with the same force and effect as if fully set forth herein.

2. MATURITY DATE; PREPAYMENT.

2.1. All unpaid principal and all other amounts due under this Note shall be due and payable in full on _____, _____, (the "Maturity Date") or upon the occurrence of an Event of Default (as defined below) unless extended in writing by the Holder.

2.2. Borrower has the option to prepay all or any part of this Note at any time, without penalty.

3. DEFAULT.

3.1. Borrower shall be in default upon the occurrence of any of the following events, circumstances or conditions ("Events of Default"):

A. Failure by any party obligated on this Note or the City Mortgage to make payment when due; or

B. A default or breach by Borrower or any co-signer, endorser, surety, or guarantor under any of the terms of this Note or the City Mortgage; or

C. When Borrower no longer uses the Property as Borrower's principal residence, or leases, sells, transfers, pledges, or conveys (voluntarily or by operation of law) all or any part of Borrower's interest in the Property. However, the following shall not constitute a default under this subsection:

i. a transfer of a portion of the Property in or under threat of eminent domain proceedings shall not be considered a sale under this paragraph unless it is a total taking in the sense that payment is made for the full value of the Property;

ii. transfer of the Property by foreclosure or deed-in-lieu of foreclosure or assignment of the City Mortgage to the Secretary of Housing and Urban Development;

or

D. The dissolution or insolvency of, the appointment of a receiver by or on behalf of, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against any individual Borrower, or any co-signer, endorser, surety or guarantor of this Note or any other obligations Borrower has with the Holder.

3.2 It is agreed that time is of the essence in performance of this Note and on or after the occurrence of an Event of Default, at the Holder's option, all or any part of the amount owing on this Note shall be immediately due and payable without notice or demand. The Holder may exercise all rights and remedies provided by law, equity, this Note and the City Mortgage. By choosing any remedy, the Holder does not waive its right to an immediate use of any other remedy if the Event of Default continues or occurs again. No delay or omission on the part of the Holder in exercising any right hereunder shall operate as a waiver of such right or of any other remedy under this Note. A waiver on any one occasion shall not be construed as a bar to or waiver of any such right or remedy on a future occasion.

4. NONRECOURSE. The obligation of the Borrower is nonrecourse, and the Holder may look for payment of this Note solely to the Property.

5. BORROWER'S AGREEMENTS.

5.1. Regarding this Note, to the extent not prohibited by law, Borrower and any other signers:

A. Waive protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of dishonor.

B. Consent to any renewals and extensions for payment on this Note, regardless of the number of such renewals or extensions.

C. Consent to the Holder's release of any borrower, endorser, guarantor, surety, accommodation maker or any other co-signer.

D. Consent to the release, substitution or impairment of any Collateral.

E. Consent that Borrower is authorized to modify the terms of this Note or any instrument securing, guaranteeing or relating to this Note.

F. Consent to any and all sales, repurchases and participations of this Note to any person in any amounts and waive notice of such sales, repurchases or participations of this Note.

5.2. Borrower promises to pay to the Holder, in addition to the amount due hereon, the reasonable costs and expenses (including attorney fees) incurred in enforcing or foreclosing this Note, the City Mortgage, or any of the related documents executed by Borrower therewith, and all such costs and expenses shall be secured by the City Mortgage.

6. GENERAL PROVISIONS

- A. **TIME IS OF THE ESSENCE.** Time is of the essence in Borrower's performance of all duties and obligations imposed by this Note.
- B. **NO WAIVER BY HOLDER.** The Holder's course of dealing, or forbearance from, or delay in, the exercise of any of the Holder's rights, remedies, privileges or right to insist upon Borrower's strict performance of any provisions contained in this Note, or other loan documents, shall not be construed as a waiver by the Holder, unless any such waiver is in writing and is signed by the Holder.
- C. **AMENDMENT.** The provisions contained in this Note may not be amended, except through a written amendment that is signed by Borrower and the Holder.
- D. **INTEGRATION CLAUSE.** This written Note and all documents executed concurrently herewith, represent the entire understanding between the parties as to the obligations and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.
- E. **FURTHER ASSURANCES.** Borrower agrees, upon the Holder's request and within the time the Holder specifies, to provide any information, and to execute, acknowledge, deliver and record or file such further instruments or documents as the Holder may require to secure this Note or confirm any lien.
- F. **GOVERNING LAW.** This Note shall be governed by the laws of the State of Minnesota, provided that such laws are not otherwise preempted by federal laws and regulations.
- G. **FORUM AND VENUE.** In the event of litigation pertaining to this Note, the forum, venue and place of jurisdiction shall be the State of Minnesota, unless otherwise designated in writing by the Holder or otherwise required by law.
- H. **SUCCESSORS.** This Note shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the parties; provided however, that Borrower may not assign, transfer or delegate any of the rights or obligations under this Note.
- I. **NUMBER AND GENDER.** Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.
- J. **DEFINITIONS.** The terms used in this Note, if not defined herein, shall have their meanings as defined in the other documents executed contemporaneously or in conjunction with this Note.
- K. **PARAGRAPH HEADINGS.** The headings at the beginning of any paragraph, or any subparagraph, in this Note are for convenience only and shall not be dispositive in interpreting or construing this Note.
- L. **IF HELD UNENFORCEABLE.** If any provision of this Note shall be held unenforceable or void, then such provision to the extent not otherwise limited by law shall be severable from the remaining provisions and shall in no way affect the enforceability of the remaining provisions nor the validity of this Note.
- M. **NOTICE.** All notices under this Note must be in writing. Any notice given by the Holder to Borrower will be effective upon personal delivery or 24 hours after mailing by first class

United States mail, postage prepaid, addressed to Borrower at the address indicated on page one of this Note. Such address may be changed by written notice to the other party.

7. RECEIPT OF COPY. Borrower acknowledges that Borrower has read and received a copy of this Note by its signature below.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed as of the day and year first above written.

, Borrower

[IF BORROWER HAS SPOUSE, HAVE SPOUSE SIGN PROMISSORY NOTE TOO]

Exhibit B

Legal Description of the Property:

Property Identification:

Mailing Address:

Purchased by on .

DRAFT