I. Call to Order

II. Roll Call

III. Pledge of Allegiance

IV. Approval of Meeting Agenda

V. Community Comment

During "Community Comment," the Edina Housing and Redevelopment Authority (HRA) will invite residents to share new issues or concerns that haven't been considered in the past 30 days by the HRA or which aren't slated for future consideration. Individuals must limit their comments to three minutes. The Chair may limit the number of speakers on the same issue in the interest of time and topic. Generally speaking, items that are elsewhere on today's agenda may not be addressed during Community Comment. Individuals should not expect the Chair or Commissioners to respond to their comments today. Instead the Commissioners might refer the matter to staff for consideration at a future meeting.

VI. Adoption of Consent Agenda

All agenda items listed on the consent agenda are considered routine and will be enacted by one motion. There will be no separate discussion of such items unless requested to be removed from the Consent Agenda by a Commissioner of the HRA. In such cases the item will be removed from the Consent Agenda and considered immediately following the adoption of the Consent Agenda. (Favorable rollcall vote of majority of Commissioners present to approve.)

A. Minutes: Draft Minutes of Regular Meeting Jan. 16, 2020

VII. Reports/Recommendations: (Favorable vote of majority of Commissioners present to approve except where noted)

A. Approving Loan Agreement with Edina Housing Foundation for the Purchase of 4040 W. 70th Street.

B. Authorization of Acquisition of 425 Jefferson Avenue South, Edina

VIII. Correspondence
A. Correspondence

IX. HRA Commissioners' Comments

X. Executive Director's Comments

XI. Adjournment

The Edina Housing and Redevelopment Authority wants all participants to be comfortable being part of the public process. If you need assistance in the way of hearing amplification, an interpreter, large-print documents or something else, please call 952-927-8861 72 hours in advance of the meeting.
Edina Housing and Redevelopment Authority
Established 1974

CITY OF EDINA
HOUSING & REDEVELOPMENT AUTHORITY
4801 West 50th Street
Edina, MN 55424
www.edinamn.gov

Date: February 13, 2020

To: Chair & Commissioners of the Edina HRA

From: Jennifer Garske, Executive Assistant

Subject: Minutes: Draft Minutes of Regular Meeting Jan. 16, 2020

Agenda Item #: VI.A.

Item Type: Minutes

Item Activity: Action

ACTION REQUESTED:
Approve the regular meeting minutes of Jan. 16, 2020

INTRODUCTION:
See attached meeting minutes of Jan. 16, 2020.

ATTACHMENTS:

HRA Meeting Minutes Jan. 16, 2020
MINUTES
OF THE REGULAR MEETING
OF THE EDINA HOUSING AND REDEVELOPMENT AUTHORITY
JANUARY 16, 2020
7:30 A.M.

I. CALL TO ORDER
Chair Hovland called the HRA meeting to order at 7:30 a.m.

II. ROLL CALL
Answering rollcall were Commissioners Anderson, Brindle, Fischer, Staunton and Chair Hovland.

Absent: None.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MEETING AGENDA – AS AMENDED
Motion made by Commissioner Fischer, seconded by Commissioner Brindle approving the meeting agenda as presented.

Ayes: Anderson, Brindle, Fischer, Staunton and Hovland
Motion carried.

V. COMMUNITY COMMENT
No one appeared.

VI. APPROVAL OF CONSENT AGENDA – AS PRESENTED
Motion made by Commissioner Fischer, seconded by Commissioner Anderson approving the consent agenda as presented.

VI.A. Minutes of the Special Meeting of December 3 and Regular Meeting of December 12, 2019

VI.B. Adopt Resolution No. 2020-01; Designating Official Newspaper

VI.C. Adopt Resolution No. 2020-02; Designating Official Depositories

VI.D. Approve License Agreement with United States Postal Service

Ayes: Anderson, Brindle, Fischer, Staunton and Hovland
Motion carried.

VII. REPORTS/RECOMMENDATIONS

VII.A. ELECTION OF OFFICERS – ADOPTED
Manager Neal explained the by-laws of the HRA provided for the designation of officers. The Chair presided at the meetings and executed all contracts, the Vice Chair served during times when the Chair was unavailable, and the Secretary co-signed all contracts. Motion made by Commissioner Staunton, seconded by Commissioner Brindle to appoint the slate of members as presented Chair Hovland, Vice Brindle, Secretary Fischer.

Ayes: Anderson, Brindle, Fischer, Staunton and Hovland
Motion carried.

VII.B. APPOINTMENT OF THE EXECUTIVE DIRECTOR OF THE HRA – APPOINTED
Mr. Neal explained the City Council previously designated the City Manager as Executive Director of the HRA and staff requested the Council affirm this designation with the requested motion. The proposed term of this appointment would be concurrent with employment as City Manager. Motion made by Commissioner Fischer, seconded by Commissioner Staunton to appoint City Manager Scott Neal as Executive Director of the HRA.

Ayes: Anderson, Brindle, Fischer, Staunton and Hovland
Motion carried.

VII.C. HRA 2020 MEETING DATES AND LOCATION – APPROVED
Mr. Neal explained HRA Bylaws required designation of a fixed place and determination of dates for regular meetings proposed to be held in the Council Chambers at City Hall from 7:30-9 a.m., with the February 27 and October 29 meetings held in the Community Room at City Hall. He outlined meeting dates for 2020 that included January 16 and 30; February 13 and 27; March 12 and 26; April 16 and 30; May 14 and 28; June 11 and 25; July 30 only; August 13 and 27; September 10 and 24; October 15 and 29; November 12 only; and December 10 only. Work Session meetings would be scheduled as needed with a meeting location of the Community Room, City Hall from 7:30-8:15 a.m. generally and noted the first meeting of the month would include the heaviest schedule with the intent to cancel the second scheduled meeting where possible, which would occur on January 30. Discussion was held regarding online meeting messages and upcoming attendance of Commissioners.

VII.D. YEAR IN REVIEW – RECEIVED

Executive Director Neal explained staff had prepared a Year-In-Review report to summarize the activities of the HRA in 2019. Economic Development Manager Neuendorf shared an update of projects that included over $560 million in private investments and consisted of 60 major commercial projects, 2,000 new housing units, 500 new hotel rooms, and 700,000 square feet of commercial space. He said while the City lost some old commercial space, much was replaced by private funding. He outlined the City’s nine active TIF districts that included four housing districts, three redevelopment districts, one renewal district and one economic development district at Southdale, then explained use of TIF throughout the City and highlighted projects such as The Lorient at 4500 France Ave., Nolan Mains and Market Street parking ramps.

The HRA asked if the affordable units were all in the east building of Nolan Mains then spoke about the underground heating parking use. Mr. Neuendorf said there were 10 affordable units in the building with eight one-bedroom units in the west side and two two-bedroom units in the east side, shared a ribbon cutting and grand opening would be held in the spring, and that this was a project to be proud of. He noted in December merchants reminded customers that spaces were open and available in the new ramp.

Mr. Neuendorf shared about Edina Flats on Valley View Road and new destinations at Southdale Center that included LifeTime Fitness, Rustic Bakery, UMI Sushi and Dry Bar. He spoke about 7200-7250 France Avenue and the preservation of affordable housing that included 70 units at 4100 76th Street West, 62 units at 7075 Amundson, and age-restricted units at 4040 West 70th Street, all 100 percent affordable. Mr. Neuendorf shared the projected use of Southdale 2 incremental property taxes to fund housing projects, explained the process of how pooled TIF monies were used to accomplish these projects, then commented on Pentagon Village. He shared a forecast of 2020 activities that included 5146 Eden Ave., Lorient, Nolan Mains, 44th and France, Highway 100 Business Park, 6600-6800 France, 7001 France, 66 West TIF, 7075-79 Amundson, 4100 W. 76th, 4040 W. 70th, and the land trust and noted The Millennium Phase I was currently under construction.

Affordable Housing Development Manager Hawkinson shared work continued to expand the land trust program and noted it was challenging with property values and taxes and the future long-term ability for residents to remain in their homes but were pleased to include at least one home per year in the program.

The HRA asked about redevelopment opportunities in the 44th and France commercial node and any specific sites in general. Mr. Neuendorf said staff had started the conversation for this node but no specific project or site had been identified but said the intersection and the old photo shop site should have a new tenant and the zoning classification was neighborhood node and the daycare proposal in this area was not moving forward.

The HRA spoke about the possibility of the Convention Grill being available for sale and consideration of the site for a future district parking then asked for an update on the 7200 France Ave. development that had not been able to secure financing and the ability to require providing area market study information for future projects prior to approval. Mr. Neuendorf said staff had no new updates on 7200 France and said while market study information was a condition of approval it had not been received yet but noted the applicant was already in default of the TIF contract. He spoke about the Maxfield housing needs report coming soon and if we required area market study it could help with housing needs analysis and result in better-informed decisions. Mr. Neuendorf said we could request studies but said we had no right to demand the studies unless the City was an investor.
The HRA referred to the 44th and France area project and clarified the public focus of getting involved in private development was to create shared parking that would help development and bring owners together for a common good. Mr. Neuendorf said the Small Area Plan identified 3-4 goals of economic vitality and had property owners work together where possible on shared parking which had the biggest impact and while staff hoped to start conversations there was no intent by the City to start any development.

The HRA thanked Mr. Neuendorf for the update and asked it to be shared on the City’s website.

VIII. CORRESPONDENCE – RECEIVED

IX. HRA COMMISSIONERS’ COMMENTS – RECEIVED

X. EXECUTIVE DIRECTOR’S COMMENTS

X.A. HRA BYLAWS – RECEIVED

Mr. Neal said the HRA Bylaws provided an opportunity for amendments on an annual basis and that staff offered no amendments at this time. The HRA requested the Bylaws be circulated to members for the future.

XI. ADJOURNMENT

Chair Hovland adjourned the HRA meeting at 8:22 a.m.

Respectfully submitted,

Scott Neal, Executive Director
To: Chair & Commissioners of the Edina HRA

From: Stephanie Hawkinson, Affordable Housing Development Manager

Subject: Approving Loan Agreement with Edina Housing Foundation for the Purchase of 4040 W. 70th Street.

ACTION REQUESTED:
Approve the Loan Agreement, Note and Mortgage ("Loan Documents") between the HRA and Edina Housing Foundation for $3,650,000.

INTRODUCTION:
On December 12, 2019 the HRA approved a Term Sheet and directed staff to prepare final Loan Documents for a $3,650,000 loan to the Edina Housing Foundation for the acquisition of 4040 W. 70th St.

Please see attached Staff Report and Loan Documents.

ATTACHMENTS:

- Staff Report
- Loan Agreement
- Note
- Mortgage
Date: February 13, 2020

To: Chair and Members of the Edina Housing & Redevelopment Authority

From: Stephanie Hawkinson, Affordable Housing Development Manager

Subject: Approving Loan Documents for the Purchase of 4040 W. 70th Street

Information / Background
On December 12, 2019 the Housing and Redevelopment Authority reviewed and approved a Term Sheet that identified the basic business points supporting the use of public funds for the acquisition by the Edina Housing Foundation (the “EHF”) of 4040 W. 70th St. (the “Site”) from American Collectors Association. The purpose of this acquisition is to provide the EHF with the opportunity to secure a developer for the construction of age-restricted, affordable housing estimated at 118 units. The Term Sheet was intended to serve as the general framework of a Loan Agreement to be executed between the EHF and Edina HRA.

City Council held a Public Hearing on December 17 regarding modifying the Southeast Edina Redevelopment Project Area and TIF Plan that would allow Southdale 2 TIF Pooled funds to be used for this acquisition. To this end, Resolution 2016-116 was approved.

Loan Agreement
Attorneys representing the HRA drafted the attached Loan Agreement, Promissory Note and Mortgage (“Loan Documents”) for the loan between the HRA and EHF. The Loan Documents adhere to the business terms outlined in the Term Sheet that was approved December 12, 2019. Highlights include the following:

- $3,650,000 loan secured by a non-recourse Mortgage. This is a reduction from the previously approved $3.8 million due to remediation that will be needed when the current building is demolished.
• 0 percent interest for two years with two one-year extensions. As allowed in the Purchase Agreement, the Seller had opted to extend the closing date until June 1, 2020, therefore the Maturity Date of the Loan Documents is June 1, 2022.
• EHF will report back to the HRA when a developer is selected and periodically thereafter with status reports.
• The HRA will pay closing costs.
• EHF indemnifies the HRA for any losses or damages to the site.
• If EHF defaults on their obligations under the Loan Documents, the HRA can terminate the Loan Documents and seek either a reimbursement of the loan or can take title of the site.
• EHF will maintain and manage the existing use until the residential development is ready to proceed.

Development Descriptions
In moving forward with this parcel, EHF will follow the same process they used when securing a developer for 7075-7079 Amundson. They will actively seek a developer through a competitive Request for Proposal process; review the proposals for developer experience, capacity and quality of work; and conduct interviews.

Compliance with Greater Southdale District Plan
The Greater Southdale District Plan supports the development of affordable age-restricted housing at 4040 W. 70th St. In addition to the site being zoned appropriately, the plan states the following:

The Greater Southdale District has an important role to play in accommodating expected housing growth. Already an area characterized by high density residential and mixed-use development, it is guided for additional infill development of a similar or higher intensity. The presence of jobs, retail and services, transit, and public amenities means this area contains the elements for a complete community, which can leverage these advantages for a convenient and accessible lifestyle for a range of household types.

Affordable housing is a necessary component of the housing mix. This is especially true given the demographic future of Greater Southdale. The expected growth in the senior population and the desire to attract young workers and families both point to the need to have more affordable housing, including options for those that might choose to move here from other parts of the community. (pg. 85)

Next Steps for 4040 W. 70th Street
• Spring 2020 – EHF will solicit development proposals.
• Fall 2020 – A developer is anticipated to be selected.
• 2021 – The HRA will review development proposal.
• 2021/2022 – The Planning Commission and City Council will review the land use plan for approval.
HRA Action

Staff recommends approval of the Loan Agreement, Promissory Note and Mortgage.
This Loan Agreement (this “Agreement”) is made and entered into effective , 2020, by and between the HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA, a public body corporate and politic organized and existing under the laws of the state of Minnesota (the “HRA” or “Lender”) and the EAST EDINA HOUSING FOUNDATION, a Minnesota nonprofit corporation dba EDINA HOUSING FOUNDATION (“Borrower”).

Recitals:

A. Pursuant to that certain Real Estate Purchase Agreement dated December 3, 2019 between ACA International Enterprises, Inc., a Minnesota corporation (“Seller”), as seller, and Borrower, as buyer (the “Purchase Agreement”), Borrower has the right to purchase from Seller that certain improved real property located at 4040 70th Street West, Edina, Minnesota, legally described on the attached Exhibit A, and generally consisting of an existing office building and surface parking (collectively, the “Property”).

B. Borrower is a nonprofit corporation whose purpose and mission is to promote the development of affordable housing in the City of Edina, Minnesota (the “City”) and to provide assistance to families and individuals looking for affordable housing options in the City.

C. Borrower’s acquisition of the Property is for the purpose of Borrower securing the Property for affordable housing purposes and collaborating with an affordable housing developer to develop an affordable housing project on the Property.

D. Pursuant to Minnesota Statutes, Sections 469.001 to 469.047 and Sections 469.174 to 469.1794, inclusive, as amended (the “TIF Act”), the City and the HRA previously established the “Southeast Edina Redevelopment Plan” for the “Southeast Edina Redevelopment Project Area”, in order to encourage the development and redevelopment of such designated area within the City, including increasing the availability of affordably-priced housing.

E. The Property is located in Southdale 2 Tax Increment Financing District (the “District”), an economic development tax increment financing district, located in the Southeast Edina Redevelopment Project Area.

F. Pursuant to HRA Resolution No. 2019-12 adopted on December 12, 2019 and City Council Resolution 2019-116 adopted on December 17, 2019 (collectively, the “Authorizing Resolutions”), the HRA and the City modified the Tax Increment Financing Plan for the District (as modified, the “TIF Plan”) to designate the Property to be acquired for affordable housing purposes using District funds, all pursuant to and in conformity with the Southeast Edina Redevelopment Plan, the TIF Act, Minnesota Session Laws 2014, Chapter 308, Article 6, Section 8, as amended by Minnesota Session Laws 2017, First Special Session Chapter 1, Article 6, Sections 11 and 16 and Minnesota Session Laws 2019, First Special Session Chapter 6, Article 7, Section 3 (the “Special TIF Housing Legislation”), and other applicable law.

G. In accordance with the Authorizing Resolutions and the TIF Plan, the HRA, as Lender, has agreed to loan, and Borrower has agreed to borrow, upon the terms and conditions of this Agreement, District funds in an aggregate amount of up to $3,650,000.00 to finance Borrower’s acquisition of the Property for affordable housing purposes.

NOW, THEREFORE, in consideration of the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the others as follows:
Article 1
Recitals; Exhibits, Definitions

1.1 Recitals. The foregoing Recitals are incorporated into this Agreement by this reference, including the definitions set forth therein.

1.2 Exhibits. All Exhibits referred to in and attached to this Agreement upon execution are incorporated in and form a part of this Agreement as if fully set forth herein.

1.3 Definitions. Unless the context otherwise specifies or requires, the following terms have the following definitions. Certain other capitalized terms are defined elsewhere in this Agreement. Unless otherwise defined herein or unless context requires otherwise, undefined terms used herein shall have the meanings set forth in the Mortgage. All defined terms may be used in the singular or the plural, as the context requires.

“Affordable Housing Developer” means a qualified developer of multi-family affordable housing projects selected by Borrower through a competitive process to develop the Project on the Property.

“Agreement” means this Agreement, as the same may be from time to time modified, amended or supplemented.

“AMI” means the Area Median Income for the Minneapolis-Saint Paul-Bloomington Metropolitan Statistical Area (including adjustments for household size), as determined by the U.S. Department of Housing and Urban Development (“HUD”).

“Loan” means the loan to be made, not to exceed the maximum loan amount of $3,650,000.00 and repayable in accordance with the terms set forth herein and in the Note.

“Loan Documents” means the Note, the Mortgage, this Agreement and such other documents as Lender may reasonably require to be given to Lender as security for the Loan.

“Mortgage” means the Mortgage, Assignment of Rents, Security Agreement, and Fixture Financing Statement of even date herewith to be executed and delivered by Borrower to Lender and mortgaging the Property to Lender as security for repayment of the Loan and Borrower’s performance of its obligations in the Loan Documents, to be substantially in the form attached to this Agreement as Exhibit B.

“Note” means the Promissory Note of even date herewith, in the amount of $3,650,000.00 made by Borrower and payable to the order of Lender to evidence of the Loan, to be substantially in the form attached to this Agreement as Exhibit C.

“Project” means the development and construction of an age-restricted affordable housing project on the Property which (a) is approved through the City’s regulatory process; (b) consists of approximately 118 housing units; (c) includes either (i) at least 20% of the housing units reserved for households who have a combined gross annual income which does not exceed 50% of AMI or (ii) at least 40% of the housing units reserved for households who have a combined gross annual income which does not exceed 60% of AMI; (d) such minimum affordability levels are legally required to remain for at least 25 years and the Property in encumbered by a restrictive covenant ensuring such affordability requirement will run with the Land; and (e) otherwise complies with the requirements of the TIF Plan, the TIF Act, Special TIF Housing Legislation, and the Greater Southdale District Plan.

“Property” means the real property described in the attached Exhibit A.
Article 2
Project

2.1 Project Requirement.

(a) Borrower acknowledges and agrees that Lender is entering into this Agreement and making the Loan for the sole purpose of facilitating the redevelopment of the Property with the Project. Therefore, Borrower shall use best efforts to identify an Affordable Housing Developer to develop the Project on the Property and to affirmatively assist such Affordable Housing Developer with obtaining governmental entitlements and approvals and to secure commitments for all sources of financing, in each case, necessary to construct the Project.

(b) Throughout the term of the Loan and not less frequently than quarterly, Borrower shall provide to Lender a written status update on Borrower’s progress in achieving the necessary steps for the development of the Project, which written status update shall include documentation mutually acceptable to Lender and Borrower substantiating the progress to date. Borrower shall provide Lender with such other information regarding the status of the Project as Lender may reasonably request from time to time. If at any time Borrower determines the planned project is not feasible, Borrower shall immediately notify Lender.

(c) Borrower shall not enter into any definitive agreement for the sale or transfer of the Property, except any such agreement with an Affordable Housing Developer in connection with the development of the Project.

Article 3
Loan

3.1 Loan. Subject to and upon the terms and conditions of this Agreement, Lender shall loan to Borrower, and Borrower shall borrow from Lender, the Loan. Borrower shall use the Loan proceeds to only to finance its acquisition of the Property.

3.2 Payments and Interest. Borrower shall repay the Loan together with interest thereon accruing at the rate of 0.00% per annum following the date of disbursement of the Loan (the “Disbursement Date”) and until the Loan is repaid in full. Borrower shall not be obligated to make any periodic payments of principal or interest on the Loan before the Maturity Date (defined below).

3.3 Maturity Date; Extensions.

(a) Subject to clause (b) below, the principal of the Loan, together with any accrued but unpaid interest shall be repaid no later than June 1, 2022 (“Maturity Date”).

(b) If, in Lender’s reasonable discretion, Borrower is making reasonable progress in achieving the necessary steps for the development of the Project in accordance with Article 2, but, on or before the Maturity Date, Borrower is not yet prepared to or authorized under this Agreement to transfer the Property to an Affordable Housing Developer for the construction of the Project, and provided there is not an uncured Event of Default under this Agreement, Borrower may request, and Lender will not unreasonably deny its consent to, an extension of the Maturity Date for (i) one year beginning immediately following the original Maturity Date (the “First Maturity Extension”) and (ii) provided Borrower requested and Lender approved the First Maturity Extension, an additional one-year extension of the Maturity Date beginning immediately following the end of the
First Maturity Extension (the “Second Maturity Extension”, and together with the First Maturity Extension, each a “Maturity Extension”).

(c) Borrower may request each Maturity Extension by written notice to Lender delivered at least 30 days prior to the Maturity Date then in effect time being of the essence. If Borrower does not request a Maturity Extension or if Lender denies Borrower’s request for a Maturity Extension, then the principal of the Loan, together with any accrued but unpaid interest shall be repaid no later than the Maturity Date then in effect. If Lender does not deny Borrower’s request for a Maturity Extension by the date that is 30 days after Lender’s receipt of Borrower’s request, then the requested Maturity Extension will be deemed granted by Lender.

3.4 Loan Security. Borrower shall execute (a) the Note and (b) to secure the Note, the Mortgage, to be recorded by Borrower with the Hennepin County Recorder and/or Registrar of Titles, as applicable. Borrower, for itself and for its successors and/or its assigns, further agrees and consents to the filing of such security instruments in the appropriate Hennepin County land records if necessary to protect the interest of Lender in the Property as described in this Agreement

3.5 Conditions Precedent to Advance. Lender’s commitment to advance any of the proceeds of the Loan shall be subject to the prior fulfillment by Borrower of the following conditions precedent:

(a) No Event of Default. There shall not be an uncured Event of Default under this Agreement.

(b) Agreement, Note, and Mortgage. Lender shall have received this Agreement, the Note, and the Mortgage, each duly executed and delivered by an authorized officer of Borrower.

(c) Title Insurance. Lender shall have received a fully paid mortgagee title insurance policy (or a binding commitment to issue title insurance policies, marked to Lender’s satisfaction to evidence the form of such policy to be delivered with respect to the Mortgage), in standard ALTA form, issued by a title insurance company satisfactory to Lender, in an amount equal to not less than the Loan, insuring the Mortgage to create a valid lien on the Property with no exceptions which Lender shall not have approved in writing and no survey exceptions.

(d) Environmental Reports. Lender shall have received a current Phase I Environmental Site Assessment, addressed to Lender, indicating that the Property is subject to no “recognized environmental conditions” (as that term is defined by the American Society for Testing and Materials) and is not in need of remedial action to avoid subjecting its owner to any present or future liability or contingent liability with respect to the release of toxic or hazardous wastes or substances, along with any other environmental studies or reports with respect to the Property reasonably requested by Lender.

(e) Insurance. Lender shall have received in form and substance satisfactory to Lender, (i) evidence that adequate insurance, including without limitation, casualty and liability insurance, required to be maintained under the Mortgage is in full force and effect, (ii) insurance certificates issued by Borrowers’ insurance broker containing such information regarding Borrowers’ casualty and liability insurance policies as Lender shall request and naming Lender as an additional insured, lenders loss payee and/or mortgagee, as applicable, and (iii) loss payable endorsements issued by Borrowers’ insurer naming Lender as loss payee and mortgagee, as applicable.
(f) **No Litigation.** No litigation, investigation, or proceeding before or by any arbitrator or governmental authority shall be continuing or threatened against Borrower or against the Property.

3.6 **Loan Closing Costs.** Lender shall pay all costs of closing the Loan, including, without limitation, the following:

(a) Recording fees for documents necessary for the Mortgage;

(b) All commitment, abstracting, examination, searches and title insurance costs including the premium for Lender’s policy of title insurance; and

(c) All costs incurred by Lender in connection with the closing of the Loan or necessary to close Loan, except that Lender will pay its own staff costs and attorneys’ fees in connection with the preparation and negotiation of the Loan Documents.

### Article 4
**Representations and Warranties**

4.1 **Lender Representations.** Lender hereby represents and warrants to Borrower as follows:

(a) Lender is a public body corporate and politic organized and existing under the laws of the state of Minnesota.

(b) Lender is duly authorized to enter into this Agreement and to carry out its covenants and agreements hereunder.

4.2 **Borrower Representations.** Borrower hereby represents and warrants to Lender as follows:

(a) Borrower is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the state of Minnesota.

(b) The execution and delivery of this Agreement, the other Loan Documents, and the consummation of the transactions contemplated hereby have been duly authorized by Borrower and no other proceedings on the part of Borrower are necessary to authorize its officers to perform this Agreement and the transactions contemplated hereby.

(c) The execution and performance of this Agreement by Borrower does not violate or result in a breach of or constitute a default under any judgment, order or decree to which Borrower may be subject, nor does such execution or performance constitute a violation of or conflict with any duty to which Borrower is subject or any provision of Borrower’s operating agreement or bylaws or any material agreement or instrument to which Borrower is a party or by which Borrower is bound.

### Article 5
**Additional Covenants and Agreements of Borrower**

5.1 **Indemnity.** Borrower agrees that Lender will bear no responsibility or liability to Borrower for any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Property to the extent not attributable to the gross negligence or willful misconduct of the Lender. Borrower agrees to indemnify and hold harmless Lender against all claims, costs, and
liabilities arising out of the actions or inactions of Borrower (or if other persons acting on their behalf or under its direction or control) under this Agreement or the construction, installation, ownership, and operation of the Property excluding any claims, costs or liability arising out of the gross negligence or willful misconduct of the Lender. If Borrower fails to defend Lender, Lender shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle the claim or other matter, for the account of and at the risk of Borrower. If Borrower fails to defend, all attorneys’ fees incurred by Lender related to such defense shall be paid for by Borrower.

5.2 Compliance with Mortgage. At all times during the term of the Loan and this Agreement (which duration shall extend until the Loan has been paid in full), Borrower promptly comply with, or cause to be complied with the terms and conditions of the Mortgage.

5.3 Leases. Borrower may lease all or part of the Property during the term of this Agreement provided the following conditions are satisfied: (a) no lease shall be for a term which extend beyond the Maturity Date unless otherwise approved by Lender in writing and (b) each lease must contain the following provisions: (i) that the lease is subordinate to the Mortgage; (ii) that the tenant will attorn to Lender and Lender’s successor if Lender succeeds to Borrower’s interest under the lease; and (iii) that the tenant will furnish estoppel certificates to Lender, as requested by Lender. Promptly upon Lender’s request, Borrower shall provide Lender copies of any such Property leases.

Article 6
Default and Remedies

6.1 Events of Default. Any of the following shall constitute an “Event of Default” hereunder and shall entitle Lender to exercise its rights and remedies under Section 6.2:

(a) If Borrower (i) fails to make any payment of principal or interest required to be paid under this Agreement within five calendar days following notice from Lender that payment is past due or (ii) fails to perform any other obligation required to be performed under this Agreement within 30 days written notice of such failure has been given by Lender to Borrower;

(b) If Borrower uses any portion of the proceeds of the Loan, or any interest or earnings thereon, other than in a manner specifically authorized in this Agreement;

(c) The occurrence of any default or Event of Default beyond any applicable notice and cure period under any of the other Loan Documents;

(d) If any representation, warranty or covenant made by Borrower herein or in any document, instrument or certificate given in connection with this Agreement shall be materially false when made;

(e) If Borrower shall be dissolved, liquidated, or wound up, or shall fail 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, providing the succeeding organization assumes and accepts such entity’s obligations under the Agreement);

(f) If Borrower shall admit in writing its inability to pay its debts as they mature; or

(g) If Borrower shall be adjudicated a bankrupt or insolvent, and such adjudication shall continue undischarged or unstayed for a period of 30 days; or Borrower shall make an
assignment for the benefit of creditors; or Borrower shall apply for or consent to the appointment of any receiver, trustee, or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer shall be appointed without the application or consent of Borrower, as the case may be, and such appointment shall continue undischarged for a period of 30 days.

6.2 Rights and Remedies. Upon the occurrence of an Event of Default, Lender may exercise any or all of the following rights and remedies, consecutively or simultaneously, and in any order:

(a) Suspend or terminate its performance under this Agreement;

(b) Declare the entire unpaid principal balance of the Note to be immediately due and payable (together with accrued and unpaid interest thereon, if any), without notice to or demand on Borrower; or

(c) Exercise its Acquisition Option in accordable with Article 8.

(d) Exercise any or all remedies specified herein and in the other Loan Documents, including (without limiting the generality of the foregoing) the right to foreclose the Mortgage, and any other remedies which Lender may have therefor at law, in equity or under statute.

6.3 Lender’s Costs of Enforcement. If an Event of Default has occurred as provided herein, then upon demand by Lender, Borrower will pay or reimburse Lender for all reasonable expenses, including reasonable attorneys’ fees, incurred by Lender in connection with the enforcement of this Agreement, or in connection with the protection or enforcement of the interests of 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.

Article 7
Limitation on Liability

7.1 Release from Personal Liability. Borrower is hereby released from all personal liability under the Loan Documents to the extent such release does not operate to invalidate the lien of this Mortgage. In the event of foreclosure of this Mortgage or other enforcement of the collection of the indebtedness evidenced by the Note, Lender agrees, and any holder hereof shall be deemed by acceptance hereof to have agreed, not to take a deficiency judgment against Borrower with respect to said indebtedness.

7.2 Non-Recourse Exceptions. Notwithstanding the provisions of Section 7.1, Lender, may, in its discretion cause the Borrower to be fully and personally liable to the holder of the Note for the repayment of any loss or damage suffered by Lender as a result of (a) fraud or willful misrepresentation committed by Borrower in connection with the execution and delivery of the Loan Documents or the application for or creation of the indebtedness evidenced by the Note; (b) the willful misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage or destruction to any portion of the Property or any building or buildings located thereon; or (c) without Lender’s prior written consent, the Property or any part thereof or interest therein being encumbered by any consensual lien or encumbrance other than expressly permitted by the Mortgage.

7.3 Full Recourse Events. In its sole discretion, Lender may cause Borrower to not be entitled to the benefits of the provisions of Section 7.1 if, without Lender’s prior written consent, the Property or any part thereof shall become an asset in (i) a voluntary bankruptcy or insolvency proceeding, or (ii) an
involuntary bankruptcy or insolvency proceeding (other than one filed by Lender) which is not dismissed within 90 days of filing.

7.4 Control Over Conflicting Provisions. The provisions of this Article 7 shall control over any conflicting provisions of the Loan Documents.

Article 8  
Lender Acquisition Option

8.1 Lender Acquisition Option. After an Event of Default or upon maturity of the Loan, in lieu of accepting repayment of the Loan, Lender shall have the option (the “Acquisition Option”) to acquire the Property from the Borrower in accordance with the terms and conditions of this Article 8. Lender shall have the right, but not the obligation, to exercise its Acquisition Option by written notice to Borrower. The closing of the Acquisition Option will occur no later than 30 days after such notice (the “Lender Closing Date”). Lender may reject and/or return any repayment of the Loan while it exercises its Acquisition Option.

8.2 Option Closing. On the Lender Closing Date, Lender and Borrower shall close on Lender acquisition of the Property by executing and/or delivering, as applicable, the following items:

(a) Lender will return and cancel the Note in full (except any liability of Borrower under Article 7, which shall survive the termination of this Agreement and the Note and Lender’s acceptance of the Deed);

(b) Borrower will convey the Property to Lender by limited warranty deed (the “Deed”) free and clear of all encumbrances, except such encumbrances which Lender has previously approved in writing;

(c) Borrower will assign to Lender any such contract(s) related to the design, development, and construction of the Property as Lender may request; such assignment to be pursuant to an assignment agreement in a form required by Lender;

(d) Borrower will execute and deliver to Lender and Lender’s title company a standard “seller’s affidavit” stating under oath, inter alia, that Borrower has paid for all work performed or supplies ordered or delivered with respect to the Property;

(e) Borrower shall deliver, at Borrower’s sole cost and expense, an updated title insurance commitment to Lender evidencing the status of title to the Property; and

(f) Borrower shall pay with respect to the Property and/or the transfer thereof (A) any closing fee or charge imposed by Lender’s title company, (B) all state deed tax or transfer tax or fee, (C) special assessments, if any, (D) real estate taxes applicable to the period prior to the Lender Closing Date, prorated as of such date.

Article 9  
Additional Provisions

9.1 Titles of Articles and Sections. Any titles of the several parts, articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
9.2 Notices. Any notice required or permitted to be given hereunder will be properly given in accordance with this Agreement, if in writing and (a) delivered by hand, (b) sent by recognized overnight courier (such as Federal Express), (c) sent via email, or (d) mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

If to Lender: Housing and Redevelopment Authority of Edina, Minnesota
4801 West 50th Street
Edina, MN 55424
Attention: Executive Director

With Copy to: Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
Attn: Alex Sellke
Email: sellke.alex@dorsey.com

If to Borrower: Edina Housing Foundation
4801 50th Street
Edina, MN 55424
Attn: Jeff Huggett
Email: Jhuggett@Dominiuminc.com

With Copy to: Winthrop & Weinstine, P.A.
225 South 6th Street
Minneapolis, MN 55402
Attn: John Nolde
Email: jnolde@winthrop.com

Notice shall be effective, and the time for response to any notice by the other party shall commence to run, one business day after any such deposit if by overnight carrier, or three days if by U.S. mail, or upon receipt by the recipient if delivered by hand or by email. Either Lender or Borrower may change its address for the service of notice by giving notice of such change to the other party, in any manner above specified, 10 days prior to the effective date of such change.

9.3 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument. Handwritten signatures to this Agreement transmitted by telecopy or electronic transmission (for example, via email through use of a Portable Document Format or “PDF” file) shall be valid and effective to bind the party so signing.

9.4 Governing Law, Jurisdiction, Venue and Waiver of Trial by Jury. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by, interpreted and determined in accordance with the laws of the state of Minnesota without regard to its conflict and choice of law provisions. Any litigation arising out of this Agreement shall be venued exclusively in Hennepin County District Court, Fourth Judicial District, state of Minnesota and shall not be removed therefrom to any other federal or state court. Borrower hereby consents to personal jurisdiction and venue in the foregoing court. Borrower hereby waives trial by jury for any litigation arising out of this Agreement.

9.5 Severability. If any term or provision of this Agreement is determined to be invalid or unenforceable under applicable law, the remainder of this Agreement shall not be affected thereby, and
each remaining term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law.

9.6 Additional Documents. When reasonably requested to do so by another party, each party shall execute or cause to be executed any further documents as may be reasonably necessary or expedient and within their lawful obligation in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement.

9.7 Superseding Effect. This Agreement reflects the entire agreement of the parties with respect to the subjects hereof, and supersedes in all respects all prior agreements of the parties.

9.8 Amendment. This Agreement may not be amended or modified except in writing properly subscribed by each party hereto.

9.9 Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and assigns. All rights and powers specifically conferred upon Lender may be transferred or delegated by Lender to any of its successors and assigns. Borrower shall not assign, subcontract, transfer, or pledge this Agreement and/or its obligations hereunder, whether in whole or in part, without the prior written consent of Lender.

9.10 Relationship of Parties. Nothing in this Agreement is intended, or shall be construed, to create a partnership or joint venture among or between the parties hereto, and the rights and remedies of the parties hereto shall be strictly as set forth in this Agreement.

9.11 Binding Effect; Waiver. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. No delay on the part of Lender in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege constitute such waiver nor exhaust the same, which shall be continuing. The rights and remedies of Lender specified in this Agreement shall be in addition to and not exclusive of any other right and remedies which Lender, by operation of law, would otherwise have.

9.12 No Third Party Benefit. Other than as explicitly stated in this Agreement, the obligations, covenants, representations, and agreements of Borrower hereunder are for the exclusive benefit of Lender and shall not be construed to create rights or convey benefits to any other third party not a party to this Agreement.

9.13 City and HRA Regulatory Authority. Nothing in this Agreement shall be construed to limit or modify the City’s or HRA’s regulatory authority.

[Remainder of page intentionally left blank; signatures on following page(s)]
IN WITNESS WHEREOF, Lender and Borrower have caused this Loan Agreement to be duly executed in their names and on their behalf, all on or as of the date first above written.

LENDER:

HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA

By: ______________________________
   James B. Hovland, Chair

By: ______________________________
   Michael Fischer, Secretary

BORROWER:

EAST EDINA HOUSING FOUNDATION, a Minnesota nonprofit corporation

By: ______________________________
   Name: ____________________________
   Its: ______________________________

By: ______________________________
   Name: ____________________________
   Its: ______________________________
Exhibit A

Legal Description of the Property

Tract C, Registered Land Survey No. 1365, Hennepin County, Minnesota

Torrens Property
Exhibit B

Form of Mortgage

[See attached.]
Exhibit C

Form of Note

[See attached.]
FOR VALUE RECEIVED, EAST EDINA HOUSING FOUNDATION, a Minnesota nonprofit corporation dba EDINA HOUSING FOUNDATION ("Borrower"), hereby promises to pay to the order of the HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA, ("Lender"), at its principal office at 4801 West 50th Street, Edina, Minnesota 55402, or at such other place as the holder hereof may from time to time designate in writing, the principal sum of $3,650,000.00, or so much thereof as remains unpaid from time to time (the "Loan") in lawful money of the United States and immediately available funds, with interest thereon computed and paid in accordance with the terms of this Promissory Note (this “Note”) and that certain Loan Agreement dated as of the date hereof between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Loan Agreement”). All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement.

1. Borrower agrees to pay the principal sum of this Note and interest on the unpaid principal sum of this Note from time to time outstanding as follows:
   (a) Borrower agrees to repay the Loan together with interest at a fixed, simple annual interest rate equal to 0.00% on the outstanding principal balance of the Loan following the Disbursement Date until the Loan is repaid in full.
   (b) Borrower shall not be obligated to make any periodic payments of principal or interest on the Loan before the Maturity Date (defined below).
   (c) The principal of the Loan (together with any accrued but unpaid interest, if any) shall be repaid no later than June 1, 2022 (“Maturity Date”), as the same may be extended pursuant to the terms and conditions of the Loan Agreement.

2. This Note is issued pursuant to the terms of the Loan Agreement, and is secured by that certain Mortgage, Assignment of Rents, Security Agreement, and Fixture Financing Statement dated as of the date hereof, executed by Borrower in favor of Lender (the “Mortgage”), and Lender is entitled to all of the benefits and security provided for in said documents, in each case, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

3. The principal balance of this Note may from time to time be prepaid, at the option of Borrower, in whole or in part without penalty under this Note. Any partial prepayments shall be applied in the inverse order of payment dates of principal installments, if any.

4. All payments and prepayments, at the option to Lender, shall be applied first to any costs of collection, second to any late charges, third to accrued interest on this Note (if any), and lastly to principal.

5. The occurrence of an Event of Default, as defined in the Loan Agreement, shall constitute an Event of Default hereunder (hereinafter referred to as an “Event of Default”). Upon the occurrence of an Event of Default, Lender may take exercise all of its rights and remedies under the Loan Agreement and the Mortgage, including, without limitation, declaring the outstanding unpaid principal balance of this Note (together with any accrued but unpaid interest, if any) and all other obligations of Borrower to Lender to
forthwith due and payable. Failure to exercise any right or remedy provided for or referenced herein shall not constitute a waiver of the right to exercise the same in connection with the applicable Event of Default or any subsequent Event of Default.

6. Borrower and all others who may become liable for the payment of all or any part of the debt under this Note do hereby severally waive presentment and demand for payment, notice of dishonor, notice of intention to accelerate, notice of acceleration, protest and notice of protest and non-payment and all other notices of any kind. No release of any security for this Note or extension of time for payment of this Note or any installment hereof, and no alteration, amendment or waiver of any provision of this Note, the Loan Agreement or the Mortgage made by agreement between Lender or any other person shall release, modify, amend, waive, extend, change, discharge, terminate or affect the liability of Borrower or any other person who may become liable for the payment of all or any part of the debt under this Note or the Loan Agreement. No notice to or demand on Borrower shall be deemed to be a waiver of the obligation of Borrower or of the right of Lender to take further action without further notice or demand as provided for in this Note, the Loan Agreement or the Mortgage.

7. Borrower agrees that if, and as often as, this Note is placed in the hands of an attorney for collection or to defend or enforce any of Lender’s rights hereunder or under the Loan Agreement or Mortgage, Borrower will pay to Lender its attorneys’ fees and all court costs (including attorneys’ fees and court costs prior to trial, at trial and on appeal, or in any bankruptcy proceeding) and other expenses incurred in connection therewith.

8. Upon the transfer of this Note by Lender, Borrower hereby waiving notice of any such transfer, Lender may deliver all the collateral mortgaged, granted, pledged or assigned pursuant to the Loan Agreement or Mortgage, or any part thereof, to the transferee who shall thereupon become vested with all the rights herein or under applicable law given to Lender with respect thereto, and Lender shall thereafter forever be relieved and fully discharged from any liability or responsibility in the matter; but Lender shall retain all rights hereby given to it with respect to any liabilities and the collateral not so transferred.

9. This Note shall be governed by and construed in accordance with the laws of the state of Minnesota, without giving effect to the choice of law provisions thereof.

10. Subject to Article 7 of the Loan Agreement, this Note shall impose no personal liability on Borrower for payments to be made hereunder.

[Remainder of page left blank, signature page follows.]
IN WITNESS WHEREOF, Borrower has executed this Note as of the date and year first above written.

EAST EDINA HOUSING FOUNDATION,
a Minnesota nonprofit corporation

By: ________________________________
Name: ________________________________
Its: ________________________________

By: ________________________________
Name: ________________________________
Its: ________________________________
Mortgage, Assignment of Rents, Security Agreement, and Fixture Financing Statement
(4040 West 70th Street)

THIS MORTGAGE IS EXEMPT FROM MORTGAGE REGISTRY TAX IN ACCORDANCE WITH MINN. STAT. § 287.04(f), AS IT SECURES A LOAN MADE UNDER A LOW AND MODERATE INCOME OR OTHER AFFORDABLE HOUSING PROGRAM AND MORTGAGEE IS A FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY.

DATE: ______________ _____, 2020

This Mortgage, Assignment of Rents, Security Agreement, and Fixture Financing Statement (the “Mortgage”) is given by EAST EDINA HOUSING FOUNDATION, a Minnesota nonprofit corporation dba EDINA HOUSING FOUNDATION (“Mortgagor”), to the HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA, a public body corporate and politic organized and existing under the laws of the State of Minnesota (“Mortgagee”).

Mortgagor and Mortgagee have entered into a Loan Agreement dated as of the date hereof (as amended, modified, restated, or supplemented from time to time, the “Loan Agreement”) pursuant to which Mortgagee is making a secured loan to Mortgagor in the aggregate original principal amount of $3,650,000.00 (the “Loan”). Capitalized terms used herein without definition are used as defined in the Loan Agreement. The Loan is evidenced by a note dated the date hereof made by Mortgagor to Mortgagee in an aggregate amount equal to the principal amount (as the same may be amended, modified, restated, renewed, replaced, or supplemented from time to time, the “Note”).

To secure the payment of the Note and all sums which may or shall become due thereunder or under any of the other documents evidencing, securing or executed in connection with the Loan (the Note, this Mortgage, the Loan Agreement and such other documents, as any of the same may, from time to time, be modified, amended or supplemented, being hereinafter collectively referred to as the “Loan Documents”), including (i) the payment of interest and other amounts which would accrue and become due and (ii) the costs and expenses of enforcing any provision of any Loan Document (all such sums being hereinafter collectively referred to as the “Indebtedness”), Mortgagor hereby irrevocably mortgages, grants, bargains, sells, conveys, transfers, pledges, sets over and assigns, and grants a security interest, to and in favor of Mortgagee, WITH POWER OF SALE, all of Mortgagor’s right, title and interest in and to the real property in Hennepin County, Minnesota, legally described as follows: see attached Exhibit A,
TO HAVE AND TO HOLD the Property unto Mortgagee and its successors and assigns, forever;

AND Mortgagor represents and warrants to and covenants and agrees with Mortgagee as follows:

1. Repayment of Indebtedness. If Mortgagor (a) pays the Indebtedness to Mortgagee according to the terms of the Note, final payment of which is due no later than June 1, 2022 (subject extension pursuant to the terms and conditions of the Loan Agreement); (b) pays interest on the Indebtedness as provided in the Note, as applicable; (c) repays to Mortgagee, at the times and with interest as specified, all sums advanced in protecting the lien of this Mortgage, if any; and (d) keeps and performs all the covenants and agreements contained herein, then Mortgagor’s obligations under this Mortgage will be satisfied, and Mortgagee will deliver an executed satisfaction of this Mortgage to Mortgagor.

2. Statutory Covenants. Mortgagor makes and includes in this Mortgage the following covenants and provisions set forth in Minn. Stat. Section 507.15, and the relevant statutory covenant equivalents contained therein are hereby incorporated by reference:

   (a) To warrant the title to the Property;
   (b) To pay the Indebtedness as herein provided;
   (c) To pay all taxes and special assessments now and hereafter levied and assessed on the Premises before the same become delinquent;
   (d) That the Property shall be kept in repair and no waste shall be committed;
   (e) To pay principal and interest on prior mortgages (if any).

3. Additional Covenants and Agreements of Mortgagor. Mortgagor makes the following additional covenants and agreements with Mortgagee.

   (a) Mortgagor shall keep all buildings, improvements, and fixtures now or later located on all or any part of the Property (collectively, the “Improvements”) insured against loss by fire, lightning, and such other perils as are included in a standard all-risk endorsement, and against loss or damage by all other risks and hazards covered by a standard extended coverage insurance policy, including, without limitation, vandalism, malicious mischief, burglary, theft, and if applicable, steam boiler explosion. Such insurance shall be in an amount no less than the full replacement cost of the Improvements, without deduction for physical depreciation. Mortgagor shall procure and maintain liability insurance against claims for bodily injury, death, and property damage occurring on or about the Property in amounts reasonably satisfactory to Mortgagee and naming Mortgagee as an additional insured, all for the protection of Mortgagee.

   (b) Each insurance policy required pursuant to Section 3(a) must contain provisions in favor of Mortgagee affording all rights and privileges customarily provided under the so-called standard mortgagee clause. Each policy must be issued by an insurance company or companies licensed to do business in Minnesota. Each policy must provide for not less than 10 days written notice to Mortgagee before cancellation, non-renewal, termination, or change in coverage. Mortgagor will deliver to Mortgagee
a duplicate original or certificate of such insurance policies and of all renewals and modifications of such policies upon request.

(c) No part of the Improvements shall be removed, demolished, or altered without the prior written consent of Mortgagee.

(d) Upon reasonable prior notice to Mortgagor, Mortgagee will have the right, at any time and for any reason, to enter onto the Property to inspect the same.

(e) Except as otherwise provided in the Loan Agreement, Mortgagor shall not, without the prior written consent of Mortgagee which may be withheld in Mortgagee’s sole and absolute discretion, directly or indirectly (i) sell, assign, lease, or transfer, or permit to be sold, assigned, leased or transferred (A) any part of the Property, or any interest therein; or (B) any interest or right in any ownership interest in Mortgagor; or (ii) pledge or otherwise encumber, create or permit to exist any mortgage, pledge, lien or claim for lien or encumbrance (A) upon any part of the Property or interest therein; or (B) any interest or right in any ownership interest in Mortgagor.

(f) If the Property is damaged by fire or other casualty, Mortgagor must promptly give notice of such damage to Mortgagee and the insurance company. The proceeds of any insurance policies payable by reason of such damage shall be applied, at Mortgagee’s option, to either the Indebtedness, whether or not then due and payable, or to the restoration of the Improvements.

(g) If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof must be applied to payment of the amounts due by Mortgagor to Mortgagee under the Note, even if such amounts are not then due to be paid.

(h) Mortgagor shall, upon request by Mortgagee, execute and deliver such further instruments, financing statements and/or continuation statements under the Uniform Commercial Code and will do such further acts as may be necessary or proper to carry out more effectively the purposes of this Mortgage.

(i) Mortgagor shall pay all mortgage registry tax payable upon this Mortgage and any amendment hereof or supplement hereto pursuant to Minn. Stat. Chapter 287, if required.

(j) Mortgagor shall pay any other expenses and attorneys’ fees incurred by Mortgagee pursuant to the Note or as reasonably required for the protection of the lien of this Mortgage.

(k) Mortgagor shall promptly comply with, or cause to be complied with (i) all statutes, ordinances, and requirements of any governmental authority relating to the Property, including, without limitation Environmental Laws (defined below); (ii) all obligations of any instruments recorded against the Property; and (iii) the terms of the other Loan Documents.

4. Payment by Mortgagee. If Mortgagor fails to pay any amounts to be paid hereunder to Mortgagee or any third parties, or to insure the Improvements, and deliver the policies or certificates thereof as required herein, Mortgagee may make such payments or secure such insurance. The sums so paid shall be additional Indebtedness, bear interest from the date of such payment at the same rate set forth in the Note, be an additional lien upon the Property, and be immediately due and payable upon written demand. This Mortgage secures the repayment of such advances.
5. **Security Interest.** This Mortgage shall constitute a security agreement with respect to all personal property owned by Mortgagor and located on or used in connection with the Property, and Mortgagor hereby grants Mortgagee a security interest therein (the “Security Interest”). Mortgagor hereby consents to the filing of any and all financing statements which Mortgagee may reasonably consider necessary or appropriate to perfect the Security Interest.

6. **Fixture Filing.** This Mortgage shall constitute a “fixture filing” against all of the Property that is or is to become fixtures, and the following information is provided so that this Mortgage shall comply with the requirements of the UCC for a mortgage instrument to be filed as a financing statement.

   (i) Name and Address of Mortgagor, as debtor: East Edina Housing Foundation, 4801 West 50th Street, Edina, Minnesota 55424.

   (ii) Name and Address of Mortgagee, as secured party: Edina Housing and Redevelopment Authority, 4801 West 50th Street, Edina, Minnesota 55424.

   (iii) The name of the record owner of the security is Mortgagor described above.

   (iv) Mortgagor is organized as a nonprofit corporation.

   (v) Mortgagor’s jurisdiction of organization is Minnesota.

7. **Assignment of Rents; Appointment of Receiver.** Prior to written notice from Mortgagee to Mortgagor of a default under this Mortgage or Note, Mortgagor shall enjoy a license (the “License”) to collect and receive all of the rents, issues, profits, proceeds, and revenues of the Property, including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property (collectively, the “Rents”) and shall apply such Rents to the sums secured by this Mortgage as required under the terms of the Note and may apply the balance of the Rents to Mortgagor’s own account. Mortgagor hereby authorizes Mortgagee to collect the Rents and hereby directs each tenant of the Property to pay such Rents to Mortgagee or Mortgagee’s agents. Upon delivery of written notice by Mortgagee to Mortgagor of a breach by Mortgagee of any covenant or agreement in this Mortgage (and without the necessity of Mortgagee entering upon and taking and maintaining full control of the Property in person, by agent, or by a court-appointed receiver), such License shall be revoked and Mortgagee will immediately be entitled to possession of all Rents as the same become due and payable, including but not limited to Rents then due and unpaid. In furtherance of the foregoing, and subject to the License, (i) Mortgagor hereby absolutely and unconditionally assigns and transfers to Mortgagee all of Rents, regardless of to whom the Rents are otherwise payable and (ii) Mortgagor and Mortgagee intend this assignment of Rents to constitute an absolute assignment and not an assignment for additional security only.

In addition to any rights granted under the terms of this Mortgage, Mortgagor irrevocably consents, and Mortgagee will be entitled as a matter of right, to the appointment of a limited receiver (as defined in Minn. Stat. 576.21) without notice and without giving bond, and without regard to the solvency or insolvency of Mortgagor, waste, or adequacy of the security. The receiver will have all the rights, powers, and remedies provided by law (including without limitation the rights of receiver under Minn. Stat. Section 576.25, subd. 5 and Minn. Stat. Section 576.29, as each is amended). From appointment through any period of redemption, the receiver will: (i) collect the Rents; (ii) manage the Property so as to prevent waste; (iii) execute leases within or beyond the receivership; (iv) perform the terms of this Mortgage; and (v) apply the Rents to the payment of the expenses set forth in Minn. Stat. Section 576.25, subd. 5(d), to all expenses for maintenance of the Property, to the costs and expenses of the receivership, including attorneys’ fees, and to the repayment of the Indebtedness.
8. **Default.** The following shall each be an “Event of Default” hereunder: (a) the failure of Mortgagor to pay the sums to be paid under the Note or this Mortgage, when the same become due, and such failure shall continue for a period of five calendar days after written notice of such failure has been given by Mortgagee to Mortgagor; (b) the default by Mortgagee of any of the covenants set forth in the Note or this Mortgage, and such failure shall continue for a period of 30 days after written notice of such failure has been given by Mortgagee to Mortgagor; or (c) the occurrence of an “Event of Default” as defined in the Loan Agreement. Upon the occurrence of an Event of Default, Mortgagee may (i) declare the unpaid balance of the Note and the interest accrued thereon, together with all sums advanced hereunder, immediately due and payable without notice; (ii) exercise any additional rights and remedies stated in this Mortgage, the Note, and/or the Loan Agreement; and (iii) and Mortgagor hereby authorizes and empowers Mortgagee to foreclose this Mortgage by judicial proceedings or to sell the Property at public auction and convey the same in fee simple in accordance with Minn. Stat. Chapter 580, 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 attorneys’ fees permitted by law, which costs, charges, and fees Mortgagor agrees to pay. No remedy herein conferred upon or otherwise available to Mortgagee is intended to be or shall be construed to be exclusive of any other remedy or remedies; but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity.

9. **Additional Terms.** Mortgagor makes the following additional covenants and with Mortgagee makes the following additional representations and warranties for the benefit of Mortgagee:

   (a) Mortgagee’s rights and remedies hereunder with respect to an assignment of rents from, and/or the appointment of a receiver for rents from, the Property upon the occurrence and during the continuance of an Event of Default shall include, without limitation, the fullest range and benefit of the rights and remedies made available to a mortgagee pursuant to Minnesota Statutes Chapter 576 and Section 559.17, as said statutes may be amended from time to time. Nothing contained herein which may be construed as contrary to said statutes shall invalidate any other provision hereof. If Mortgagee elects to exercise its remedies under said statute or any of said remedies, the terms and provisions of said statute, as amended, governing the exercise of said remedies shall govern, control and take precedence of any contrary terms contained in this Mortgage. All rents collected by Mortgagee or any receiver shall first be applied as provided for in Minnesota Statutes Section 576.25, subd. 5, and any remaining collected rents shall be applied as otherwise provided for in this Mortgage. The exercise by Mortgagee of the statutory remedies referenced herein shall not constitute Mortgagee a “mortgagee-in-possession” under Minnesota law, or give rise to any liability which might otherwise attach to Mortgagee as a mortgagee-in-possession.

   (b) Mortgagor hereby waives to the full extent lawfully allowed the benefit of any homestead, appraisement, evaluation, stay and extension laws now or hereinafter in effect. Mortgagor hereby waives any rights available with respect to marshaling of assets so as to require the separate sales of any portion of the Property, or as to require Mortgagee to exhaust its remedies against a specific portion of the Property before proceeding against the other and does hereby expressly consent to and authorize the sale of the Property or any part thereof as a single unit or parcel.

   (c) Mortgagor represents and warrants that as of the date of this Mortgage, the Property is not in agricultural use as defined in Minn. Stat. Section 40A.02, Subd. 3 and is not used for agricultural purposes.

10. **Indemnification.** Mortgagor agrees to defend, indemnify and hold harmless Mortgagee, its directors, officers, employees and agents from and against any and all loss, cost, expense or liability (including reasonable attorneys’ fees) incurred in connection with any and all claims or proceedings (whether brought by a private party or governmental agency) as a result of, or arising out of or relating to:
(a) bodily injury, property damage, abatement or remediation, environmental damage or impairment or any other injury or damage resulting from or relating to any hazardous or toxic substance or contaminated material (as determined under Environmental Laws located on or migrating into, from or through property previously, now or hereafter owned or occupied by Mortgagor, which Mortgagee may incur due to the making of any loan from Mortgagee to Mortgagor, the exercise of any of its rights under this Mortgage and the other Loan Documents, or otherwise;

(b) any transaction financed or to be financed, in whole or in part, directly or indirectly, with the proceeds of any loan made by Mortgagee to Mortgagor; or

(c) the entering into and performance of the Loan Documents or any other document or instrument relating hereto by Mortgagee.

This indemnity will survive foreclosure of any security interest or mortgage or conveyance in lieu of foreclosure and the repayment of the Note and the discharge and release of any Loan Documents.

For purposes of this Mortgage, the term “Environmental Laws” means all federal, state and local laws, including statutes, regulations, ordinances, codes, rules and other governmental restrictions and requirements relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or solid, liquid or hazardous substances, materials or wastes, including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility Cleanup and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency and regulations of the Minnesota Pollution Control Agency or any other State Environmental Protection Agency now or at any time hereafter in effect.

11. Notices. All notices or other communications required or permitted to be given by this Mortgage must be given in accordance with the Loan Agreement.

12. Governing Law; Severability. This Mortgage shall be governed by the laws of Minnesota. If any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision.

13. Amendments. This Mortgage and the other Loan Documents may be amended only by a written amendment signed by Mortgagor and Mortgagee.

14. Binding Effect. This Mortgage and the other Loan Documents shall be binding upon and shall inure to the benefit of the respective successors and assigns of Mortgagor and Mortgagee except that Mortgagor’s rights and obligations may not be assigned without the prior written consent of Mortgagee.

15. Time of the Essence. Time is of the essence with respect to payment of Obligations, the performance of all covenants of Mortgagor and the payment of taxes, assessments, sewer, water and similar charges and insurance premiums.
16. **Release from Personal Liability.** Subject to Article 7 of the Loan Agreement, it is agreed that the execution of this Mortgage shall impose no personal liability on Mortgagor for the payment of the obligations described herein, and Mortgagee’s sole recourse shall be against the Property.

[Remainder of page left blank, signature page follows.]
EAST EDINA HOUSING FOUNDATION,
 a Minnesota nonprofit corporation

By: ________________________________
Name: ______________________________
Its: ________________________________

By: ________________________________
Name: ______________________________
Its: ________________________________

STATE OF _______________ )
COUNTY OF _____________ ) ss.

The foregoing instrument was acknowledged before me this ___ day of ______________, 2020,
by __________________, the _________________ of East Edina Housing Foundation, a Minnesota
nonprofit corporation, on behalf of the corporation.

____________________________________________
Notary Public

STATE OF _______________ )
COUNTY OF _____________ ) ss.

The foregoing instrument was acknowledged before me this ___ day of ______________, 2020,
by __________________, the _________________ of East Edina Housing Foundation, a Minnesota
nonprofit corporation, on behalf of the corporation.

____________________________________________
Notary Public

This document was drafted by:
Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

[Signature Page to Mortgage, Assignment of Rents, Security Agreement, and Fixture Financing Statement]
**Exhibit A**

**Legal Description of the Property**

Tract C, Registered Land Survey No. 1365, Hennepin County, Minnesota

Torrens Property
Exhibit B

Permitted Encumbrances

1. Real estate taxes and installments of special assessments due and payable in 2020 and thereafter.
2. Matters that would be disclosed by a survey or inspection of the Property.
3. Rights or claims of tenants, as tenants only, in possession under unrecorded leases.
4. Sanitary sewer easement as shown on plats of South Office Park First Addition and Replat of Lot 2, Block 1, South Office Park First Addition.
ACTION REQUESTED:
Motion to authorize the Executive Director of the HRA to negotiate a tentative purchase agreement for the acquisition of 425 Jefferson Ave. S., Edina.

INTRODUCTION:
City staff have been working with the owners of 425 Jefferson Ave. S. to abate property maintenance nuisance conditions. The condition of the property has caused disruption and discontent in the neighborhood for the past two years. City staff approached the owners of the property with a tentative proposal to purchase the real estate and abandoned personal property. The owners have expressed interest in our tentative proposal. Before staff goes much further with this discussion, I want to have the HRA’s authorization to move forward with this proposal.

Staff propose to use funds from the City’s Affordable Housing Trust Fund for the acquisition and to use the rehabilitated property as part of our affordable housing initiative. Staff will present a firm plan for how the property would be used when we present a final purchase agreement to the HRA later this spring.

ATTACHMENTS:

Photos of 425 Jefferson Ave. S., Edina
CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY
4801 West 50th Street
Edina, MN 55424
www.edinamn.gov

Date: February 13, 2020

To: Chair & Commissioners of the Edina HRA

From: Jennifer Garske, Executive Assistant

Subject: Correspondence

ACTION REQUESTED:
None.

INTRODUCTION:
There has been no correspondence since the last meeting.