

**Agenda**  
**Edina Housing and Redevelopment Authority**  
**City of Edina, Minnesota**  
**Edina City Hall Council Chambers**  
**Thursday, May 19, 2022**  
**7:30 AM**

**Watch the meeting on cable TV or at [EdinaMN.gov/LiveMeetings](http://EdinaMN.gov/LiveMeetings) or  
[Facebook.com/EdinaMN](https://www.facebook.com/EdinaMN).**

**To participate in Community Comment or Public Hearings:**

**Call 800-374-0221.**

**Enter Conference ID 9145485.**

**Give the operator your name, street address and telephone number.**

**Press \*1 on your telephone keypad when you would like to get in the queue to speak.**

**A City staff member will introduce you when it is your turn.**

- 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.

A. City Manager's Response to Community Comments

- 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. Draft Minutes of Regular Meeting April 28, 2022
- B. Approve Payment of Claims
- C. Approve Contract Change Order with SEH

#### VII. Public Hearings

During "Public Hearings," the Chair will ask for public testimony after City staff members make their presentations. If you wish to testify on the topic, you are welcome to do so as long as your testimony is relevant to the discussion. To ensure fairness to all speakers and to allow the efficient conduct of a public hearing, speakers must observe the following guidelines:

Individuals must limit their testimony to three minutes. The Chair may modify times, as deemed necessary. Try not to repeat remarks or points of view made by prior speakers and limit testimony to the matter under consideration.

In order to maintain a respectful environment for all those in attendance, the use of signs, clapping, cheering, booing, or any other form of verbal or nonverbal communication is not allowed.

- A. Resolution 2022-06: Contract for Private Development and Sale of Property to United Properties Residential LLC
- B. Resolution 2022-07: Contract for Private Development and Sale of Property to Jester Concepts LLC

#### VIII. HRA Commissioners' Comments

#### IX. Executive Director's Comments

#### X. 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](http://www.edinamn.gov)

**Date:** May 19, 2022

**Agenda Item #:** V.A.

**To:** Chair & Commissioners of the Edina HRA

**Item Type:**

**From:**

**Item Activity:**

**Subject:** City Manager's Response to Community Comments

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**ACTION REQUESTED:**

**INTRODUCTION:**

City Manager Neal to respond to 0 comments from last meeting.





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**Date:** May 19, 2022

**Agenda Item #:** VI.A.

**To:** Chair & Commissioners of the Edina HRA

**Item Type:**  
Minutes

**From:** Liz Olson, Administrative Support Specialist

**Item Activity:**  
Action

**Subject:** Draft Minutes of Regular Meeting April 28, 2022

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**ACTION REQUESTED:**

Approve the regular minutes of April 28, 2022.

**INTRODUCTION:**

See attached meeting minutes of April 28, 2022.

**ATTACHMENTS:**

Draft Minutes April 28, 2022



**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA HOUSING AND REDEVELOPMENT AUTHORITY  
APRIL 28, 2022  
7:30 A.M.**

**I. CALL TO ORDER**

Chair Hovland called the meeting to order at 7:30 a.m. then explained the processes created for public comment.

**II. ROLL CALL**

Answering rollcall were Commissioners Anderson, Jackson, Pierce, Staunton, and Chair Hovland.

Absent: None.

**III. PLEDGE OF ALLEGIANCE**

**IV. MEETING AGENDA APPROVED - AS PRESENTED**

Commissioner Jackson made a motion, seconded by Commissioner Pierce, approving the meeting agenda as presented.

Roll call:

Ayes: Anderson, Jackson, Pierce, Staunton, and Hovland

Motion carried.

**V. COMMUNITY COMMENT**

No one appeared.

**VI. CONSENT AGENDA ADOPTED - AS PRESENTED**

Member Staunton made a motion, seconded by Member Pierce, approving the consent agenda as presented:

**VI.A. Approve Minutes of the Regular Meeting April 7, 2022**

**VI.B. Request for Purchase, 5146 Eden Avenue Environmental Services, awarding the bid to the recommended low bidder, Braun Intertec, \$50,335**

**VI.C. Approve Housing Rehabilitation Program Status Report**

Rollcall:

Ayes: Anderson, Jackson, Pierce, Staunton, and Hovland

Motion carried.

**VII. REPORTS/RECOMMENDATIONS**

**VII.A. MOTION TO CLOSE SESSION AS PERMITTED BY MN STATUTE 13D.05 SUBDIVISION 3 TO DISCUSS THE POTENTIAL SALE OF REAL PROPERTY LOCATED AT 5146 EDEN AVENUE - APPROVED**

Member Jackson made a motion, seconded by Member Pierce, to move to close session as permitted by MN Statute 13D.05 subdivision 3 to discuss the potential sale of real property located at 5146 Eden Avenue.

Rollcall:

Ayes: Anderson, Jackson, Pierce, Staunton, and Hovland



Motion carried.

**VII.B. MOTION TO MOVE TO OPEN SESSION - APPROVED**

**Member Jackson made a motion, seconded by Member Pierce, to move to open session.**

Rollcall:

Ayes: Anderson, Jackson, Pierce, Staunton, and Hovland

Motion carried.

**VII.C. 5146 EDEN AVENUE – CALL FOR PUBLIC HEARING TO CONSIDER SALE OF REAL ESTATE FOR REDEVELOPMENT PURPOSES - APPROVED**

Economic Development Manager Neuendorf said the Edina HRA had discussed the potential sale of real estate at 5146 Eden Avenue on multiple locations. He said letters of intent had been received from Jester Concepts to construct a new restaurant on the middle portion of the site and from United Properties to develop a new housing cooperative on the southern portion of the site. The northern most portion would be redeveloped as a public park and a public hearing was recommended to be scheduled to better inform the Edina HRA as they consider entering into sales contracts to redevelop the vacant site.

The Board asked questions and provided feedback.

**Member Staunton made a motion, seconded by Member Anderson, to call for a public hearing to consider sale of real estate for redevelopment purposes at 5146 Eden Avenue.**

Roll call:

Ayes: Anderson, Jackson, Pierce, Staunton, and Hovland

Motion carried.

**VII.D. CONSIDERATION OF GAP FINANCING FOR THE FRED II LOCATED AT 4620 WEST 77<sup>TH</sup> STREET - APPROVED**

Affordable Housing Development Manager Hawkinson shared The Fred Phase II was located at 4620 West 77th Street. The development was proposed by Solhem Development who was seeking up to \$9,450,000 in gap financing for a 276-unit multifamily development. Ten percent of the units (28) would serve households with incomes at or below 50% of AMI and the remaining 90% of the units would serve households with incomes between 70% and 100% of AMI. The development would comply with the new sustainability standards and include the creation of an entrance off West 77th Street to the Fred Richards Park. Ms. Hawkinson said staff was seeking feedback on the potential provision of financing to support the development the outlined potential funding sources and the request in more detail. She said staff was also seeking authorization to engage HRA's legal and financial advisors to explore the needs, costs and benefits of this potential redevelopment project. She outlined potential sources of the loan that included Pentagon Park pooled TIF funds plus SPARQ or the Affordable Housing Trust Fund then reviewed public benefits of the project if constructed.

Nick Anhut, Ehlers and Associates, spoke about the developer's constraints and level of equity necessary to get over the gap which could not be raised privately then noted 17% was lower than typically seen in a project and therefore would result in no return.



Curt Gunsbury, Solhem Development, spoke about the costs for third-party certification for LEED development which was a financial hurdle they did not have in Phase I and would result in the loss of many elements of the project. He said they were already ahead of LEED elements and was working with staff on sustainability requirements and that funding for a project like was required 20-30% in equity and the need to be realistic about the other costs that included road access. He spoke about the 23% increase in construction costs, supply chain issues and increased interest rates and the goal to repay housing trust loan that would result in investors being rewarded.

Executive Director Neal shared comments about the importance of the park road connection as current access was not sufficient.

The Board asked questions and provided feedback.

**Member Jackson made a motion, seconded by Member Anderson, to give preliminary approval to provide gap financing for the development of the Fred II.**

Roll call:

Ayes: Anderson, Jackson, Pierce, Staunton, and Hovland

Motion carried.

**VIII. HRA COMMISSIONERS' COMMENTS** – Received

**IX. EXECUTIVE DIRECTOR'S COMMENTS** – Received

**X. ADJOURNMENT**

**Motion made by Commissioner Staunton, seconded by Commissioner Anderson, to adjourn the meeting at 9:02 a.m.**

Roll call:

Ayes: Anderson, Jackson, Pierce, Staunton, and Hovland

Motion carried.

Respectfully submitted,

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Scott Neal, Executive Director





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**Date:** May 19, 2022

**Agenda Item #:** VI.B.

**To:** Chair & Commissioners of the Edina HRA

**Item Type:**  
Claims

**From:** Alisha McAndrews, Finance Director

**Item Activity:**  
Action

**Subject:** Approve Payment of Claims

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**ACTION REQUESTED:**

Motion to approve payment of claims for:

- HRA Check Register 04.2022 TOTAL \$456,261.20

**INTRODUCTION:**

Payment of claims are attached.

**ATTACHMENTS:**

HRA Check Register 04.2022 TOTAL \$456,261.20



## INVOICE LIST BY GL ACCOUNT

YEAR/PERIOD: 2022/4 TO 2022/4		ACCOUNT/VENDOR		INVOICE	PO	YEAR/PR	TYP	S	CHECK	RUN	CHECK	DESCRIPTION
26026000												HRA Administration
26026000	6102											HRA Admin - Contr Svrs
120784	SIGN PRO		17028		0	2022	4	INV P	186.00	20220422	471358	
									ACCOUNT TOTAL		186.00	
26026000	6103											HRA Admin - Prof Svrs
100049	EHLERS AND ASSOCIATE	90158		0		2022	4	INV A	701.25			TIF Management - ge
100049	EHLERS AND ASSOCIATE	90207		0		2022	4	INV A	2,358.75			70th & France TIF R
100049	EHLERS AND ASSOCIATE	90210		0		2022	4	INV A	1,338.75			Pentagon Park TIF e
100049	EHLERS AND ASSOCIATE	90318		0		2022	4	INV A	7,500.00			70th & France Tax I
									11,898.75			
100730	DORSEY & WHITNEY LLP	3739354		0		2022	4	INV A	15,961.00			
100730	DORSEY & WHITNEY LLP	3739355		0		2022	4	INV A	8,745.00			
									24,706.00			
160265	FRAUENSHUH INC	403911		0		2022	4	INV A	6,850.00			5146 Eden managemen
									ACCOUNT TOTAL		43,454.75	
26026000	6131											HRA Admin - PrfsvLegal
100730	DORSEY & WHITNEY LLP	3739352		0		2022	4	INV A	3,555.00			
100730	DORSEY & WHITNEY LLP	3739356		0		2022	4	INV A	5,010.00			
									8,565.00			
									ACCOUNT TOTAL		8,565.00	
									ORG 26026000 TOTAL		52,205.75	
26026001												HRA Affordable Housing
26026001	6102											HRA Aff Hs - Contr Svrs
103300	CENTER FOR ENERGY AN	20932		0		2022	4	INV A	168,685.13			Affordable Housing
									ACCOUNT TOTAL		168,685.13	
26026001	6103											HRA Aff Hs - Prof Svrs
100049	EHLERS AND ASSOCIATE	90209		0		2022	4	INV A	1,530.00			Cornelia View Affor
									ACCOUNT TOTAL		1,530.00	
26026001	8223											HRA Aff Hs - LnIntRecd
119082	EAST EDINA HOUSING F	2020-Int-Nolan Mains	0			2022	4	DIR P	7,500.00	20220408	30	
119082	EAST EDINA HOUSING F	2021-Int-Nolan Mains	0			2022	4	DIR P	7,500.00	20220408	31	
									15,000.00			
									ACCOUNT TOTAL		15,000.00	



## INVOICE LIST BY GL ACCOUNT

YEAR/PERIOD: 2022/4 TO 2022/4		ACCOUNT/VENDOR		INVOICE	PO	YEAR/PR TYP S	CHECK RUN CHECK	DESCRIPTION
ORG 26026001 TOTAL							185,215.13	
26126106 Grandview 2 TIF								
26126106	6102			Grnd 2 TIF - Contr Svrs				
160357	CRAMER, DIO	04-08-2022	0	2022 4 INV A	2,500.00			Design Services - G
ACCOUNT TOTAL							2,500.00	
26126106 6103								
160292	FORECAST PUBLIC ART	2052	0	Grnd 2 TIF - Prof Svrs				
				2022 4 INV P	1,600.00	20220429	471475	
ACCOUNT TOTAL							1,600.00	
26126106 6715								
100932	XCEL ENERGY	773386433	0	Grnd 2 TIF - CapInfrast				
				2022 4 INV P	10.41	20220415	471182	Acct# 51-0013777347
100995	SHORT-ELLIOT-HENDRIC	423302	0	2022 4 INV A	17,649.26			ENG 21-6 Eden Ave/B
141258	PEMBER COMPANIES INC	ENG 21-26 #2	0	2022 4 INV A	174,091.05			ENG 21-6 Grandview
ACCOUNT TOTAL							191,750.72	
ORG 26126106 TOTAL							195,850.72	
26126107 50th and France 2 TIF								
26126107	6103			50 & F TIF - Prof Svrs				
126444	FISH WINDOW CLEANING	2315-46027	0	2022 4 INV A	990.00			Parking Ramps - 50t
132210	SERVICEMASTER	67927	0	2022 4 INV P	1,530.00	20220429	471585	Trash Room Cleaning
ACCOUNT TOTAL							2,520.00	
26126107 6131								
100730	DORSEY & WHITNEY LLP	3739353	0	50 & F TIF - PrfsvLegal				
				2022 4 INV A	630.00			
ACCOUNT TOTAL							630.00	
26126107 6406								
100828	JERRY'S ENTERPRISES	FACILITIES-03/2022	0	50 & F TIF - SupOther				
				2022 4 INV P	154.56	20220422	471266	Supplies (Brian)
129492	ROCHESTER CONCRETE P	277045	0	2022 4 INV A	2,231.50			Pavers for Replacem
ACCOUNT TOTAL							2,386.06	
ORG 26126107 TOTAL							5,536.06	
26126109 44th and France 2 TIF								
26126109	6102			44 & F TIF - Contr Svrs				
144339	ORION 4500 FRANCE LL	TIF Payment 3/30/22	0	2022 4 INV P	17,453.54	20220422	471331	
ACCOUNT TOTAL							17,453.54	



INVOICE LIST BY GL ACCOUNT

YEAR/PERIOD: 2022/4 TO 2022/4									
ACCOUNT/VENDOR	INVOICE	PO	YEAR/PR	TYP	S	CHECK	RUN	CHECK	DESCRIPTION
ORG 26126109 TOTAL					17,453.54				
FUND 2600 Housing & Redvlpmt Authority TOTAL:					456,261.20				

\*\* END OF REPORT - Generated by Shirleng Tan Geil \*\*





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**Date:** May 19, 2022

**Agenda Item #:** VI.C.

**To:** Chair & Commissioners of the Edina HRA

**Item Type:**  
Request For Purchase

**From:** Chad A. Millner, P.E., Director of Engineering

**Item Activity:**  
Action

**Subject:** Approve Contract Change Order with SEH

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**ACTION REQUESTED:**

Approve Contract Change Order with SEH for \$41,500.00.

**INTRODUCTION:**

The HRA approved engineering services with consultants to design and bid improvements funded by the Grandview 2 TIF District. These improvements include Eden Avenue, Lift Station #9, Wayfinding and Improvements to the Grandview Parking Ramp and a Pedestrian Bridge & Sidewalk connection to Arcadia Avenue from the Grandview Parking Ramp.

CP Rail, MnDOT, and private property coordination has been much more difficult than anticipated. This contract change order covers additional work required by these stakeholders.

**ATTACHMENTS:**

Request for Purchase Contract Change Order  
Supplemental Letter Agreement





# CITY OF EDINA

4801 W 50th St., Edina, MN 55424  
[www.EdinaMN.gov](http://www.EdinaMN.gov) | 952-927-8861

Contract Number

**300053**

## Request for Purchase

**Department:** Engineering

**Buyer:** Chad Millner

**Date:** 05/19/2022

**Requisition Description:** ENG 21-6 Eden Ave/Brookside Ave Consulting Services

**Vendor:** SHORT-ELLIOT-HENDRICKSON INCORPORATED

**Cost:** \$41,500.00

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**REPLACEMENT or NEW:** NEW - NEW

**PURCHASE SOURCE:** SERVICE K - SERVICE CONTRACT

### **DESCRIPTION:** Additional Consulting Services

The HRA approved engineering services with consultants to design and bid improvements funded by the Grandview 2 TIF District. These improvements include Eden Avenue, Lift Station #9, Wayfinding and Improvements to the Grandview Parking Ramp and a Pedestrian Bridge & Sidewalk connection to Arcadia Avenue from the Grandview Parking Ramp.

CP Rail, MnDOT, and private property coordination has been much more difficult than anticipated. This contract change order covers additional work required by these stakeholders.

### **BUDGET IMPACT:**

This project is funded by Grandview 2 TIF funds. This change will be covered by savings in other areas of the project or by city utility funds.



**COMMUNITY IMPACT:**

These projects can meet many of the seven guiding principles such as enhance the district's economic viability, design for the present and the future by pursuing logical increments of change using key parcels as stepping stones to a more vibrant, walkable, functional, attractive, and life-filled place, organize parking as an effective resource for the district by linking community parking to public and private destinations while also providing parking that is convenient for businesses and customers, improve movement within and access to the district for people of all ages by facilitating multiple modes of transportation, and preserve future transit opportunities provided by the rail corridor and create an identity and unique sense of place that incorporates natural spaces into a high quality and sustainable development reflecting Edina's innovative development heritage.

**ENVIRONMENTAL IMPACT: NA Service Contract**





Building a Better World  
for All of Us®

## SUPPLEMENTAL LETTER AGREEMENT

May 12, 2022

RE: Eden Ave and Brookside Ave  
Improvements  
City of Edina  
City Proj. No. ENG-21004  
SEH No. 156818 10.00

Mr. Chad Millner, PE  
Director of Engineering  
City of Edina  
Engineering and Public Works Facility  
7450 Metro Boulevard  
Edina, MN 55439

Dear Chad:

Short Elliott Hendrickson Inc. (SEH®) respectfully requests approval of this Supplemental Agreement in the amount of \$41,500.00 for additional Engineering Services associated with the above referenced project. The agreement addresses the additional effort needed to obtain Canadian Pacific Railroad and MnDOT approvals, negotiate an easement agreement with 5100 Eden Avenue, as well as a providing construction observation and administration services for a longer construction period than originally anticipated.

The following is a summary of the additional tasks SEH has or will complete outside of the current contracted scope of work.

- Design and plan revisions and coordination with the railroad to obtain an agreement for work adjacent to the bridge.
- Design and plan revisions (including preparation of a Level 1 layout) and coordinating with MnDOT to obtain an agreement for the TH100 on-ramp connection.
- Extended easement negotiations and project design iterations in relation to the 5100 Eden Avenue property.
- Estimated construction observation effort required for the remainder of the construction season, based on effort in 2021 and so far this spring. On average, this has been approximately 45 hours total per week, split between two on-site inspectors.
- SM Hentges' most recent construction schedule estimates construction to be substantially complete in early to mid-September 2022. Including 13 weeks of construction already completed in 2021, this equates to approximately 36 weeks of total construction observation needed for the project. The original budget included an estimated 25 total weeks of construction observation.

If this agreement is acceptable, our total contract amount will increase from \$743,632.00 to \$785,132.00. We will provide these services in accordance with our Agreement for Professional Engineering Services

Engineers | Architects | Planners | Scientists

**Short Elliott Hendrickson Inc.**, 10400 Yellow Circle Drive, Suite 500, Minnetonka, MN 55343-9302  
SEH is 100% employee-owned | [sehinc.com](http://sehinc.com) | 952.912.2600 | 800.734.6757 | 888.908.8166 fax

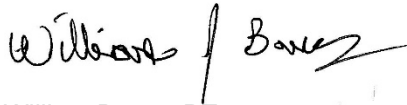


Chad Millner, PE  
May 12, 2022  
Page 2

dated June 4, 2013. Please contact me at 319.450.8732 if you have any questions or need additional information.

Respectfully submitted,

SHORT ELLIOTT HENDRICKSON INC.

A handwritten signature in black ink, appearing to read "William Bauer", with a stylized flourish at the end.

William Bauer, PE (Lic. MN, IA, SD)  
Project Manager

Accepted on this \_\_\_\_ day of \_\_\_\_\_, 2022

**City of Edina, Minnesota**

By: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Approved by the HRA on \_\_\_\_\_





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**Date:** May 19, 2022

**Agenda Item #:** VII.A.

**To:** Chair & Commissioners of the Edina HRA

**Item Type:**  
Report / Recommendation

**From:** Bill Neuendorf, Economic Development Manager

**Item Activity:**  
Discussion

**Subject:** Resolution 2022-06: Contract for Private  
Development and Sale of Property to United  
Properties Residential LLC

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**ACTION REQUESTED:**

Motion to close the public hearing at noon, Monday May 23, 2022 and to continue action on HRA Resolution 2022-06 to the June 2, 2022 HRA meeting.

**INTRODUCTION:**

This item pertains to the sale of property at 5146 Eden Avenue. This 3.3 acre property was formerly used by Edina's Public Works Department until they moved to larger facilities in 2013.

The HRA has considered several different types of transactions in recent years. The proposed sale is intended for redevelopment purposes. The southern most portion is intended to be used for a new housing cooperative. The middle portion is intended to be used as a restaurant with indoor and outdoor seating. The northernmost portion is intended to be transformed into a public park.

The City Attorney has prepared a sales contract with United Properties Residential LLC based on a letter of intent that was previously reviewed and discussed by the HRA Board. Staff recommends approval of these terms.

A public hearing will be held today. Staff will present the key points of the transaction. The buyer will be available for questions. Final action is scheduled for June 2, 2022.

**ATTACHMENTS:**



HRA Resolution 2022-06 - sale to UPR

Staff Report - 5146 Eden contracts to sell

Staff Presentation - 5146 Eden contracts to sell

United Properties contract

Better Together Edina Comment Report





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**EDINA HOUSING AND REDEVELOPMENT AUTHORITY  
HENNEPIN COUNTY  
STATE OF MINNESOTA**

RESOLUTION NO. 2022-06

**RESOLUTION APPROVING CONTRACT FOR  
PRIVATE DEVELOPMENT AND SALE OF PROPERTY  
TO UNITED PROPERTIES RESIDENTIAL, LLC**

**WHEREAS**, the Board of Commissioners (the “Board”) of the Edina Housing and Redevelopment Authority (“Authority”) intends to plat the certain real property legally described in Exhibit A (“Authority Property”) as Grandview Yard Addition, to consist of three lots;

**WHEREAS**, the Authority and United Properties Residential LLC, a Minnesota Limited Liability Company (“Developer”) have negotiated a Contract for Private Development attached hereto as Exhibit B (“Contract”) that includes the sale of a portion of the Authority Property to be platted as the most southerly lot of the Grandview Yard Addition plat, consisting of approximately 1.69 acres (“Property”);

**WHEREAS**, the Contract requires the Developer to construct on the Property a multi-story limited equity senior housing cooperative consisting of approximately 90 units containing a mixture of unit sizes at both market and affordable prices as further defined and depicted in the Contract (“Minimum Improvements”);

**WHEREAS**, the Authority believes that the sale of the Property pursuant to the terms of the Contract for Private Development is in the best interest of the Authority, City of Edina, and its residents;

**WHEREAS**, the Board, after proper published notice, held a public hearing at approximately 7:30 a.m. on May 19, 2022, with regard to the sale of the Property;

**WHEREAS**, all requirements of Minnesota Statutes, Section 469.029 regarding the sale of the Property have been satisfied.



**NOW, THEREFORE, BE IT RESOLVED** by the Board:

1. The Contract by and between the Authority and Developer is hereby approved. The President and Secretary are authorized and directed to execute the Contract.
2. The President, Secretary and City Attorney are authorized and directed to execute and record all documents necessary to convey the Property and comply with the terms of the Contract.

Approved by the Board on June \_\_\_\_\_, 2022.

\_\_\_\_\_  
James B. Hovland, Chair

ATTEST:

\_\_\_\_\_  
James Pierce, Secretary

STATE OF MINNESOTA )  
COUNTY OF HENNEPIN ) SS  
CITY OF EDINA )

**CERTIFICATE OF EXECUTIVE DIRECTOR**

I, the undersigned duly appointed and acting Executive Director for the Housing and Redevelopment Authority of Edina, Minnesota, do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Housing and Redevelopment Authority of Edina, Minnesota at its Meeting of \_\_\_\_\_, 2022, and as recorded in the Minutes of said Meeting.

WITNESS my hand and seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Scott Neal, Executive Director



## **EXHIBIT A**

### **LEGAL DESCRIPTION OF AUTHORITY PROPERTY**

Lots 2, 3, 4, 5, 6, 7, 8, 9 and 10;  
The East 90 feet of Lots 11 to 19 inclusive;

all in Block 2, "Grand View Heights".

That part of Government Lot 8, Section 28, Township 117, Range 21, lying North of the center line of Eden Avenue and East of a line drawn parallel to the main track of the Minneapolis, Northfield and Southern Railway from a point on the North line of said Government Lot 8 distant 582 feet East from the Northwest corner of said Government Lot 8.



**EXHIBIT B**  
**CONTRACT FOR PRIVATE DEVELOPMENT**

**ATTACH FINAL CONTRACT HERE**





Housing and Redevelopment Authority  
Established 1974

**Date:** May 19, 2022

**To:** Chair and Commissioners of Edina Housing & Redevelopment Authority

**From:** Bill Neuendorf, Economic Development Manager

**Subject:** Resolution 2022-06 and 2022-07: Contracts for Private Redevelopment and Sale of Property to United Properties Residential, LLC and Jester Concepts, LLC

## **Information / Background:**

This item pertains to the sale of property at 5146 Eden Avenue. This 3.3 acre property was formerly used by Edina's Public Works Department until they moved to larger facilities in 2013. The property has been tax-exempt since 1962. It was previously used as a concrete plant after the train tracks were activated.

The HRA took ownership of the site so that it could be held and conveyed for redevelopment purposes. The intended uses are strongly informed by the Grandview Development Framework that was prepared by a group of 50+ community volunteers from 2010 to 2012. The Grandview Seven Guiding Principles have also been applied as the potential users for the site have been identified. The Framework envisioned a mixture of public and private uses on the 3.3-acre site that could create a catalyst to attract future development and to create a new community destination. The Framework also urged that better access be provided through the District, that parking resources be organized to be more efficiently used; and that a unique sense of place be established.

The HRA has considered several different types of projects for the vacant site over the past ten years. The 2022 proposal is the tenth version considered.

The HRA Board has discussed aspects of potential real estate transactions in closed session in 2021 and 2022. The HRA Board directed staff to prepare sales contracts to achieve the desired redevelopment outcomes. Two sales contracts have been prepared by the City Attorney based on the Letters of Intent submitted by United Properties Residential, LLC and Jester Concepts, LLC in March 2022.

## **For-Sale Cooperative Housing**

United Properties proposes to construct a senior housing cooperative on the southern most portion of the site using the Applewood Pointe concept that has been successfully implemented in other locations.



Approximately 90 units would be available for sale in this project. Financing is intended to be provided by the U.S. Department of Housing and Urban Development (HUD). After the project is built and sold, on-site management is anticipated to be provided by Ebenezer. Most of the units will be sold for market-rate prices but 10% of the units will be sold at affordable prices.

### **Restaurant with Indoor & Outdoor Dining**

Jester Concepts proposes to construct a new restaurant and hospitality facility approximately 12,000 to 15,000 square feet on three levels. The facility would feature indoor and outdoor dining designed to complement the adjacent public park. Private financing is anticipated although a grant may be necessary if construction costs continue to escalate. Jester has several successful restaurant operations located in Minneapolis and Saint Paul. They were selected for the responsiveness and compatibility with a Request for Interest that was distributed to over 40 restaurant and hospitality groups in late 2021.

Frauenschuh Companies has assisted the HRA staff in coordinating conversations with Jester and United Properties. Frauenschuh has also provided oversight as pre-development engineering and design work was conducted to prepare initial concept plans and a submittal for Edina's Sketch Plan review process in January 2022.

### **Public Park (Grandview Yard)**

The northernmost portion of the site is intended to be transformed into a public park. The HRA will need to re-plat the site and create 3 separate lots to accommodate the new uses. The new plat is tentatively called Grandview Yards to recognize its location and previous industrial uses that are still visible by the active freight train tracks and railroad siding.

The proceeds from selling the land is anticipated to prepare the site and construct the new park. After completion, the park is anticipated to be turned over to the City of Edina. Annual park maintenance will become a responsibility of the Park and Recreation Department.

Staff will summarize key points of the sales contracts as identified in the attached presentation. Staff, the City Attorney and the buyers will be available for questions as part of the Public Hearing.

### **Requested Action:**

This information is provided for the Public Hearing. No action is required today.

Staff recommends that the Public Hearing continue until Monday May 23, 2022 and that final action on these Resolutions be considered on June 2, 2022.

END









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# Resolutions 2022-06 and 2022-07

## Sale of Property at 5146 Eden Avenue

Housing & Redevelopment Authority  
Public Hearing  
May 19, 2022



# Existing Conditions



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# Redevelopment Concept



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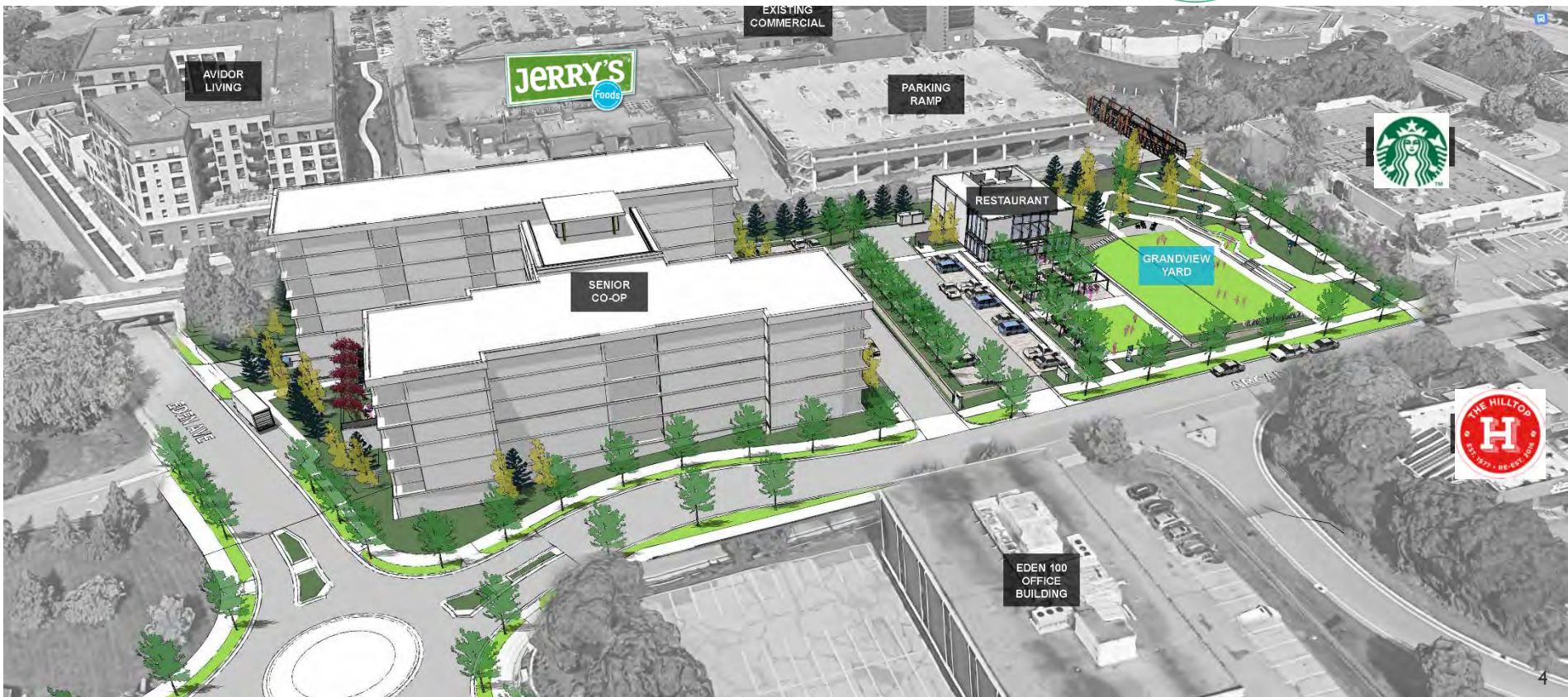




# Redevelopment Concept - birds eye



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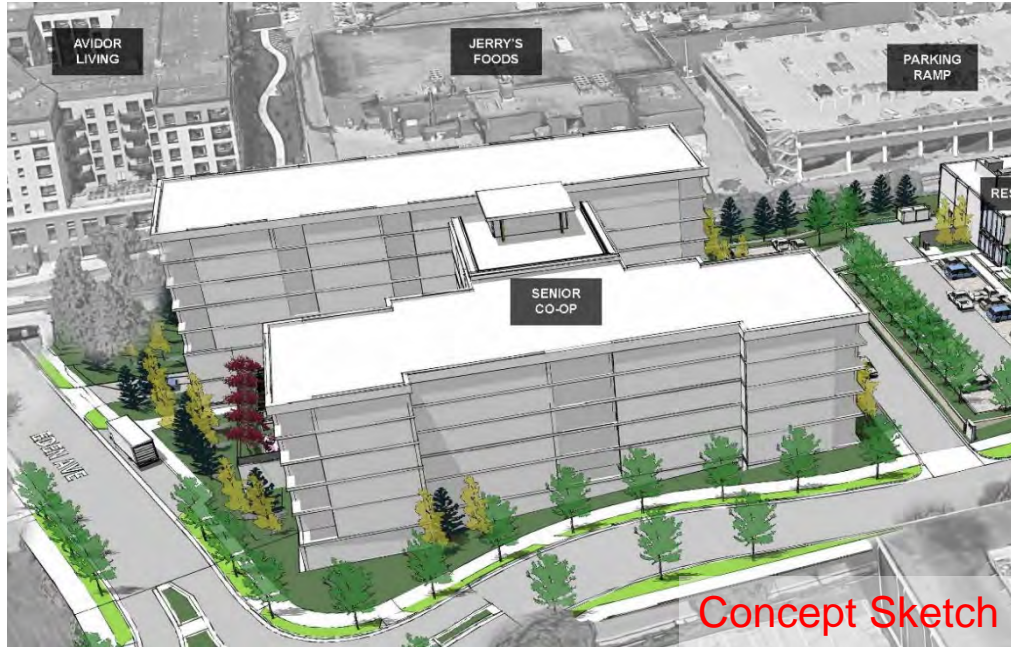




# Lot I - Housing Cooperative



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UNITED PROPERTIES



APPLEWOOD POINTE

**EBENEZER**



# Housing Cooperative

## Sales Price and use restrictions

- \$3,000,000 for 1.69 acres
  - \$33,333 price reduction per unit if fewer than 90 units approved
  - close upon financing
  - no broker fees paid by HRA
- Must be limited-equity housing cooperative for seniors
- Must include 10% of units sold at affordable prices
  - 90% sold at market rate



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### Staff Comments

- Price per unit is in the typical range of most recent multi-family transactions
- Consistent with April 2022 Appraisal
- This is a fair land value based on the HRA's preference for ownership housing rather than rental and HRA's preference to limit overall density on the site.



# Housing Cooperative

## Key contractual terms



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- \$50,000 earnest money
- Two-phase due diligence
  - 180 days for zoning
  - 180 days for pre-sales
  - Extendable, if needed
- Closing costs, pro-rated and standard
- Right of reverter if not built

### Staff Comments

- Typical terms and conditions
- Two-phase due diligence is unique for most residential but typical for cooperatives due to pre-sale requirements of HUD financing



# Housing Cooperative

## Easements and Restrictions



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- HRA must commit to build park
- Restaurant parcel no more than 3 stories
- Shared easement for driveway
- Public easement along tracks for access

### Staff Comments

- HRA obligations are reasonable
- Both housing and restaurant will have multiple cross access easements to maximize efficiency



# Lot 2 - Restaurant



Concept Sketch



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# Restaurant

## Sale price and use restrictions

- \$500,000 for 0.72 acres
  - will reimburse Frauenshuh for securing operator per 2021 contract
- Must be food-oriented commercial business that complements the park
- Must be no more than 3 stories
- Buyer may require \$149,000 grant if construction costs continue to escalate



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### Staff Comments

- Consistent with April 2022 Appraisal
- This is a fair land value based on the HRA's preference for a food-oriented business that complements the adjacent public park.
- SPARQ grant may be considered in the future after construction costs and schedule clarified.



# Restaurant

## Key contractual terms

- \$20,000 earnest money
- Two-phase due diligence
  - 180 days for zoning
  - 180 days for pre-sales
- Closing costs, pro-rated and standard
- Right of first refusal, if sold
- Right of reverter, if not built



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### Staff Comments

- Typical terms and conditions
- Two-phase due diligence is unique for most commercial but mirrors the schedule required to secure HUD financing for the cooperative



# Restaurant

## Easements and Restrictions



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- Shared easement for driveway
- Public easement along tracks for access
- Must include exterior-facing public toilets to serve Park
- Participation in Maintenance District
- Temporary easement for construction of housing and restaurant

### Staff Comments

- Both housing and restaurant will have multiple cross access easements to maximize efficiency

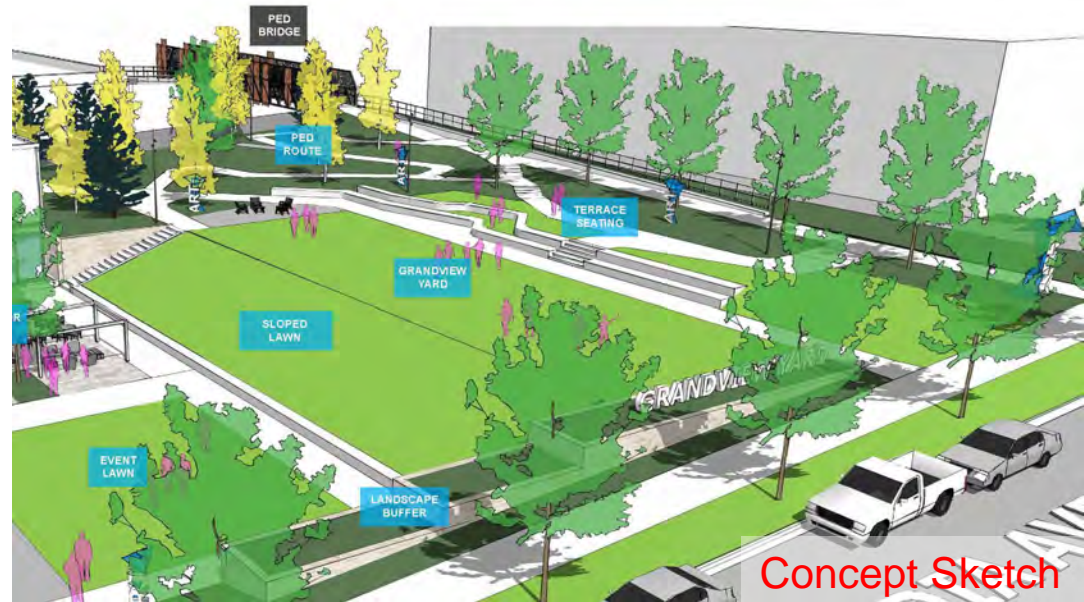


# Lot 3 - Public Park – concept



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- Permanent public space for residents, employees, customers and general public
- Could include some areas that could be licensed for public/private events
- Designed to accommodate elevation change from pedestrian bridge to restaurant
- ADA access throughout
- Flat open yard to allow for special events (music, movies, festival, etc TBD)



CONFLUENCE

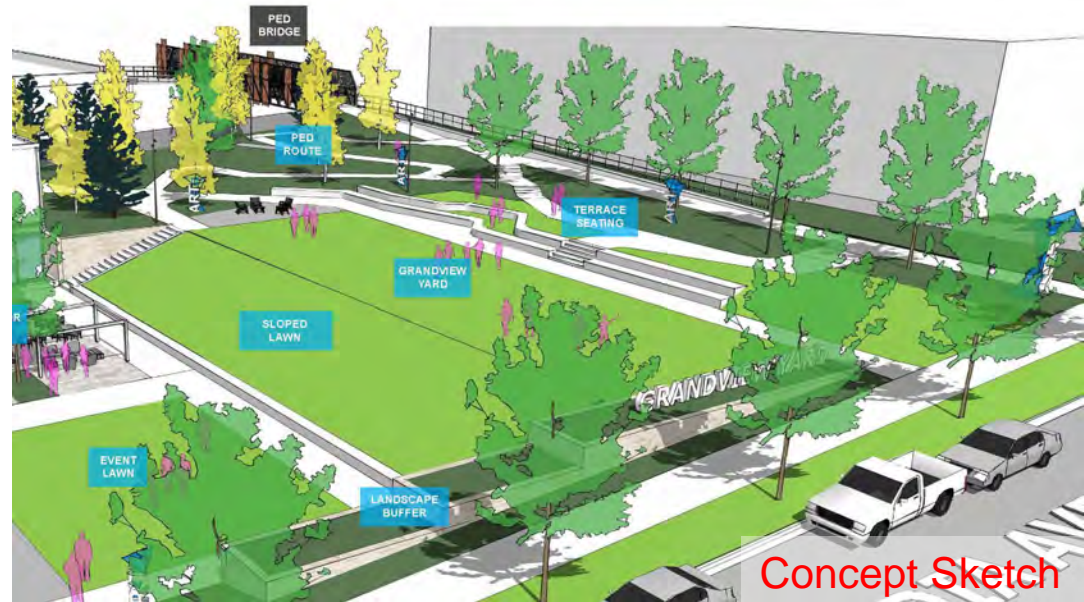


# Lot 3 - Public Park – concept



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- On-street parking and parking in adjacent Grandview parking structure
- No playground equipment anticipated
- No ball fields or similar sporting events anticipated
- Space for future park structures (gazebo, shade pavilion, etc TBD)
- Space for future park amenities (water feature, hammocking, etc TBD)
- Space for future public art



CONFLUENCE

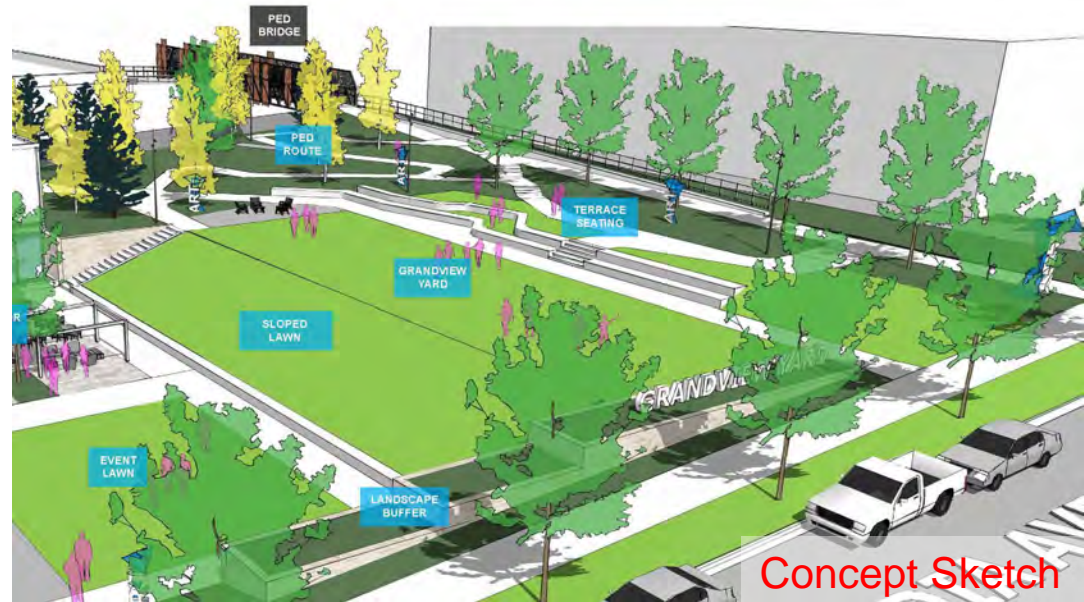


# Obligations of the HRA



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- Complete pedestrian bridge
- Prepare 3-acre site to allow two buildable pads to be sold
- Construct new park
  - Rough grading: approx. \$1 M
  - Final grading & landscaping: approx. \$1 M
  - Future structures TBD



CONFLUENCE



# Future Steps for Redevelopment



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## Real Estate Transaction

- Final Action scheduled June 2, 2022
- Closing deferred until 2023 or 2024

## Zoning Entitlement

- Anticipated late summer/fall 2022
- Public Hearings required

## Pre-Development Site Work

- By HRA to create buildable site
- Anticipated summer/fall 2023

## Pre-Sales and Project Financing

- Anticipated to begin fall 2022
- 60% pre-sales required for HUD financing
- Private financing for restaurant
- SPARQ grant may be necessary based on restaurant construction costs
- New park to be funded by real estate proceeds

## Construction

- Anticipated 2024 to 2026



# Staff Recommendation



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- These contracts reflect market conditions and are responsive to the direction set by the HRA for the future use of this site.
- Staff recommends that the Public Hearing be completed.
- Staff further recommends that the contracts be considered on June 2, 2022 after any Board questions have been resolved.





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Staff and Buyers available  
for questions and comments



# Sketch Plan – for reference



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# Sketch Plan – for reference



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# Sketch Plan – for reference



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# Sketch Plan – for reference



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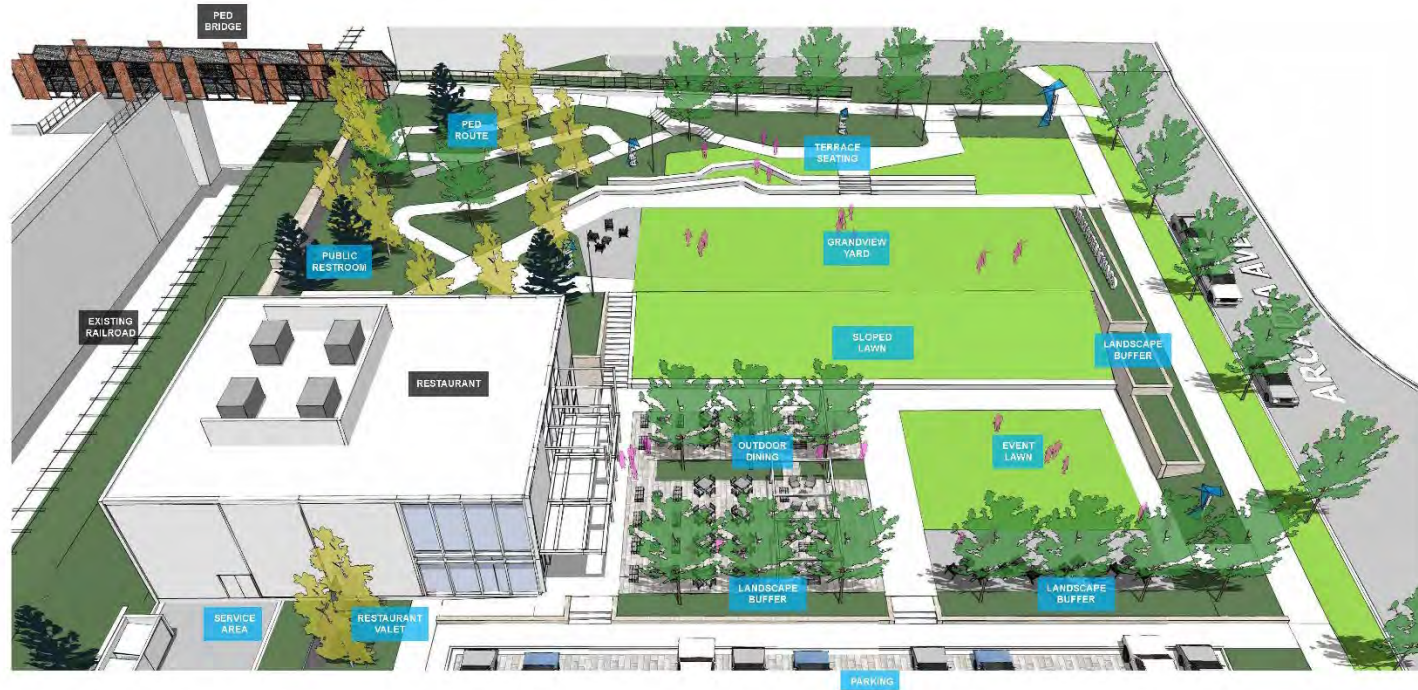




# Sketch Plan – for reference



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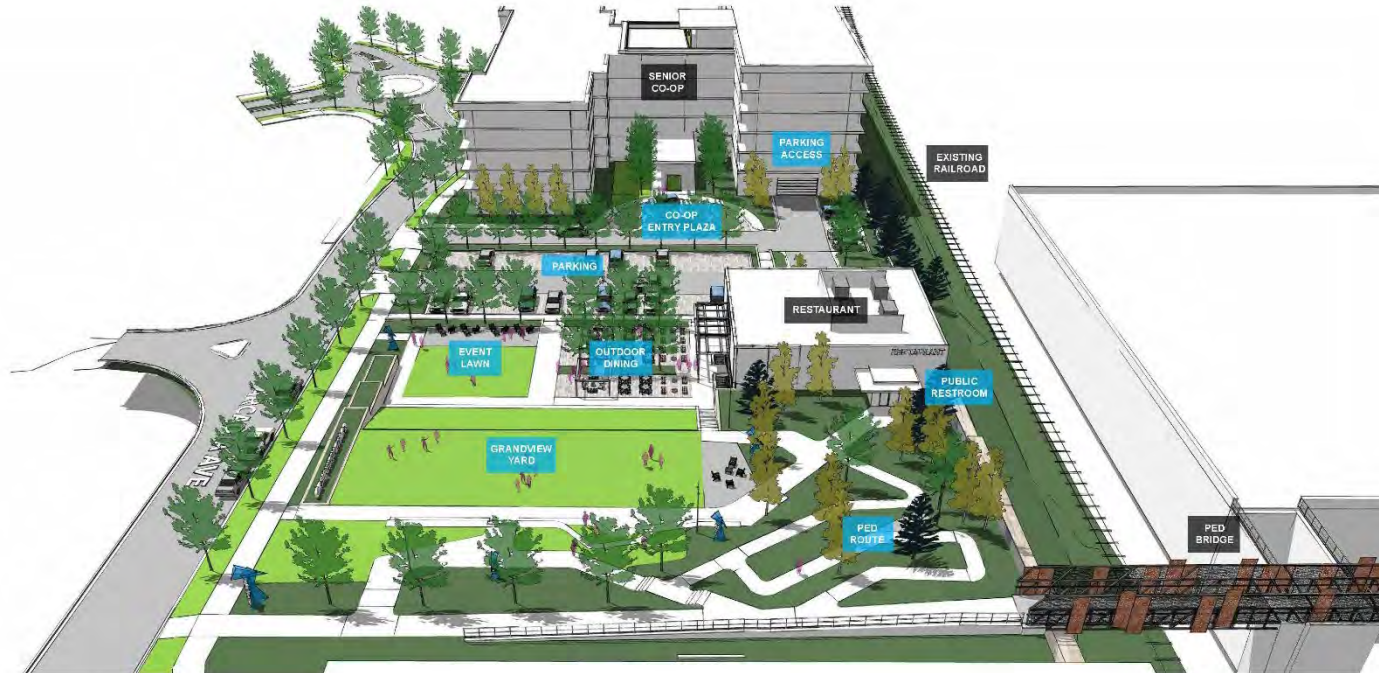




# Sketch Plan – for reference



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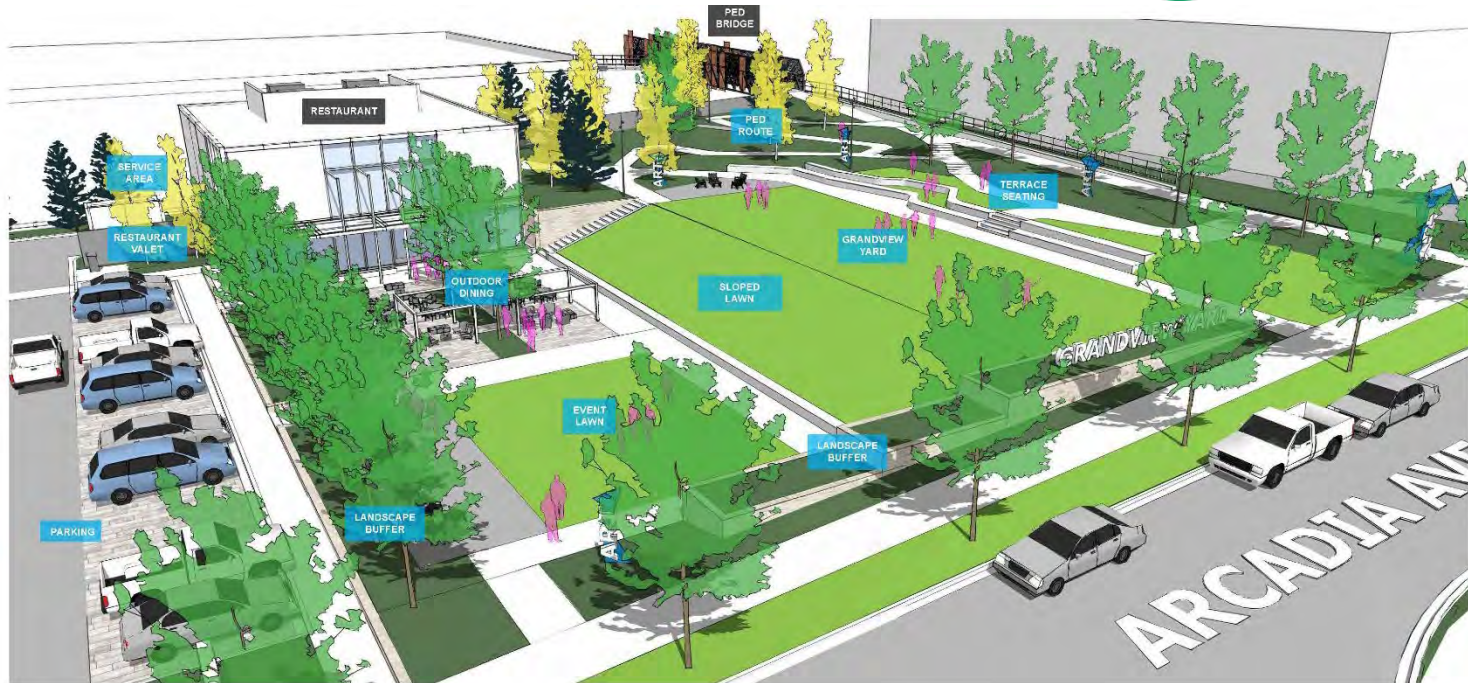




# Sketch Plan – for reference



The CITY of  
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# Sketch Plan – for reference



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# Sketch Plan – for reference



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# Seven Guiding Principles - 2012



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- 1.) Leverage publicly-owned parcels and civic presence to **create a vibrant and connected district that serves as a catalyst** for high quality, integrated public and private development.
- 2.) Enhance the District's economic viability as **a neighborhood center with regional connections**, recognizing that meeting the needs of both businesses and residents will make the district a good place to do business.
- 3.) **Turn perceived barriers into opportunities.** Consider layering development over supporting infrastructure and taking advantage of the natural topography of the area.
- 4.) **Design for the present and the future** by pursuing logical increments of change using key parcels as stepping stones to a more vibrant, walkable, functional, attractive, and life-filled place.
- 5.) **Organize parking** as an effective resource for the district by linking community parking to public and private destinations while also providing parking that is convenient for businesses and customers.
- 6.) **Improve movement within and access** to the district for people of all ages by facilitating multiple modes of transportation, and preserve future transit opportunities provided by the rail corridor.
- 7.) **Create an identity and unique sense of place** that incorporates natural spaces into a high quality and sustainable development reflecting Edina's innovative development heritage.



*(reserved for recording information)*

**CONTRACT FOR PRIVATE DEVELOPMENT**

***UNITED PROPERTIES SENIOR HOUSING COOPERATIVE AT  
GRANDVIEW YARD***

**THIS AGREEMENT**, made on or as of the \_\_\_\_ day of \_\_\_\_\_, 2022 (“Effective Date”), by and between the **EDINA HOUSING AND REDEVELOPMENT AUTHORITY**, a public body corporate and politic under the laws of the State of Minnesota (the "HRA") and **UNITED PROPERTIES RESIDENTIAL LLC**, a Minnesota limited liability company (the "Developer").

**WITNESSETH:**

**WHEREAS**, the HRA was created pursuant to Minnesota Statutes, Sections 469.001-.047 and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Edina pursuant to Section 469.003 of the Act; and

**WHEREAS**, pursuant to the Act, the HRA is authorized to undertake certain activities to prepare real property for development and redevelopment by private enterprise; and

**WHEREAS**, the HRA is the fee owner of property located in the City of Edina, as legally described in **Exhibit A** attached hereto (“HRA Property”), which the HRA intends to plat as the Grandview Yard Addition prior to Closing (defined herein) into three (3) separate lots: Lot 1, Block 1 (“Sale Property”), Lot 2, Block 1 (“Restaurant Lot”) and Lot 3, Block 1 (“Park Lot”), all as shown on attached **Exhibit B**;

**WHEREAS**, there has been a proposal that the HRA approve the sale of the portion of the HRA Property to be platted as the Sale Property, consisting of approximately 1.69 acres of



land (the “Property”) to the Developer for development of a multi-story limited equity senior housing cooperative consisting of approximately 90 units with a mixture of unit sizes and with 10% of the units designated as affordable pursuant to City zoning requirements (“Project”); and

**WHEREAS**, the HRA believes that the Project and fulfillment generally of this Agreement is in the best interest of the HRA and the health, safety, morals and welfare of the residents of the City of Edina and in accord with the public purposes and provisions of the applicable state and local laws and requirements.

**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.** **DEFINITIONS**

In this Agreement, unless a different meaning clearly appears from the context:

**"Act"** means Minnesota Statutes, Sections 469.001-.043, as amended.

**"Agreement" [or "Contract"]** means this Contract for Private Development by and between the HRA and the Developer, as the same may be from time to time modified, amended or supplemented.

**"Articles and Sections"** mentioned by number only are the respective Articles and Sections of this Agreement so numbered.

**"Board"** means the the Board of Commissioners of the HRA.

**"Certificate of Completion"** means the certificate to be issued by the HRA pursuant to the terms of Section 4.6.

**"City"** means the City of Edina, Minnesota.

**"Closing"** means the closing on the transfer of the Property pursuant to Article III.

**"Closing Date"** means the date of closing on the transfer of the Property as provided in Section 3.6.

**"Commence" or "Commencement"** means the first visible improvement to the Property made in furtherance of the construction of the Minimum Improvements (including, specifically, pouring footings and foundations).

**"Completion"** means the Developer’s receipt of the Certificate of Completion from the HRA for the Minimum Improvements.



**"County"** means the County of Hennepin, Minnesota.

**"Cure Rights"** means the rights to cure a Default as specified in Section 7.2.

**"Deed"** means a limited warranty deed in the Minnesota Uniform Conveyancing Blank Form, subject to the right of reverter provided under Section 4.5.

**"Developer"** means United Properties Residential LLC, or any assigns that have received prior written approval from the HRA.

**"Event of Default"** means an action by the Developer listed in Article VII of this Agreement.

**"HRA"** means the Edina Housing and Revelopment Authority.

**"Minimum Improvements"** means the construction by the Developer on the Property of a multi-story limited equity senior housing cooperative consisting of approximately 90 units containing a mixture of unit sizes which will include the elements as generally described and depicted in **Exhibit C** attached hereto, in accordance with all applicable local, state and federal regulations governing such facilities, and in conformance with site plans as the same have been submitted to the HRA.

**"Parties"** means the Developer and the HRA.

**"Party"** means either the Developer or the HRA.

**"Plat"** means the final plat of the HRA Property for the Grandview Yard Addition, consisting of three (3) lots as generally depicted in **Exhibit B**.

**"Project"** means the Property and the completed Minimum Improvements thereon.

**"Property"** means that portion of the HRA Property to be platted as the Sale Property. The parties acknowledge that the Sale Property contains approximately 1.69 acres, but that the legal description of the Sale Property shall be verified by the Survey and the Title Company (both as hereinafter defined) on or before Closing.

**"Purchase Price"** means the sum of Three Million and No/100 Dollars (\$3,000,000.00), which the Developer shall pay the HRA for the purchase of the Property. The Purchase Price is based on the construction of 90 units. The Purchase Price will be adjusted by an amount of \$33,333.00 per unit based on the final number of units approved by the City of Edina and the HRA.

**"Reverter Closing Date"** means ninety (90) days after the Developer's receipt of the HRA's notice exercising the HRA's right of reverter for the Property as set forth in Section 4.5.



**“Reverter Deed”** means the limited warranty deed through which the Developer will convey the Property and any improvements thereon back to the HRA upon the HRA’s exercise of its right of reverter as set forth in Section 4.5.

**“State”** means the State of Minnesota.

**“Title Company”** means Land Title, Inc.

**“Unavoidable Delays”** means delays outside the control of the party claiming its occurrence which are the direct result of strikes, other labor troubles, unusually severe or prolonged bad weather, Acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the HRA) which directly result in delays. Unavoidable delays shall not include delays in the Developer obtaining permits or governmental approvals necessary directly to enable construction of the Minimum Improvements.

## **ARTICLE II.**

### **REPRESENTATIONS AND WARRANTIES**

**Section 2.1. Representations and Warranties by the HRA.** The HRA represents and warrants that:

(a) The HRA is a public body corporate and politic duly organized and existing under the laws of the State. Under the provisions of the Act and the laws of the State, the HRA has the power to enter into this Agreement and carry out its obligations hereunder.

(b) Subject to satisfaction of the terms and conditions of this Agreement, the HRA will convey the Property to the Developer for development in accordance with the terms of this Agreement.

(c) There is not pending, nor to the best of the HRA’s knowledge is there threatened, any suit, action or proceeding against the HRA before any court, arbitrator, administrative agency, or other governmental authority that may materially and adversely affect the validity of any of the transactions contemplated hereby, the ability of the HRA to perform its obligations hereunder or as contemplated hereby, or the validity or enforceability of this Agreement.

(d) To the best of the HRA’s knowledge and belief, no member of the Board or officer of the Board, has either a direct or indirect financial interest in this Agreement nor will any HRA Board member or officer of the HRA, benefit financially from this Agreement within the meaning of Minnesota Statutes Section 460.009

(e) To the best of its knowledge, the HRA believes that a private wells were located on the Property, but have since been sealed.



(f) To the best of the HRA's knowledge any sewage generated on the Property goes to a facility permitted by the Minnesota Pollution Control Agency and there are no active or abandoned individual sewage treatment systems located on or serving all or any part of the Property.

(g) To the best of the HRA's knowledge, no methamphetamine production has occurred on the Property. This statement is being made pursuant to the disclosure requirements of Minnesota Statutes Section 152.0275.

(h) To the best of the HRA's knowledge and without independent investigation by the HRA, the HRA has not received written notice of the presence or existence of any hazardous materials regulated by any applicable federal, state, county or local government authorities in amounts on the Property that violate existing law, except as otherwise provided in the following: \_\_INSERT LIST OF KNOWN ENVIRONMENTAL REPORTS HERE\_\_.

(i) The HRA has not received notice of default concerning any of its obligations or liabilities regarding the Property;

(j) The HRA has not received written notice of any action, litigation, investigation, condemnation or proceeding of any kind pending or threatened against the HRA or any portion of the Property.

(k) The HRA will reasonably cooperate in the processing of any applications required under this Agreement to be filed with the City by the Developer. The HRA does not hereby warrant or represent that the City will approve an application filed by Developer, except as expressly provided in this Agreement.

(l) The execution, delivery and performance of this Agreement, and any other documents, instruments or actions required or contemplated pursuant to this Agreement by the HRA does not, and consummation of the transactions contemplated therein and the fulfilment of the terms thereof will not conflict with or constitute on the part of the HRA a breach of or default under any existing agreement or instrument to which the HRA is a party or violate any law, charter or other proceeding or action establishing or relating to the establishment and powers of the HRA or its officers, officials or resolutions.

**Section 2.2. Representations and Warranties by the Developer.** The Developer represents and warrants that:

(a) The Developer is a limited liability company organized and in good standing under the laws of the State of Minnesota, is qualified to do business in the State, is not in violation of any provisions of its operating agreement or other organization documents or the laws of the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its members.



(b) The execution and delivery of this Agreement and the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof do not and will not conflict with or result in a breach of any material terms or conditions of the Developer's organizational documents, any restriction or any agreement or instrument to which the Developer is now a party or by which it is bound or to which any property of the Developer is subject, and do not and will not constitute a default under any of the foregoing or a violation of any order, decree, statute, rule or regulation of any court or of any state or Federal regulatory body having jurisdiction over the Developer or its properties, including its interest in the Minimum Improvements, and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of Developer contrary to the terms of any instrument or agreement to which the Developer is a party or by which is bound.

(c) To the best of the Developer's knowledge and belief, the execution and delivery of this Agreement will not create a conflict of interest prohibited by Minnesota Statutes Section 469.009, as amended.

(d) The Developer has the capacity to enter into this Agreement and to perform its obligations hereunder.

(e) When the Property is conveyed to the Developer, the Developer will construct, operate and maintain the Minimum Improvements upon the Property in accordance with the terms of this Agreement, and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(f) The Minimum Improvements will be constructed by the Developer, at its sole expense, in such manner, and at such expense as are necessary to make the Property usable by the Developer, including all such improvements as are necessary to make said facility comply with all applicable federal, state and local rules, regulations, ordinances and laws.

(g) There are no pending or threatened legal proceedings, of which the Developer has notice, contemplating the liquidation or dissolution of the Developer or threatening its existence, or seeking to restrain or enjoin the transactions contemplated by this Agreement or the validity of this Agreement.

(h) The Developer reasonably expects that it will be able to obtain private financing in an amount sufficient to enable the Developer to successfully construct the Minimum Improvements, as provided herein.

(i) The Developer will use its best efforts to construct the Minimum Improvements in accordance with all local, state or federal energy-conservation laws or regulations.

(j) The Developer will use its best efforts to obtain, in a timely manner, all required permits, licenses and approvals and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.



### **ARTICLE III. CONVEYANCE OF PROPERTY**

**Section 3.1. Property.** Subject to the the terms and conditions of this Agreement, the HRA will sell and convey the Property to the Developer and the Developer will purchase and accept the Property from the HRA fee ownership of the Property.

**Section 3.2. Purchase Price.** The purchase price for the Property shall be payable by Developer as follows:

(a) Fifty Thousand and No/100 Dollars (\$50,000.00) as earnest money deposited with the HRA within five (5) days of the Effective Date of this Agreement (the “Earnest Money”) which shall not bear interest. The Earnest Money shall be non-refundable except in the event of termination of this Agreement as specifically provided under Section 3.4(j) of this Agreement; and

(b) The balance payable in cash, certified funds or wire transfer paid to the HRA at Closing.

**Section 3.3. Title and Survey.** The Developer shall be responsible for performing any and all title and survey examination or due diligence of the Property that the Developer deems prudent, at the Developer’s sole cost and expense, except as otherwise provided for in this Agreement. The HRA will provide marketable title to the Property at Closing, but the the HRA is otherwise not providing any representations or warranties as to the condition of title and Developer expressly waives and claims the Developer may have against the HRA in connection with title defects. Notwithstanding the foregoing, the HRA agrees to reasonably cooperate with the Developer to cure any title defects that my exist before the expiration of the Initial Due Diligence Period (as defined below).

#### **Section 3.4. Due Diligence Periods.**

(a) Documents and Materials. Within five (5) business days after the Effective Date, the HRA shall deliver to Developer the following documents in the HRA’s possession or control: (1) the most current ALTA survey and prior title policy; (2) Any soils reports, environmental assessment reports, topographical maps, utility information, site studies, engineering reports or other property condition reports (3) Any permits, development engineering plans, correspondence with jurisdictional agencies, utility service agreements, leases, use or licensing agreements, and other such information affecting the Property (collectively, the “Property Documents”); provided, however, that notwithstanding the foregoing, the HRA’s internally prepared notes, memoranda or other documents and any other documents or materials which are confidential or proprietary to the HRA will be excluded from the Property Documents.

(b) Initial Due Diligence Period. Developer shall have One Hundred and Eighty (180) days from the Effective Date to: (1) examine the Property Documents; (2) make a physical



inspection of the Property; (3) procure financing sources for construction of the Minimum Improvements; (4) determine anticipated phased construction schedule; (5) obtain final land use approvals for the proposed development; and (6) review title to the Property (the “Initial Due Diligence Period”), as the same may be extended as provided below. In this regard, Developer and its authorized employees, agents, contractors and representatives (collectively, “Developer’s Representatives”) shall be entitled to enter upon the Property at all reasonable times during the Due Diligence Period for the purpose of inspecting, investigating, surveying and the conducting of testing of the Property (collectively, “Inspections”), upon reasonable prior oral or written notice to the HRA. All Inspections shall occur at reasonable times agreed upon by the HRA and Developer. Developer shall pay all costs and expenses of all Inspections. Notwithstanding anything herein to the contrary, Developer shall not perform soil tests, asbestos or lead tests, or perform tests of a similarly intrusive nature without the prior written consent of HRA, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, Developer shall have the right to complete a Phase I and a Phase II environmental report as part of such Inspections. In the event Developer has not obtained final land use approvals for the proposed development or the HRA has not yet obtained final plat approval, either party may, by notice to the other party, extend the Initial Due Diligence Period for a period of up to 60 days. Any additional extension of the Due Diligence Period by a party shall require written consent of the other party.

(c) Responsibilities During Initial Due Diligence Period. During the Initial Due Diligence Period (as the same may be extended), the parties will work in good faith to:

- (1) confirm the physical delivery condition of the Property at Closing, including, but not limited to, establishing:
  - (a) the rough grade elevation of the Property to be conveyed at Closing;
  - (b) the approximate location of the new curb line for Arcadia Avenue
  - (c) the location of all sanitary sewer, water and stormwater utility connections serving the Property;
  - (d) the location of entry and access points to the Property (whether directly to public right of way or through separate agreements with adjacent properties); and
  - (e) responsibility for maintenance of the public sidewalk serving the Property and establishing any actions necessary to finalize maintenance responsibility.
- (2) finalize the terms and forms of agreements to be delivered at Closing for
  - (i) a permanent declaration of public uses, including a park, to be recorded against the Park Lot for 30 years;
  - (ii) a permanent height restriction of no more than three story construction to be recorded the Restaurant Lot, and
  - (iii) any easements determined by the parties necessary for their intended uses of their respective lots within the Plat including, but not limited to:



- (a) an easement for the proposed private road serving the lots within the Plat and operation and maintenance of the private road;
- (b) an easement for access over the westerly 10 feet of the Property and the Restaurant Lot for the benefit of the Restaurant Lot and the Park Lot; and
- (c) temporary construction easement(s) over the Restaurant Lot and the Park Lot to serve the Property and the Restaurant Lot for staging grounds for the construction of the improvements on the Property and the Restaurant Lot;

(d) Title and Survey. The Developer shall be responsible for performing any and all title and survey examination or due diligence of the Property that the Developer deems prudent, at the Developer's sole cost and expense, except as otherwise provided in this Agreement. The HRA will provide marketable title to the Property at Closing, but the HRA is otherwise not providing any representations or warranties as to the condition of title and Developer expressly waives any claims the Developer may have against the HRA in connection with any title defects. Notwithstanding the foregoing, the HRA agrees to reasonably cooperate with Developer to cure any title defects that may exist before Closing.

(e) Approvals. During the Initial Due Diligence Period, Developer shall use commercially reasonable efforts to obtain zoning designations, or other zoning and land use approvals required to construct the Minimum Improvements on the Property in an efficient and cost effective manner as determined by Developer in Developer's sole and absolute discretion (the "Approvals"). The HRA shall, at no cost or liability to the HRA, reasonably cooperate and affirmatively assist Developer with Developer's efforts to obtain its Approvals, but does not guarantee the granting of such Approvals. Developer shall be solely responsible for all costs associated with obtaining the Approvals and no such Approvals will be effective prior to the Closing Date unless approved by the HRA.

(f) Plat. During the Initial Due Diligence Period (as the same may be extended) the HRA shall use commercially reasonable efforts to obtain plat approval of the Plat to be recorded at Closing, subject to review and approval by the Developer in relation to the Property.

(g) Second Due Diligence Period. Developer shall have up to One Hundred Eighty (180) days following the expiration of the Initial Due Diligence Period, as the same may be extended (the "Second Due Diligence Period") solely for the purpose of completing the Housing and Urban Development financing required pre-sale of at least 60% of the Senior Cooperative Units ("Pre-Sale Requirements"). Developer shall use commercially reasonable efforts to market the senior cooperative units and complete the Pre-Sale Requirements. The Developer may waive the Second Due Diligence Period upon Developer achieving the Pre-Sale Requirements by written notice to the HRA. . In the event Developer has not obtained Pre-sale Requirements during the Second Due Diligence Period, Developer, may, by notice to HRA extend the Second Due Diligence Period for a period of up to 90 days.



(h) Indemnification; Manner of Inspections. Developer shall indemnify, defend and hold the HRA and the Property harmless from all loss, damages, costs, claims, liabilities and expenses, including without limitation attorneys' fees, relating to the Inspections or the activities of the Developer and the Developer Representatives. Developer and the Developer Representatives shall perform the Inspections upon the Property (i) in a manner so as not to cause damage to the Property or the death or personal injury to any persons and (ii) in a manner which keeps the Property free of any liens or third-party claims resulting therefrom. Developer shall repair and restore any damage to the Property caused by any of the Developer Representatives or occurring during the Inspections and shall return the Property to substantially the same condition as existed prior to such entry. At the HRA's option, a representative of the HRA may accompany Developer and the Developer Representatives during the Inspections. The HRA and Developer agree that the provisions of this Section 3.4(h) shall survive the closing of the transaction contemplated by this Agreement.

(i) Insurance. Before and during any Inspections, Developer and each Developer Representative shall maintain workers' compensation insurance in accordance with applicable law, and Developer or the applicable Developer Representative, shall secure, maintain and provide evidence to HRA of (i) a commercial general liability insurance with limits of at least \$2,000,000 for bodily or personal injury or death, which policy shall name HRA and its agents as additional insureds, (ii) property damage insurance in the amount of at least \$1,000,000 and (iii) contractual liability insurance. Developer shall deliver to HRA evidence of such workers' compensation insurance and a certificate evidencing the commercial general liability, property damage and contractual liability insurance before conducting any Inspections on the Property.

(j) Termination During Due Diligence Periods.

(i) Initial Due Diligence Period. Developer may terminate this Agreement by giving written notice to HRA prior to the expiration of the Initial Due Diligence Period (as the same may be amended). Upon termination, the Earnest Money shall be refunded to the Developer and the parties shall have no further obligation to the other party upon termination, other than obligations which, by the express terms of this Agreement, survive a termination of this Agreement.

(ii) Second Due Diligence Period. Developer may terminate this Agreement by written notice to HRA prior to the expiration of the Second Due Diligence Period. If HRA elects to terminate for any reason other than Developer's failure to meet the Pre-Sale Requirements, the HRA shall retain the Earnest Money and the parties shall have no further obligation to the other party upon termination, other than obligations which, by the express terms of this Agreement, survive a termination of this Agreement. If Developer elects to terminate this Agreement prior to the expiration of the Second Due Diligence Period for failing to achieve the Pre-Sale Requirements, the HRA shall retain fifty percent (50%) of the Earnest Money and the remaining Earnest Money shall be refunded to Developer.



### **Section 3.5. Conditions Precedent to Conveyance of Property.**

(a) The HRA's obligation to convey the Property shall be subject to the satisfaction of, or waiver in writing by the HRA of, all of the following conditions precedent:

- (i) The Developer shall have performed all of the obligations this Agreement expressly requires the Developer to perform on or before the Closing Date, and the Developer shall not be in default under the terms of this Agreement;
- (ii) The Developer shall have delivered to the HRA all of the documents to be delivered by the Developer and described in Section 3.7(b) on or before the Closing Date;
- (iii) The Developer having secured all governmental permits and approvals in order to permit construction of the Minimum Improvements prior to Closing;
- (iv) The Developer shall have submitted to the HRA and the HRA shall have approved Construction Plans for Minimum Improvements pursuant to Article IV of this Agreement substantially consistent with the concept plan attached as **Exhibit C**;
- (v) The HRA and any adjacent property owners, if applicable, agreeing to easements, covenants and/or restrictions which, in HRA's sole and absolute discretion, shall meet HRA's needs for its intended usage of the Restaurant Lot and Park Lot;
- (vi) Developer (i) securing the necessary and appropriate financing to purchase the Property, and (ii) receiving the HRA's approval of the same as required pursuant to Section 6.3.
- (vii) The issues identified in Section 3.4 have been adequately addressed prior to the expiration of the Due Diligence Period, or extension thereof; and
- (viii) The Plat has been approved and is recorded at Closing.

(b) The Developer shall be obligated to accept title to the Property subject to satisfaction, or waiver in writing by the Developer, of the following conditions precedent:

- (i) The HRA shall have performed all of the obligations required to be performed by the HRA under this Agreement as of the Closing Date and shall not be in default under the terms of this Agreement;
- (ii) The Developer having secured the HRA's approval of the Construction Plans and all other governmental permits and approvals, including building permits necessary to construct the Minimum Improvements;



- (iii) Developer (i) securing the necessary and appropriate financing to purchase the Property, and (ii) receiving the HRA's approval of the same as required pursuant to Section 6.3.
  - (iv) The issues identified in Section 3.4 have been adequately addressed prior to the expiration of the Due Diligence Period, or extension thereof; and
  - (v) Developer and any adjacent property owners, if applicable, agreeing to easements, covenants and/or restrictions which, in Developer's sole and absolute discretion, shall meet Developer's needs for its intended usage of the Property
  - (vi) The Plat has been approved and is recorded at Closing.
- (c) HRA and Developer Options. In the event that any of the foregoing contingencies are not satisfied on or before the Closing Date, the Developer or the HRA, as the case may be must:
- (i) terminate this Agreement by written notice to the other party; or
  - (ii) waive such failure and proceed to close.

In the event of termination by either party, the Earnest Money will be non-refundable, except as otherwise provided under Section 3.4(j).

**Section 3.6. Closing.** Subject to the terms and conditions of this Agreement, the Closing shall occur within thirty (30) days of expiration of the Second Due Diligence Period ("Closing Date"), unless otherwise extended by approval of the Parties. The conveyance will be closed through an escrow arrangement with the Title Company.

**Section 3.7. Closing Documents.**

- (a) HRA Documents. At the Closing, the HRA shall execute, where appropriate, and deliver all of the following (collectively, the "HRA Documents"):
- (i) The Deed properly executed on behalf of the HRA conveying the Property to the Developer;
  - (ii) A Minnesota Uniform Conveyancing Blank Form Affidavit Regarding Business Entity;
  - (iii) A resolution of the HRA Board authorizing the HRA's execution and delivery of the Deed;
  - (iv) A non-foreign affidavit containing such information as required by Internal Revenue Code Section 1445(b)(9ii) and any regulations relating thereto;



- (v) A Minnesota Well Disclosure Certificate;
  - (vi) Such information as required by Developer or Title Company to permit Title Company to file an electronic certificate of real estate value;
  - (vii) A settlement statement reflecting the financial provisions of the Closing, consistent with the provisions of this Agreement;
  - (viii) The Plat;
  - (ix) Declaration of Restrictions in recordable format with respect to the Park Lot and Restaurant Lot as referenced in Section 3.4(c) above.
  - (x) Easements and any additional documents determined necessary by the parties during the Initial Due Diligence Period as referenced in Section 3.4(c) above, or any extension thereof, by amendment of this Agreement; and
  - (xi) Any other items required by this Agreement or reasonably requested by the Title Company or the Developer of the Closing.
- (b) Developer Documents. At the Closing, the Developer shall execute, where appropriate, and deliver all of the following (collectively, the “Developer Documents”):
- (i) The Purchase Price by wire transfer of immediately available funds to the Title Company;
  - (ii) Such affidavits of the Developer or other documents as may be reasonably required by the Title Company (including a Certificate of Real Estate Value) to record the HRA Documents and issue any title insurance policy required by the Developer;
  - (iii) A resolution of the members or manager of the Developer authorizing and approving the transaction contemplated by this Agreement, certified as true and correct by an officer of the Developer;
  - (iv) A settlement statement reflecting the financial provision of the Closing, consistent with provisions of this Agreement;
  - (v) Easements and any additional documents determined necessary by the parties during the Initial Due Diligence Period, or any extension thereof; and
  - (vi) Any other items required by this Agreement or reasonably requested by the Title Company or the HRA for the Closing.



**Section 3.8. Taxes and Deferred Assessments.** Except as otherwise provided herein, the HRA shall pay all general real estate taxes and installments of special assessments due and payable in the year prior to the Date of Closing and years prior thereto. The HRA and Developer shall prorate all general real estate taxes due and payable on the Property in the year in which the Date of Closing occurs on a per diem basis. Except as otherwise provided below, HRA shall pay on or before Closing all levied and pending special assessments associated with the Property as of the date of this Agreement.

**Section 3.9. Prorations.** The HRA and the Developer shall make the following prorations and allocations of costs and expenses at Closing:

- (a) the Developer shall pay:
  - (i) the cost of the ALTA Owner's title insurance policy, including the cost of any endorsements or extended coverage provisions, if any;
  - (ii) one-half of the closing fee charged by the Title Company;
  - (iii) the cost for any environmental investigation, tests, or surveys elected to be completed by Developer, including consultants hired by Developer;
  - (iv) all taxes payable in accordance with the terms of this Agreement;
  - (v) its own attorneys' fees; and
  - (vi) recording fees for easements.
- (b) At Closing, the HRA shall pay:
  - (i) the cost for issuance of the title commitment;
  - (ii) one-half of the closing fee charged by the Title Company;
  - (iii) all costs for the creation and recording of the Plat;
  - (iv) all costs for recording fees for documents necessary for correction of title;
  - (v) state deed tax and conservation fees; and
  - (iv) all taxes and assessments payable in accordance with this Agreement.
- (c) All costs incidental to the Closing, not otherwise specifically allocated in this Agreement shall be allocated in accordance with the custom and practice for similar transactions.
- (d) The HRA and Developer each represent and warrant to the other party that it has dealt with no brokers, finders, or the like in connection with this Agreement or the transactions contemplated hereby. The HRA and Developer agree to indemnify and defend each other against, and hold each other harmless from, all claims, damages, costs, and expenses of or for any fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, if and to the extent the representation and warranty made by such party in the immediately preceding sentence is not true.

**Section 3.10. No Representation by the HRA.** EXCEPT FOR THE HRA'S REPRESENTATIONS AND WARRANTIES MADE IN THIS AGREEMENT, THE DEVELOPER EXPRESSLY ACKNOWLEDGES AND AGREES THAT IT IS PURCHASING THE PROPERTY "AS IS" AND "WITH ALL FAULTS," AFTER SUCH INSPECTION,



ANALYSIS, EXAMINATION AND INVESTIGATION THE DEVELOPER CARES TO MAKE AND EXPRESSLY WITHOUT COVENANT, WARRANTY OR REPRESENTATION BY THE HRA AS TO PHYSICAL OR ENVIRONMENTAL CONDITION, TITLE, LEASES, RENTS, REVENUES, INCOME, EXPENSES, OPERATION, FLOOD PLAIN, SHORELAND, WETLANDS, ZONING OR OTHER REGULATION, COMPLIANCE WITH LAW, SUITABILITY FOR PARTICULAR PURPOSES, ALL OTHER MATTERS WHICH THE DEVELOPER DEEMS RELEVANT TO ITS PURCHASE OF THE PROPERTY OR ANY OTHER MATTERS WHATSOEVER, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT.

THE DEVELOPER REPRESENTS TO THE HRA THAT DEVELOPER HAS CONDUCTED, OR WILL HAVE HAD THE OPPORTUNITY TO CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL, ENVIRONMENTAL AND GEOTECHNICAL CONDITIONS THEREOF, AS DEVELOPER DEEMS NECESSARY TO SATISFY ITSELF OF THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES OR MATERIALS ON, WITHIN, UNDER OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF THE HRA.

UPON CLOSING, DEVELOPER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL, ENVIRONMENTAL AND GEOTECHNICAL CONDITIONS MAY HAVE BEEN REVEALED BY DEVELOPER'S INVESTIGATIONS, AND DEVELOPER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED THE HRA (AND THE HRA'S OFFICIALS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT) LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH DEVELOPER MIGHT HAVE ASSERTED OR ALLEGED AGAINST THE HRA (AND THE HRA'S OFFICERS, DIRECTORS, SHAREHOLDER, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS) AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY; PROVIDED, HOWEVER, THE HRA SHALL NOT MAKE ANY CLAIM RELATING TO A BREACH OF A REPRESENTATION, WARRANTY OR COVENANT IN THIS AGREEMENT OR ANY OTHER CLOSING DOCUMENT

The HRA and Developer agree that the provisions of this Section 3.10 shall survive the closing of the transaction contemplated by this Agreement.



**ARTICLE IV.**  
**CONSTRUCTION OF MINIMUM IMPROVEMENTS**

**Section 4.1. Construction of Minimum Improvements.** The Developer agrees that it will construct the Minimum Improvements on the Property in accordance with construction plans approved by the HRA, (the “Construction Plans”) and will operate and maintain, preserve and keep the Minimum Improvements or cause the Minimum Improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof in good repair and condition. Developer acknowledges that, in addition to HRA approval of plans, Developer is required to obtain all necessary HRA approvals for the development.

**Section. 4.2. Construction Plans.**

(a) On or before August 5, 2022, the Developer shall submit to the HRA Preliminary Plans (site plan for the Property and schematic plans for the Minimum Improvements) for review and approval by the HRA for general compliance of the Plans with the terms of this Contract.

(b) Thirty days prior to Closing, the Developer shall provide to the HRA the Construction Plans providing for the construction of the Minimum Improvements for a determination that the Construction Plan are in conformity with this Agreement, the Preliminary Plans, and all applicable state and local laws and regulations, together with the construction budget for the Project. The HRA’s Executive Director shall approve the Construction Plans in writing if, in the reasonable discretion of the HRA: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to all applicable federal, state and local law, ordinances, rules and regulations as determined by the City’s Building Inspector; (iii) the Construction Plans are adequate to provide for the construction of the subject Minimum Improvements; (iv) the Construction Plans do not provide for expenditures in excess of the funds which will be available to the Developer for the construction of the Minimum Improvements; and (v) no Event of Default has occurred and is continuing. No approval by the HRA under this Section 4.2 shall relieve the Developer of the obligation to comply with the terms of this Agreement, applicable federal, state and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements. No approval by the HRA shall constitute a waiver of an Event of Default. The HRA shall review the Construction Plans within thirty (30) days of submission of a complete set of Construction Plans and either approve the same or provide Developer with a list of specific required changes to be made to the Construction Plans. Upon making the specific changes to the Construction Plans as required by the HRA, the Developer shall submit the Construction Plans with the required changes to the HRA for its approval and if Developer made the required changes, the Construction Plans shall be approved.

(b) If the Developer desires to make any material change in any Construction Plans after their approval by the HRA, the Developer shall submit the proposed change to the HRA for approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 of this Agreement with respect to such previously approved Construction Plans, the HRA shall approve the proposed change and notify the Developer in writing of its approval.



### **Section 4.3. Construction of Minimum Improvements.**

(a) The Developer shall commence construction of the Minimum Improvements within 30 days of the Closing Date. Subject to Unavoidable Delays.

(b) The Developer shall substantially complete construction of the Minimum Improvements, except for minor "punch list items", within twenty four (24) months after the Closing Date.

(c) All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Property must be in substantial conformance with the Construction Plans as submitted by the Developer and approved by the HRA. The Developer agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, that the Developer, and its successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be completed within the period specified in this Section 4.3 of this Agreement, subject to Unavoidable Delays. Subsequent to conveyance of the Property, or any part thereof, to the Developer, and until construction of the Minimum Improvements has been completed, the Developer, or its architect or contractor, shall make construction progress reports, at such times as may reasonably be requested by the HRA, but not more than once a month, as to the actual progress of the Developer with respect to such construction.

(d) In constructing the Minimum Improvements, the Developer shall comply with all federal, state and local laws and regulations.

**Section 4.4. Failure to Accept Title to Property.** In the event all conditions precedent herewith are met or waived and the Developer fails to accept title to the Property pursuant to Article III the HRA shall retain the Earnest Money, except as otherwise provided under Section 3.4.

### **Section 4.5 Right of Reverter.**

(a) If the Developer fails to cause the Commencement of construction of the Minimum Improvements within 90 days of the Closing Date, or such later date that may be established pursuant to the terms of this Agreement if Commencement is subject to an Unavoidable Delay then the HRA may, in addition to such other rights and remedies that are available to the HRA hereunder, require that the Property be transferred back to the HRA. The HRA may, but shall not be obligated to, cause the Developer to reconvey the Property and all improvements thereon to the HRA by giving the Developer notice of the HRA's exercise of its right of reverter pursuant to this Section. Such notice shall be subject to the notice and right to cure provisions in Article VII. The right of reverter under this section shall terminate and no longer of any force and effect upon the Commencement of the Minimum Improvements. The HRA agrees to execute and deliver to the Developer a recordable release of its right of reverter,



in a form reasonably acceptable to the Developer, within ten (10) days after request by Developer. The HRA will agree to subject such reversion rights to one or more Mortgages securing one or more loans the proceeds of which are solely used to finance the Developer's acquisition of the Property, construction of the Minimum Improvements, or both, in a form and substance acceptable to the HRA.

(b) On the Reverter Closing Date, the Developer will convey fee title to the Property and all improvements thereon to the HRA by the Reverter Deed, as follows:

- (i) The HRA will pay the Developer \$2,900,000.00 (the Purchase Price less \$100,000.00) as consideration for receiving the Reverter Deed;
- (ii) The Developer will convey the Property and any improvements thereon to the HRA free and clear of all encumbrances other than encumbrances that existed when the HRA conveyed the Property to the Developer and easements or other encumbrances which the HRA previously approved in writing;
- (iii) Upon the recording of the Reverter Deed to the HRA, this Agreement shall terminate, the Developer shall have no further rights to the Property or the improvements thereon, and neither the HRA or the Developer will have any rights or obligations under this Agreement other than obligations which, by the express terms of this Agreement, survive a termination of this Agreement;
- (iv) On or before the Reverter Closing Date, the Developer will execute and deliver to the HRA a Minnesota Uniform Conveyancing Blank Form 50.3.1 Affidavit Regarding Business Entity confirming that there has been no labor or materials provided the Property since the HRA's conveyance of the Property to the Developer for which payment has not been made; and
- (v) The Developer shall deliver an updated title insurance commitment to the HRA evidencing the status of title to the HRA consistent with the terms of this Agreement.

#### **Section 4.6. Certificate of Completion.**

(a) Promptly after substantial completion of the Minimum Improvements in accordance with the provisions of this Agreement, the HRA will furnish Developer with a certificate of completion substantially in the form shown at **Exhibit D** (the "Certificate of Completion"). Such certification by the HRA shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations of Developer, and its successors and assigns, to construct the Minimum Improvements, and shall operate to forever waive the HRA's interest in the Property, including the right of reverter.



(b) If the HRA shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.6, the HRA shall, upon demand, provide Developer with a written statement, indicating in adequate detail in what respect Developer has failed to complete the Minimum Improvements in accordance with the provision of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the HRA, for Developer to take or perform in order to obtain such certification. Upon Developer's completion of the items so described by the HRA, the HRA shall deliver a fully executed Certificate of Completion to Developer.

(c) The construction of the Minimum Improvements shall be deemed to be completed when the Minimum Improvements are, as reasonably determined by the HRA, substantially completed in accordance with the Construction Plans and when a certificate of occupancy is issued.

## **ARTICLE V INSURANCE AND CONDEMNATION**

**Section 5.1. Required Insurance.** The Developer agrees to provide and maintain or cause its general contractor to provide and maintain at all times during the process of constructing the Minimum Improvements and, from time to time at the request of the HRA, furnish the HRA with proof of payment of premiums on:

- (a) Builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy;
- (b) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an owner's contractor's policy with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above required limits, an umbrella excess liability policy may be used); and
- (c) Workers' compensation insurance, with statutory coverage.

The policies of insurance required pursuant to clauses (a) and (b) above shall be in form and content reasonably satisfactory to the HRA and shall be placed with financially sound and reputable insurers licensed to transact business in Minnesota. The policy of insurance delivered pursuant to clause (a) above shall contain an agreement of the insurer to give not less than thirty (30) days' advance written notice to the HRA in the event of cancellation of such policy or change affecting the coverage thereunder.

**Section 5.2. Evidence of Insurance.** All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of Minnesota to assume the risks covered thereby. Until the Certificate



of Completion is issued, the Developer agrees to deposit annually with the HRA copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V, each policy shall contain a provision that the insurer shall not cancel nor materially modify it without giving written notice to the Developer and the HRA at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Developer shall furnish the HRA evidence satisfactory to the HRA that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V, or that there is no necessity therefor under the terms of this Agreement. In lieu of separate policies, the Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the HRA a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

**Section 5.3. Condemnation.** In the event that title to and possession of the Property, or any part thereof shall be taken in condemnation or by exercise of the power of eminent domain by any governmental body or other person (except the HRA) the Developer shall, with reasonable promptness notify the HRA as to the nature and extent of such taking.

## **ARTICLE VI**

### **PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER; ENCUMBRANCES; AND INDEMNIFICATION**

**Section 6.1. Representation as to Development.** The Developer represents and agrees that its purchase of the Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of redevelopment of the Property and not for speculation in land holding. The Developer further recognizes that, in view of the importance of the redevelopment of the Property to the general welfare of the community and the substantial financing and other public aids that have been made available by the HRA for the purpose of making such development possible, the qualifications and identity of the Developer, and its shareholders, are of particular concern to the community and the HRA. The Developer further recognizes that it is because of such qualifications and identity that the HRA is entering into the Agreement with the Developer, and, in so doing, is further willing to accept and rely on the obligations of the Developer for the faithful performance of all undertakings and covenants hereby by it to be performed relating to the construction of the Minimum Improvements.

**Section 6.2. Limitations on Transfer.** Until the issuance of a Certificate of Completion for the Minimum Improvements:

(a) The Developer will not sell, assign, convey, lease or transfer in any other mode or manner any of its right, title, and interest in and to this Agreement, all or any part of the Minimum Improvements, without the express approval of the HRA.



(b) The HRA shall be entitled to require, as conditions to its approval of any sale, assignment, conveyance, use or transfer of any rights, title and interest in and to this Agreement or the Minimum Improvements that:

- (1) Any proposed transferee shall not be exempt from the payment of real estate taxes and shall have the qualifications and financial responsibility, as determined by the HRA, necessary and adequate to fulfil the obligations undertaken in this Agreement by the Developer;
- (2) Any proposed transferee, by instrument in writing satisfactory to the HRA and in form recordable among the land records shall, for itself and its successors and assigns, and expressly for the benefit of the HRA have expressly assumed all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject; and
- (3) The transferee must demonstrate, in a manner satisfactory to the HRA, its ability to perform all assumed obligations in this Agreement.

(b) In the absence of specific written agreement of the by the HRA to the contrary, neither the transfer of the Minimum Improvements prior to the issuance of a Certificate of Completion or the HRA's consent to such a transfer will relieve the Developer or any other party bound in any way by this Agreement from their obligations under the Agreement.

**Section 6.3. Limitation Upon Encumbrance of Property.** Prior to the issuance of the Certificate of Completion, except for financing approved by HRA pursuant to Section 3.5(a)(vi), the Developer agrees not to engage in any financing creating any mortgage or other encumbrance or lien upon the Property or the Minimum Improvements, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Property or the Minimum Improvements, other than the liens or encumbrances directly and solely related to acquisition of the Property, construction of the Minimum Improvements and approved by the HRA, which approval shall not be withheld or delayed unreasonably if the HRA determines that such lien or encumbrance will not threaten its security in the Property.

#### **Section 6.4. Release and Indemnification Covenants.**

(a) The Developer releases from and covenants and agrees that the HRA and the governing body members, officers, agents, servants and employees thereof (collectively, the "Indemnified Parties") shall not be liable for and agrees to indemnify and hold harmless the HRA and the governing body members, officers, agents, servants and employees thereof against 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 Minimum Improvements.

(b) Except for the negligence of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any



person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements.

(c) The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the company or its officers, agents, servants or employees or any other person who may be about the Property or Minimum Improvements due to any act of negligence of any person other than the Indemnified parties.

(d) None of the Indemnified Parties shall be liable to the Developer or to any third party for any consequential or other damages that may arise out of delays of any kind relating to activities undertaken pursuant to this Agreement, including but not limited to delays due to environmental conditions, court challenges or elements outside the control of the HRA.

(e) All covenants, stipulations, promises, agreements and obligations of the HRA contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the HRA and not of any governing body member, officer, agent, servant or employee of the HRA in the individual capacity thereof.

(f) Nothing in this Section is intended to waive any municipal liability limitations contained in Minnesota Statutes, particularly Chapter 466.

## **ARTICLE VII**

### **Events of Default**

**Section 7.1. Events of Default Defined.** The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement (unless the context otherwise provides), any one or more of the following events:

- (a) Failure by the Developer to pay when due any payments required to be paid under this Agreement or to pay when due ad valorem taxes on the Property.
- (b) Failure by the Developer to close on the acquisition of the Property;
- (c) The Developer's failure to achieve Commencement and Completion of Minimum Improvements, or portions thereof, pursuant to the terms, conditions and limitations of this Agreement.
- (d) Failure by Developer to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed hereunder.
- (e) The Developer does any of the following prior to completion of construction of the Minimum Improvements: (i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under United States Bankruptcy Laws or any similar federal or



state laws; or (ii) make an assignment for the benefit of its creditors; or (iii) admit, in writing, its inability to pay its debts generally as they become due; or (iv) be adjudicated, bankrupt or insolvent.

- (f) If any warranty or representation by the Developer in this Agreement is untrue in any material respect.
- (g) If Developer is in default under any Mortgage and has not entered into a work-out agreement with the holder of the Mortgage.

**Section 7.2. HRA Events of Default.** Subject to Unavoidable Delays, the failure of the City or the HRA to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, and the continuation of such failure for a period of thirty (30) days after written notice of such failure from any party hereto shall be an Event of Default by the HRA, as applicable.

**Section 7.3. HRA'S Remedies on Default.** Whenever any Event of Default by Developer referred to in Section 7.1 of this Agreement occurs, subject to the Cure Rights and Unavoidable Delays, the HRA may take any one or more of the following actions:

- (a) Suspend its performance under the Agreement until it receives assurances from the Developer, deemed adequate by the HRA, that the Developer will cure its default and continue its performance under the Agreement.
- (b) Terminate this Agreement;
- (c) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to the HRA to collect any payments due or damages arising under this Agreement or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

**Section 7.4 Developer's Remedies on Default.** Whenever any Event of Default occurs by the HRA, the Developer may take whatever action at law or in equity may appear necessary or desirable to the Developer to enforce performance and observance of any obligation, agreement, or covenant of the HRA under this Agreement. Nothing in this Agreement shall entitle the Developer to make any claim against the Authority for any damages whatsoever and the Developer's remedies are strictly limited to the foregoing.

**Section 7.5. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the HRA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.



**Section 7.6. Attorneys' Fees.** Whenever any Event of Default occurs and either the HRA shall employ attorneys or incur expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, the Developer agrees that it shall, within ten (10) days of written demand by the HRA pay to the HRA the reasonable fees of such attorneys and such other expenses so incurred by the HRA; provided, that the Developer shall only be obligated to make such reimbursement if the other party prevails in such collection or enforcement action.

## **ARTICLE VIII.**

### **ADDITIONAL PROVISIONS**

**Section 8.1. Restrictions on Use.** The Developer agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, that the Developer and such successors and assigns shall devote the Property to, and only to, and in accordance with, the uses specified in the Edina City Code.

**Section 8.2. Equal Employment Opportunity.** The Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in this Agreement it will comply with all applicable federal, state and local equal employment and nondiscrimination laws and regulations.

**Section 8.3. Conflicts of Interest.** No member of the governing body or other official of the HRA shall have any financial interest, direct or indirect, in this Agreement, the Project or any contract, agreement or other transaction contemplated to occur or be undertaken thereunder or with respect thereto, nor shall any such member of the governing body or other official participate in any decision relating to the Agreement which affects his personal interest or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested. No member, official or employee of the HRA shall be personally liable to the Developer or any successors in interest, in the event of any default or breach by the HRA or for any amount which may become due to the Developer or successor or on any obligations under the terms of the Agreement.

**Section 8.4. Waiver and Release by Developer.** Except as otherwise provided for herein The Developer hereby waives, releases and forever discharges the HRA from any claim for costs incurred in preliminary plans, specifications, site testing improvements, professional fees or legal fees in connection with the Project.

**Section 8.5. Titles of Articles and Sections.** Any titles of the several parts, Articles and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.



**Section 8.6. Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested or delivered personally; and

- (a) In the case of the Developer, is addressed or delivered personally to:

Alex Hall  
United Properties Residential LLC  
250 Nicollet Mall  
Suite 500  
Minneapolis, MN 55402

- (b) In the case of the HRA, is addressed or delivered personally to:

Executive Director  
Edina Housing and Redevelopment Authority  
4801 W. 50<sup>th</sup> Street  
Edina, Minnesota 55424

with a copy to:

Andrea McDowell Poehler  
CAMPBELL KNUTSON  
*Professional Association*  
Grand Oak Office Center I  
860 Blue Gentian Road, Suite 290  
Eagan, Minnesota 55121  
Telephone: (651) 452-5000

- (c) Either Party may, upon written notice to the other Party, change the address to which such notices and demands are made.

**Section 8.7. Disclaimer of Relationship.** The Developer acknowledges that nothing contained in this Agreement nor any act by the HRA or the Developer shall be deemed or construed by the Developer or any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner or joint venture between the HRA and the Developer.

**Section 8.8. Covenants Running with the Land.** The terms and provisions of this Agreement shall be deemed covenants running with the Property and shall be binding upon any successors or assigns of the Developer and any future owners or encumbrancers of the Property.

**Section 8.9. Counterparts.** This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.



**Section 8.10. Law Governing.** This Agreement will be governed and construed in accordance with the laws of Minnesota.

**IN WITNESS WHEREOF,** the HRA has caused this Agreement to be duly executed in its name and behalf, and the Developer has caused this Agreement to be duly executed in its name and behalf, on or as of the date first above written.

*[Remainder of page intentionally left blank.]*  
*[Signature pages to follow.]*



**EDINA HOUSING AND REDEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
James B. Hovland  
Its President

By: \_\_\_\_\_  
James Pierce  
Its Secretary

Attested By: \_\_\_\_\_  
Scott Neal  
Its Executive Director

STATE OF MINNESOTA    )  
                                      )ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by James B. Hovland and James Pierce, respectively, the President and Secretary, of the Edina Housing and Redevelopment Authority, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body corporate and politic.

\_\_\_\_\_  
Notary Public



**UNITED PROPERTIES RESIDENTIAL, LLC**

By: \_\_\_\_\_

\_\_\_\_\_  
[print name]  
Its \_\_\_\_\_

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the \_\_\_\_\_ of United Properties Residential LLC, a Minnesota limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public

DRAFTED BY:  
**Campbell Knutson**  
***Professional Association***  
Grand Oak Office Center I  
860 Blue Gentian Road, Suite 290  
Eagan, Minnesota 55121  
Telephone: (651) 452-5000



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF HRA PROPERTY**

Lots 2, 3, 4, 5, 6, 7, 8, 9 and 10, and the East 90 feet of Lots 11 to 19 inclusive, all in Block 2, Grandview Heights, Hennepin County, Minnesota according to the recorded plat thereof;

And

That part of Government Lot 8, Section 28, Township 117, Range 21, lying North of the centerline of Eden Avenue and East of a line drawn parallel to the main track of the Minneapolis, Northfield and Southern Railway from a point on the North line of said Government Lot 8 distant 582 feet East from the Northwest corner of said Government Lot 8.



## EXHIBIT “B”

### DEPICTION OF PROPOSED PLAT



**GRANDVIEW YARD - CONCEPT**  
EDINA, MN

**CONFLUENCE**  
JANUARY 2022



## EXHIBIT "C"

### CONCEPT PLAN FOR MINIMUM IMPROVEMENTS



**GRANDVIEW YARD - CONCEPT**  
EDINA, MN

CONFLUENCE  
JANUARY 2022



**GRANDVIEW YARD - CONCEPT**  
EDINA, MN

CONFLUENCE  
JANUARY 2022



**EXHIBIT D**

**EXHIBIT “D”**

**CERTIFICATE OF COMPLETION**

The undersigned hereby certifies that **UNITED PROPERTIES RESIDENTIAL LLC**, a Minnesota limited liability company (“Developer”) has fully complied with its obligations to construct the Minimum Improvements under that document titled Contract for Private Development dated \_\_\_\_\_, 20\_\_, by and between the Edina Housing and Redevelopment Authority in and (the “HRA”) and Developer, and that Developer is released and forever discharged from its obligations under the Agreement with respect to the obligations of Developer, and its successors and assigns, to construct the Minimum Improvements, and the HRA waives any right, title or interest it may have in the Property, including a right of reverter. The Hennepin County Recorder’s Office is hereby authorized to accept for recording the filing of this instrument, to be a conclusive determination of the satisfaction and termination of the covenants and conditions of the Contract for Private Development described above.

**IN WITNESS WHEREOF**, the HRA has caused this Certificate to be duly executed in its name and behalf on or as of the date first above-written.

**EDINA HOUSING AND REDEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_

James B. Hovland  
Its President

By: \_\_\_\_\_

James Pierce  
Its Secretary

Attested By: \_\_\_\_\_

Scott Neal  
Its Executive Director



STATE OF MINNESOTA    )  
                                  )ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by James B. Hovland and James Pierce, respectively, the President and Secretary, of the Edina Housing and Redevelopment Authority, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body corporate and politic.

\_\_\_\_\_  
Notary Public



# Survey Responses

30 January 2019 - 17 May 2022

## Public Hearing Comments- Sale of Real Estate at 5146 Eden Avenue

### Better Together Edina

Project: Public Hearing: Sale of Real Estate at 5146 Eden Avenue



VISITORS					
2					
CONTRIBUTORS			RESPONSES		
0			0		
0	0	0	0	0	0
Registered	Unverified	Anonymous	Registered	Unverified	Anonymous

No Responses





Edina Housing and Redevelopment  
Authority  
Established 1974

**CITY OF EDINA**  
HOUSING & REDEVELOPMENT  
AUTHORITY  
4801 West 50th Street  
Edina, MN 55424  
[www.edinamn.gov](http://www.edinamn.gov)

**Date:** May 19, 2022

**Agenda Item #:** VII.B.

**To:** Chair & Commissioners of the Edina HRA

**Item Type:**  
Report / Recommendation

**From:** Bill Neuendorf, Economic Development Manager

**Item Activity:**  
Discussion

**Subject:** Resolution 2022-07: Contract for Private  
Development and Sale of Property to Jester Concepts  
LLC

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**ACTION REQUESTED:**

Motion to close the public hearing at noon, Monday May 23, 2022 and to continue action on HRA Resolution 2022-06 to the June 2, 2022 HRA meeting.

**INTRODUCTION:**

This item pertains to the sale of property at 5146 Eden Avenue. This 3.3 acre property was formerly used by Edina's Public Works Department until they moved to larger facilities in 2013.

The HRA has considered several different types of transactions in recent years. The proposed sale is intended for redevelopment purposes. The southern most portion is intended to be used for a new housing cooperative. The middle portion is intended to be used as a restaurant with indoor and outdoor seating. The northernmost portion is intended to be transformed into a public park.

The City Attorney has prepared a sales contract with Jester Concepts LLC based on a letter of intent that was previously reviewed and discussed by the HRA Board. Staff recommends approval of these terms.

A public hearing will be held today. Staff will present the key points of the transaction. The buyer will be available for questions. Final action is scheduled for June 2, 2022.

**ATTACHMENTS:**

HRA Resolution 2022-07 Jester Concepts



Staff Report - 5146 Eden contracts to sell

Staff Presentation - 5146 Eden contracts to sell

Jester Concepts - Oct 2021 presentation

Jester contract

Better Together Edina Comment Report





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**EDINA HOUSING AND REDEVELOPMENT AUTHORITY  
HENNEPIN COUNTY  
STATE OF MINNESOTA**

RESOLUTION NO. 2022-07

**RESOLUTION APPROVING CONTRACT FOR  
PRIVATE DEVELOPMENT AND SALE OF PROPERTY  
TO JESTER CONCEPTS, LLC**

**WHEREAS**, the Board of Commissioners (the “Board”) of the Edina Housing and Redevelopment Authority (“Authority”) intends to plat the certain real property legally described in Exhibit A (“Authority Property”) as Grandview Yard Addition, to consist of three lots;

**WHEREAS**, the Authority and Jester Concepts LLC, a Minnesota Limited Liability Company (“Developer”) have negotiated a Contract for Private Development attached hereto as Exhibit B (“Contract”) that includes the sale of a portion of the Authority Property to be platted as the centrally located lot of the Grandview Yard Addition plat, consisting of approximately 0.72 acres (“Property”);

**WHEREAS**, the Contract requires the Developer to construct on the Property a multi-story restaurant and hospitality facility containing both indoor and outdoor dining as further defined and depicted in the Contract (“Minimum Improvements”);

**WHEREAS**, the Authority believes that the sale of the Property pursuant to the terms of the Contract for Private Development is in the best interest of the Authority, City of Edina, and its residents;

**WHEREAS**, the Board, after proper published notice, held a public hearing at approximately 7:30 a.m. on May 19, 2022, with regard to the sale of the Property;

**WHEREAS**, all requirements of Minnesota Statutes, Section 469.029 regarding the sale of the Property have been satisfied.



**NOW, THEREFORE, BE IT RESOLVED** by the Board:

1. The Contract by and between the Authority and Developer is hereby approved. The President and Secretary are authorized and directed to execute the Contract.
2. The President, Secretary and City Attorney are authorized and directed to execute and record all documents necessary to convey the Property and comply with the terms of the Contract.

Approved by the Board on June \_\_\_\_\_, 2022.

\_\_\_\_\_  
James B. Hovland, Chair

ATTEST:

\_\_\_\_\_  
James Pierce, Secretary

STATE OF MINNESOTA )  
COUNTY OF HENNEPIN ) SS  
CITY OF EDINA )

**CERTIFICATE OF EXECUTIVE DIRECTOR**

I, the undersigned duly appointed and acting Executive Director for the Housing and Redevelopment Authority of Edina, Minnesota, do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Housing and Redevelopment Authority of Edina, Minnesota at its Meeting of \_\_\_\_\_, 2022, and as recorded in the Minutes of said Meeting.

WITNESS my hand and seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Scott Neal, Executive Director



## **EXHIBIT A**

### **LEGAL DESCRIPTION OF AUTHORITY PROPERTY**

Lots 2, 3, 4, 5, 6, 7, 8, 9 and 10;  
The East 90 feet of Lots 11 to 19 inclusive;

all in Block 2, "Grand View Heights".

That part of Government Lot 8, Section 28, Township 117, Range 21, lying North of the center line of Eden Avenue and East of a line drawn parallel to the main track of the Minneapolis, Northfield and Southern Railway from a point on the North line of said Government Lot 8 distant 582 feet East from the Northwest corner of said Government Lot 8.



**EXHIBIT B**  
**CONTRACT FOR PRIVATE DEVELOPMENT**

**ATTACH FINAL CONTRACT HERE**





Housing and Redevelopment Authority  
Established 1974

**Date:** May 19, 2022

**To:** Chair and Commissioners of Edina Housing & Redevelopment Authority

**From:** Bill Neuendorf, Economic Development Manager

**Subject:** Resolution 2022-06 and 2022-07: Contracts for Private Redevelopment and Sale of Property to United Properties Residential, LLC and Jester Concepts, LLC

## **Information / Background:**

This item pertains to the sale of property at 5146 Eden Avenue. This 3.3 acre property was formerly used by Edina's Public Works Department until they moved to larger facilities in 2013. The property has been tax-exempt since 1962. It was previously used as a concrete plant after the train tracks were activated.

The HRA took ownership of the site so that it could be held and conveyed for redevelopment purposes. The intended uses are strongly informed by the Grandview Development Framework that was prepared by a group of 50+ community volunteers from 2010 to 2012. The Grandview Seven Guiding Principles have also been applied as the potential users for the site have been identified. The Framework envisioned a mixture of public and private uses on the 3.3-acre site that could create a catalyst to attract future development and to create a new community destination. The Framework also urged that better access be provided through the District, that parking resources be organized to be more efficiently used; and that a unique sense of place be established.

The HRA has considered several different types of projects for the vacant site over the past ten years. The 2022 proposal is the tenth version considered.

The HRA Board has discussed aspects of potential real estate transactions in closed session in 2021 and 2022. The HRA Board directed staff to prepare sales contracts to achieve the desired redevelopment outcomes. Two sales contracts have been prepared by the City Attorney based on the Letters of Intent submitted by United Properties Residential, LLC and Jester Concepts, LLC in March 2022.

## **For-Sale Cooperative Housing**

United Properties proposes to construct a senior housing cooperative on the southern most portion of the site using the Applewood Pointe concept that has been successfully implemented in other locations.



Approximately 90 units would be available for sale in this project. Financing is intended to be provided by the U.S. Department of Housing and Urban Development (HUD). After the project is built and sold, on-site management is anticipated to be provided by Ebenezer. Most of the units will be sold for market-rate prices but 10% of the units will be sold at affordable prices.

### **Restaurant with Indoor & Outdoor Dining**

Jester Concepts proposes to construct a new restaurant and hospitality facility approximately 12,000 to 15,000 square feet on three levels. The facility would feature indoor and outdoor dining designed to complement the adjacent public park. Private financing is anticipated although a grant may be necessary if construction costs continue to escalate. Jester has several successful restaurant operations located in Minneapolis and Saint Paul. They were selected for the responsiveness and compatibility with a Request for Interest that was distributed to over 40 restaurant and hospitality groups in late 2021.

Frauenschuh Companies has assisted the HRA staff in coordinating conversations with Jester and United Properties. Frauenschuh has also provided oversight as pre-development engineering and design work was conducted to prepare initial concept plans and a submittal for Edina's Sketch Plan review process in January 2022.

### **Public Park (Grandview Yard)**

The northernmost portion of the site is intended to be transformed into a public park. The HRA will need to re-plat the site and create 3 separate lots to accommodate the new uses. The new plat is tentatively called Grandview Yards to recognize its location and previous industrial uses that are still visible by the active freight train tracks and railroad siding.

The proceeds from selling the land is anticipated to prepare the site and construct the new park. After completion, the park is anticipated to be turned over to the City of Edina. Annual park maintenance will become a responsibility of the Park and Recreation Department.

Staff will summarize key points of the sales contracts as identified in the attached presentation. Staff, the City Attorney and the buyers will be available for questions as part of the Public Hearing.

### **Requested Action:**

This information is provided for the Public Hearing. No action is required today.

Staff recommends that the Public Hearing continue until Monday May 23, 2022 and that final action on these Resolutions be considered on June 2, 2022.

END









The CITY of  
**EDINA**

# Resolutions 2022-06 and 2022-07

## Sale of Property at 5146 Eden Avenue

Housing & Redevelopment Authority  
Public Hearing  
May 19, 2022



# Existing Conditions



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# Redevelopment Concept

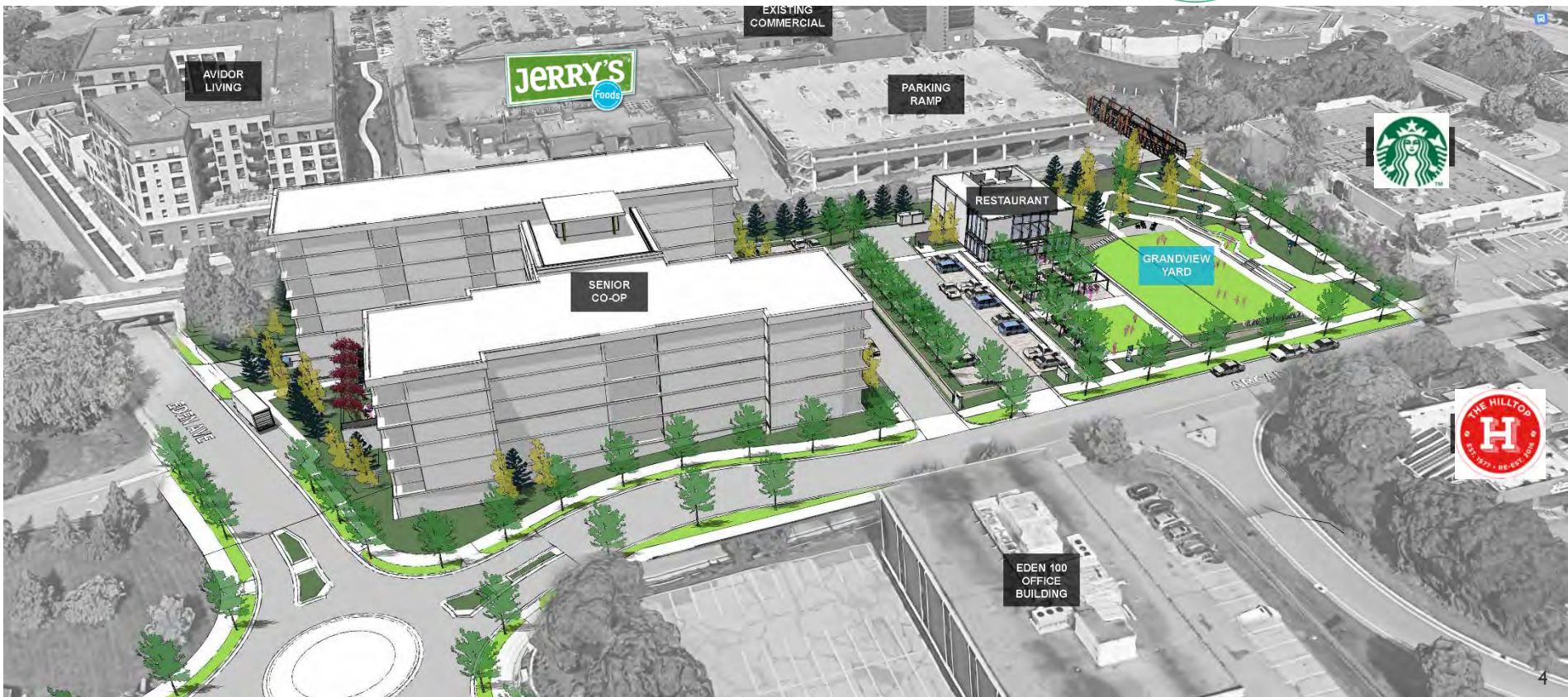




# Redevelopment Concept - birds eye



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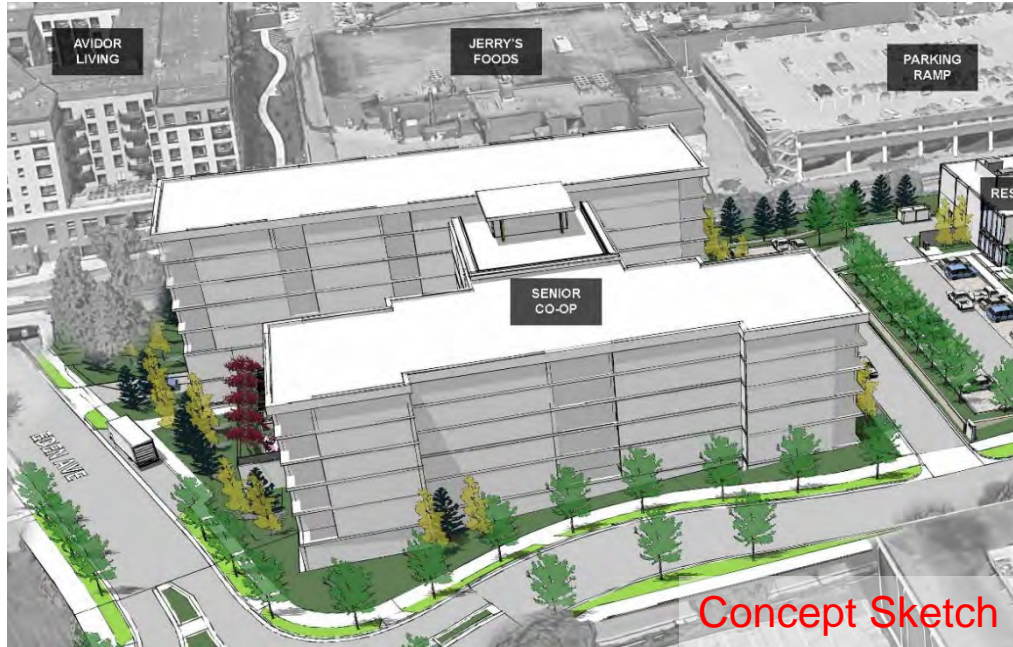




# Lot I - Housing Cooperative



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UNITED PROPERTIES



APPLEWOOD POINTE

**EBENEZER**



# Housing Cooperative

## Sales Price and use restrictions

- \$3,000,000 for 1.69 acres
  - \$33,333 price reduction per unit if fewer than 90 units approved
  - close upon financing
  - no broker fees paid by HRA
- Must be limited-equity housing cooperative for seniors
- Must include 10% of units sold at affordable prices
  - 90% sold at market rate



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### Staff Comments

- Price per unit is in the typical range of most recent multi-family transactions
- Consistent with April 2022 Appraisal
- This is a fair land value based on the HRA's preference for ownership housing rather than rental and HRA's preference to limit overall density on the site.



# Housing Cooperative

## Key contractual terms



The CITY of  
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- \$50,000 earnest money
- Two-phase due diligence
  - 180 days for zoning
  - 180 days for pre-sales
  - Extendable, if needed
- Closing costs, pro-rated and standard
- Right of reverter if not built

### Staff Comments

- Typical terms and conditions
- Two-phase due diligence is unique for most residential but typical for cooperatives due to pre-sale requirements of HUD financing



# Housing Cooperative

## Easements and Restrictions



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- HRA must commit to build park
- Restaurant parcel no more than 3 stories
- Shared easement for driveway
- Public easement along tracks for access

### Staff Comments

- HRA obligations are reasonable
- Both housing and restaurant will have multiple cross access easements to maximize efficiency



# Lot 2 - Restaurant



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# Restaurant

## Sale price and use restrictions

- \$500,000 for 0.72 acres
  - will reimburse Frauenshuh for securing operator per 2021 contract
- Must be food-oriented commercial business that complements the park
- Must be no more than 3 stories
- Buyer may require \$149,000 grant if construction costs continue to escalate



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### Staff Comments

- Consistent with April 2022 Appraisal
- This is a fair land value based on the HRA's preference for a food-oriented business that complements the adjacent public park.
- SPARQ grant may be considered in the future after construction costs and schedule clarified.



# Restaurant

## Key contractual terms

- \$20,000 earnest money
- Two-phase due diligence
  - 180 days for zoning
  - 180 days for pre-sales
- Closing costs, pro-rated and standard
- Right of first refusal, if sold
- Right of reverter, if not built



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### Staff Comments

- Typical terms and conditions
- Two-phase due diligence is unique for most commercial but mirrors the schedule required to secure HUD financing for the cooperative



# Restaurant

## Easements and Restrictions



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- Shared easement for driveway
- Public easement along tracks for access
- Must include exterior-facing public toilets to serve Park
- Participation in Maintenance District
- Temporary easement for construction of housing and restaurant

### Staff Comments

- Both housing and restaurant will have multiple cross access easements to maximize efficiency

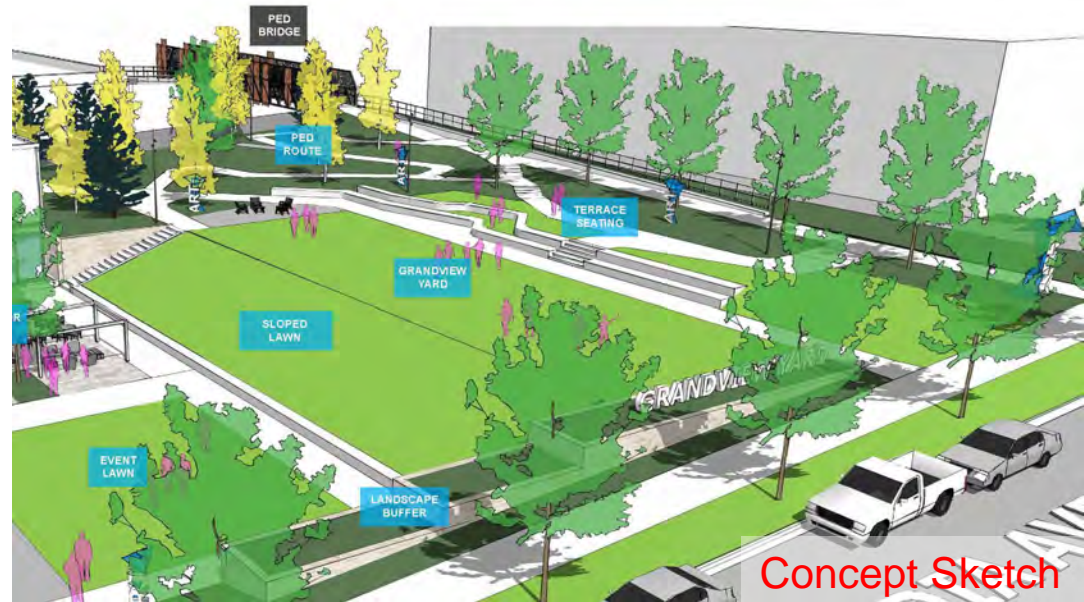


# Lot 3 - Public Park – concept



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- Permanent public space for residents, employees, customers and general public
- Could include some areas that could be licensed for public/private events
- Designed to accommodate elevation change from pedestrian bridge to restaurant
- ADA access throughout
- Flat open yard to allow for special events (music, movies, festival, etc TBD)



CONFLUENCE

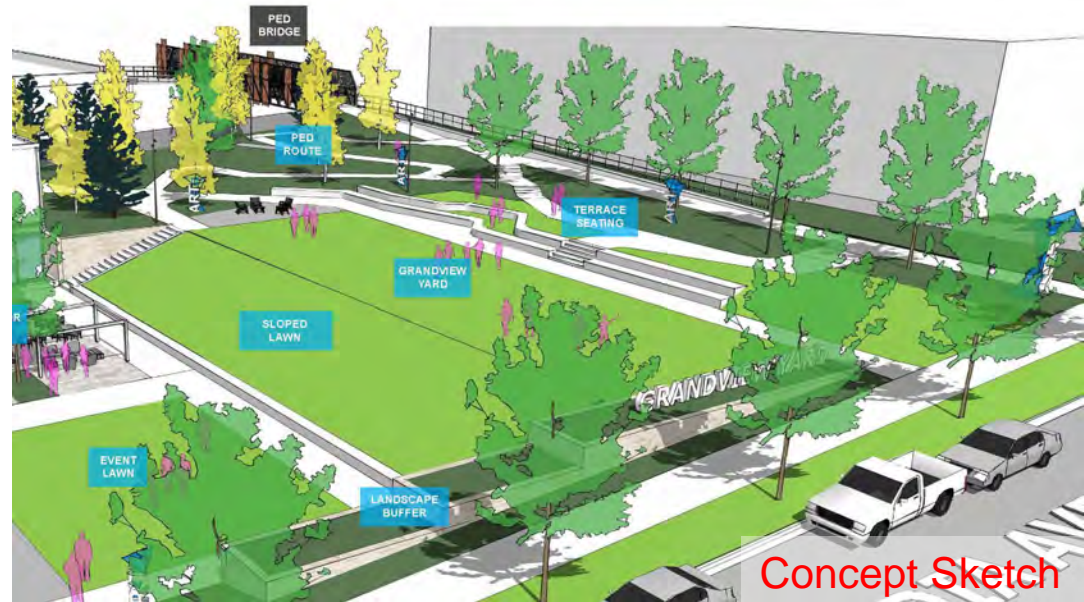


# Lot 3 - Public Park – concept



The CITY of  
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- On-street parking and parking in adjacent Grandview parking structure
- No playground equipment anticipated
- No ball fields or similar sporting events anticipated
- Space for future park structures (gazebo, shade pavilion, etc TBD)
- Space for future park amenities (water feature, hammocking, etc TBD)
- Space for future public art



CONFLUENCE

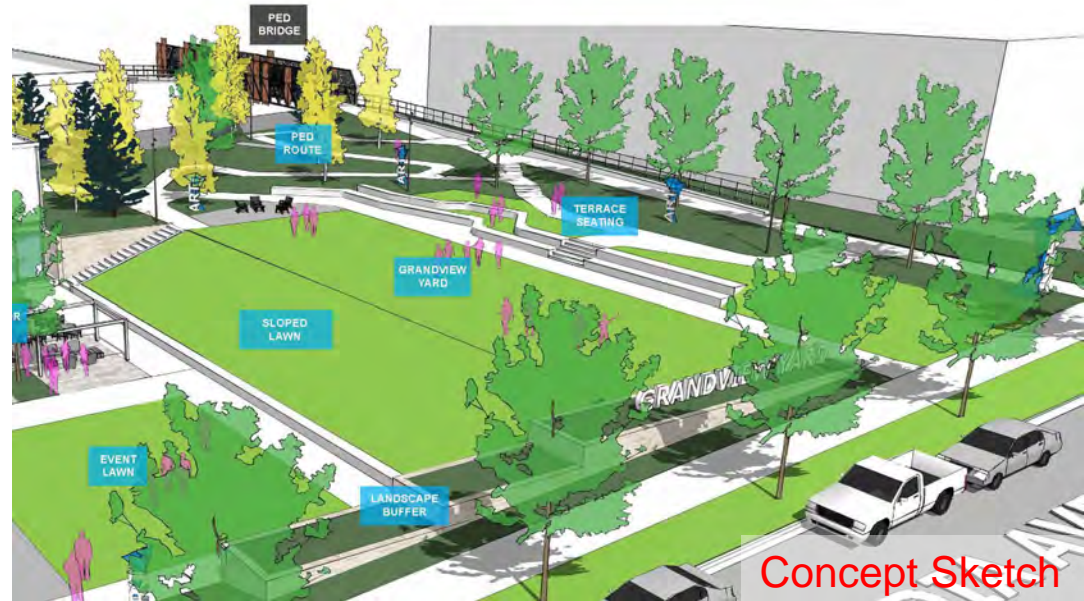


# Obligations of the HRA



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- Complete pedestrian bridge
- Prepare 3-acre site to allow two buildable pads to be sold
- Construct new park
  - Rough grading: approx. \$1 M
  - Final grading & landscaping: approx. \$1 M
  - Future structures TBD



CONFLUENCE



# Future Steps for Redevelopment



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## Real Estate Transaction

- Final Action scheduled June 2, 2022
- Closing deferred until 2023 or 2024

## Zoning Entitlement

- Anticipated late summer/fall 2022
- Public Hearings required

## Pre-Development Site Work

- By HRA to create buildable site
- Anticipated summer/fall 2023

## Pre-Sales and Project Financing

- Anticipated to begin fall 2022
- 60% pre-sales required for HUD financing
- Private financing for restaurant
- SPARQ grant may be necessary based on restaurant construction costs
- New park to be funded by real estate proceeds

## Construction

- Anticipated 2024 to 2026



# Staff Recommendation



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- These contracts reflect market conditions and are responsive to the direction set by the HRA for the future use of this site.
- Staff recommends that the Public Hearing be completed.
- Staff further recommends that the contracts be considered on June 2, 2022 after any Board questions have been resolved.





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Staff and Buyers available  
for questions and comments



# Sketch Plan – for reference



The CITY of  
**EDINA**





# Sketch Plan – for reference



The CITY of  
**EDINA**





# Sketch Plan – for reference



The CITY of  
**EDINA**





# Sketch Plan – for reference



The CITY of  
**EDINA**







The CITY of  
**EDINA**

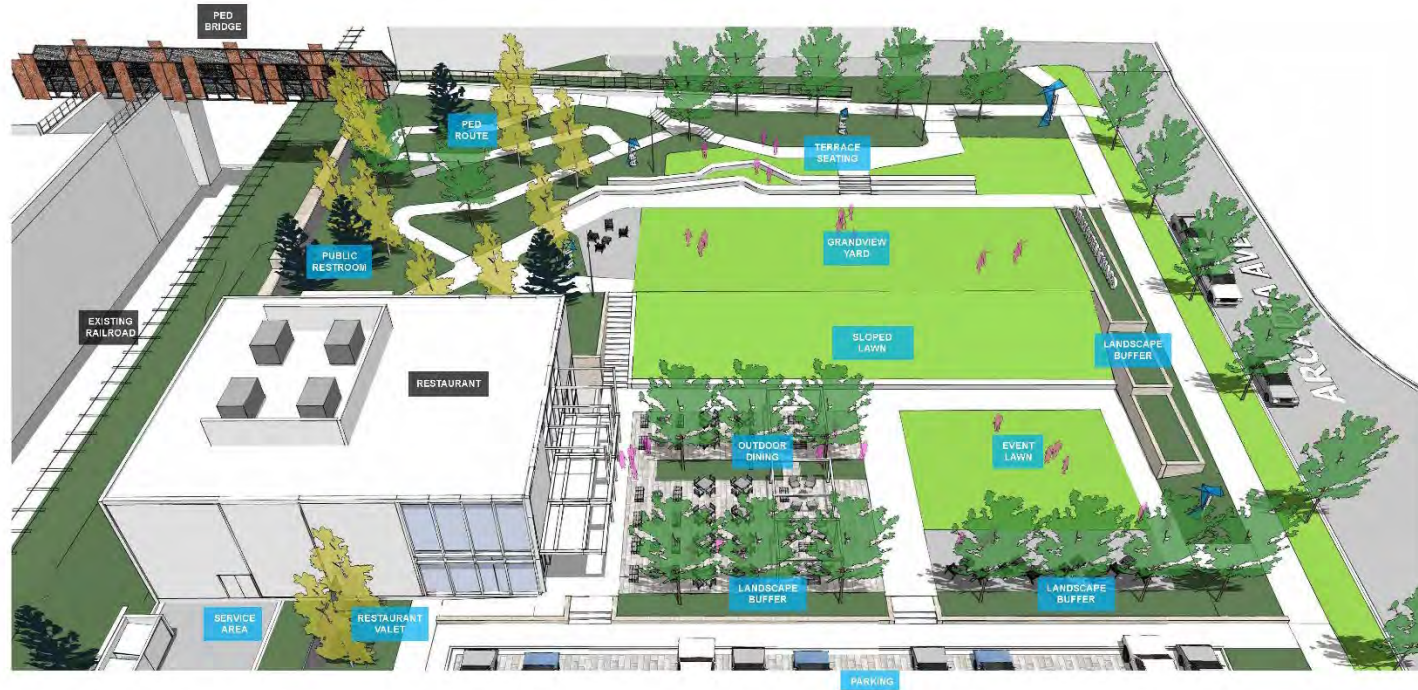




# Sketch Plan – for reference



The CITY of  
**EDINA**

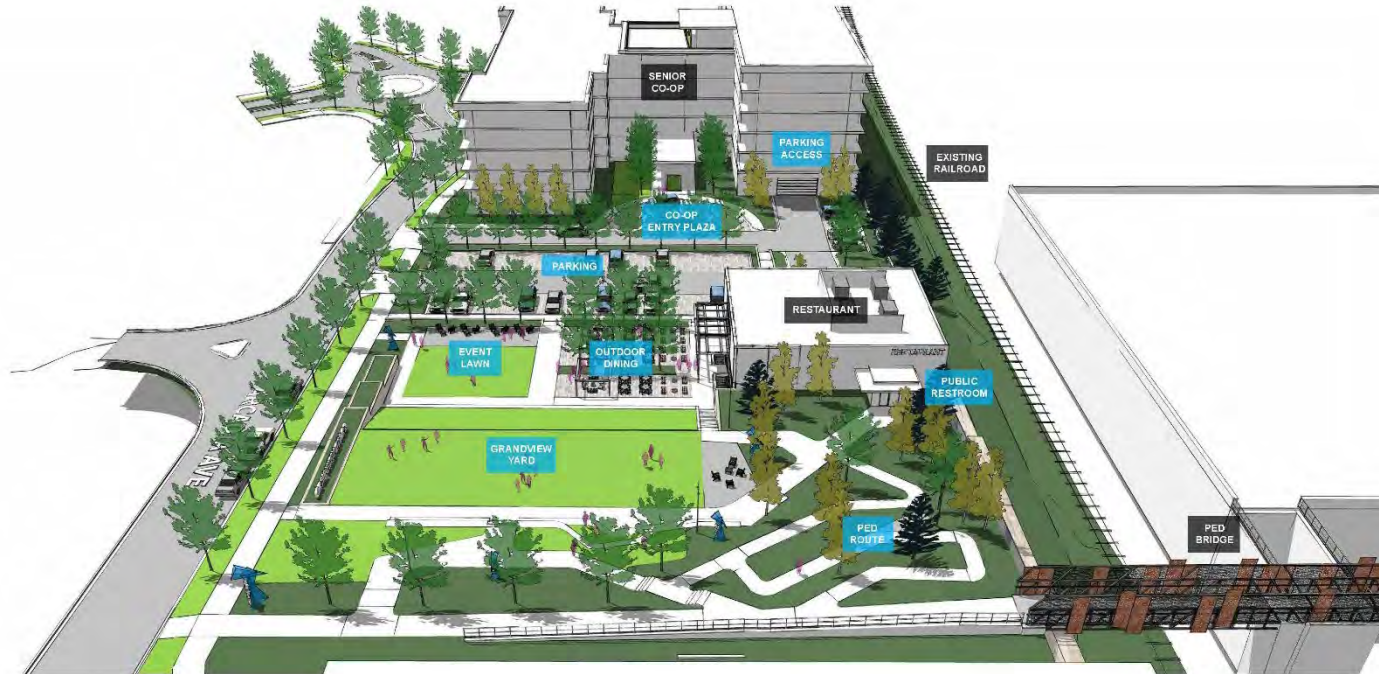




# Sketch Plan – for reference



The CITY of  
**EDINA**

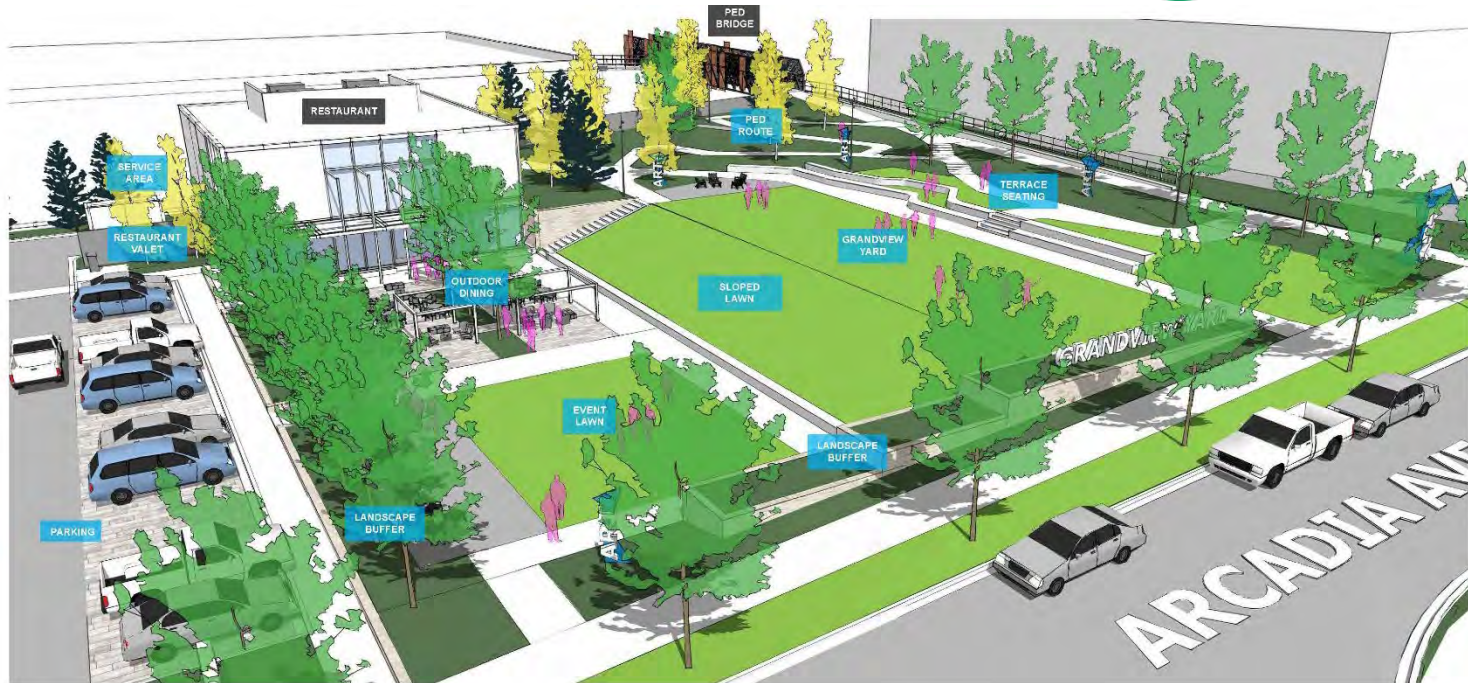




# Sketch Plan – for reference



The CITY of  
**EDINA**





# Sketch Plan – for reference



The CITY of  
**EDINA**





# Sketch Plan – for reference



The CITY of  
**EDINA**





# Seven Guiding Principles - 2012



The CITY of  
**EDINA**

- 1.) Leverage publicly-owned parcels and civic presence to **create a vibrant and connected district that serves as a catalyst** for high quality, integrated public and private development.
- 2.) Enhance the District's economic viability as **a neighborhood center with regional connections**, recognizing that meeting the needs of both businesses and residents will make the district a good place to do business.
- 3.) **Turn perceived barriers into opportunities.** Consider layering development over supporting infrastructure and taking advantage of the natural topography of the area.
- 4.) **Design for the present and the future** by pursuing logical increments of change using key parcels as stepping stones to a more vibrant, walkable, functional, attractive, and life-filled place.
- 5.) **Organize parking** as an effective resource for the district by linking community parking to public and private destinations while also providing parking that is convenient for businesses and customers.
- 6.) **Improve movement within and access** to the district for people of all ages by facilitating multiple modes of transportation, and preserve future transit opportunities provided by the rail corridor.
- 7.) **Create an identity and unique sense of place** that incorporates natural spaces into a high quality and sustainable development reflecting Edina's innovative development heritage.





# Restaurant & Bar, Event Center, & Outdoor Community Event Space

5146 Eden Avenue Redevelopment, Edina, MN



Presented To: City of Edina  
OCT 26, 2021



# The Team: Jester Concepts

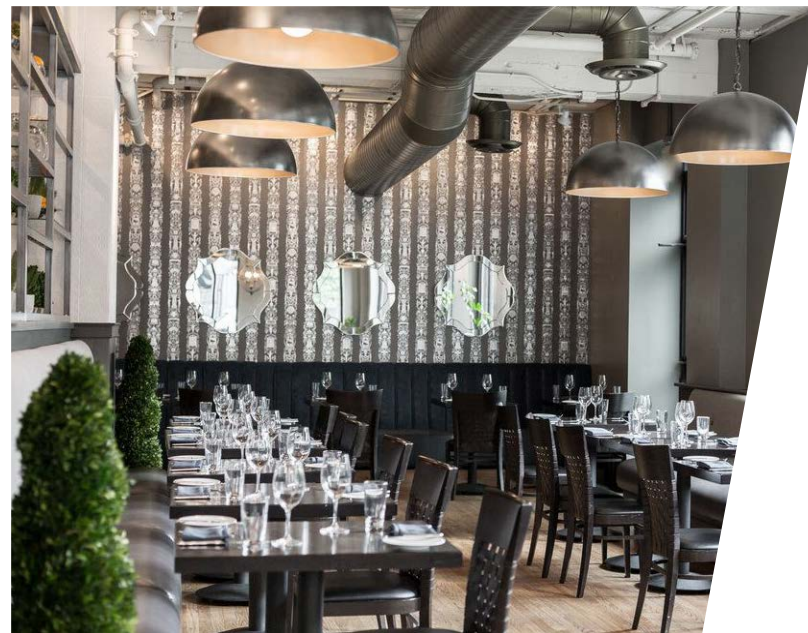


Jester Concepts was launched in 2008 as a Minnesota owned hospitality company specializing in producing restaurant concepts that deliver an unmatched experience in food, service and atmosphere.

We pride ourselves in creating unique restaurant concepts that compliment and are inspired by the location and neighborhood in which they are housed.

At Jester Concepts we are driven to educate, elevate and exceed. The education of our staff is our foundation and this focus has built a team with passion and expert knowledge in their craft to deliver a consistent high-quality experience for our guests from start to finish.

The elevated experience we strive for begins with the education and experience of our employees. We seek to exceed our teams' expectations with an employee first approach, providing our teams with the tools they need to enhance the guest experience and enrich their daily lives.





# Jester Concepts

PARLOUR BAR



BOROUGH





# Jester Concepts

MONELLO



CONSTANTINE





# The Team: Shea

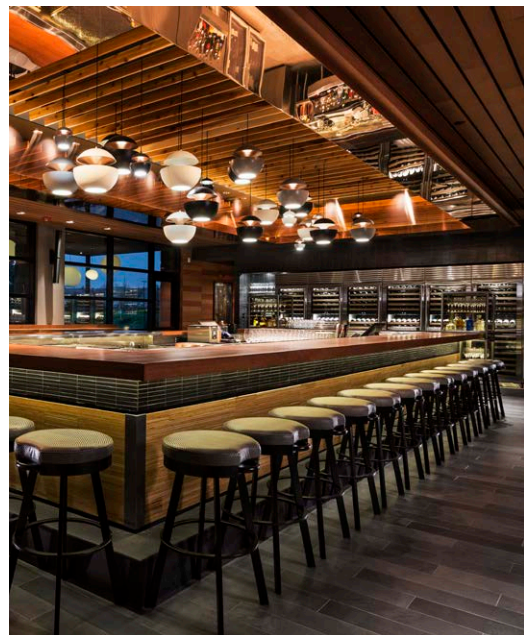
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Founded in 1978 serving local, national, and international clients, with acclaimed work in over 40 states.

Our philosophy blends the disciplines of architecture, interiors, and marketing to create cohesive brands that extend through physical space.

Shea leverages expertise in each of these disciplines to create all-encompassing experiences and successful business solutions in hospitality, restaurant, workplace, and retail.





# Case Studies

P.S. STEAK



## BALDAMAR



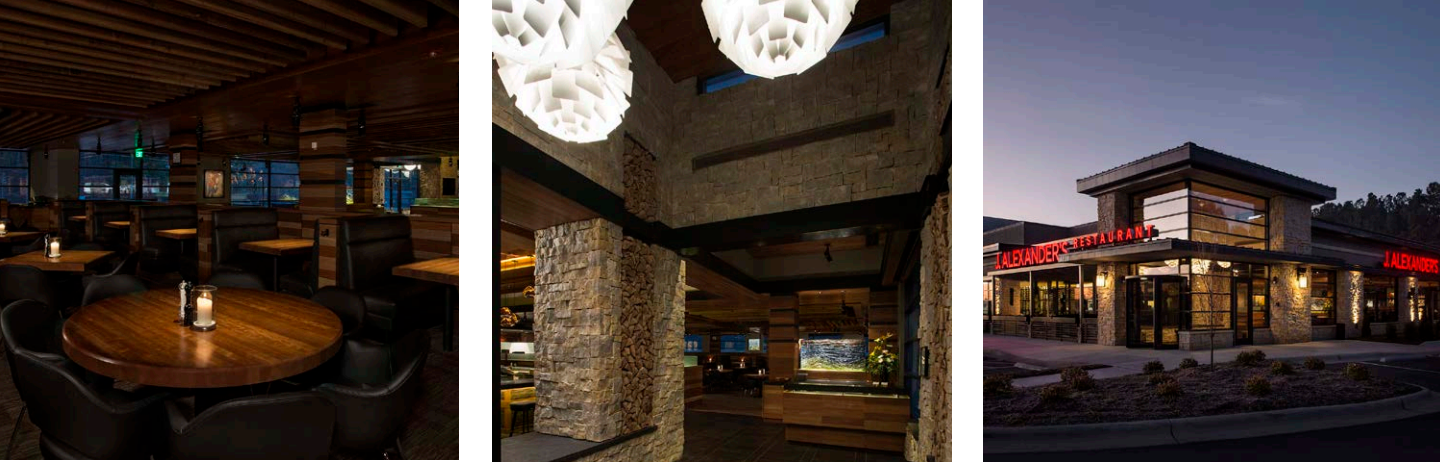


# Case Studies

## THE BRICKHOUSE



## J. ALEXANDER'S





# Overview / Local - Elevated - Experience

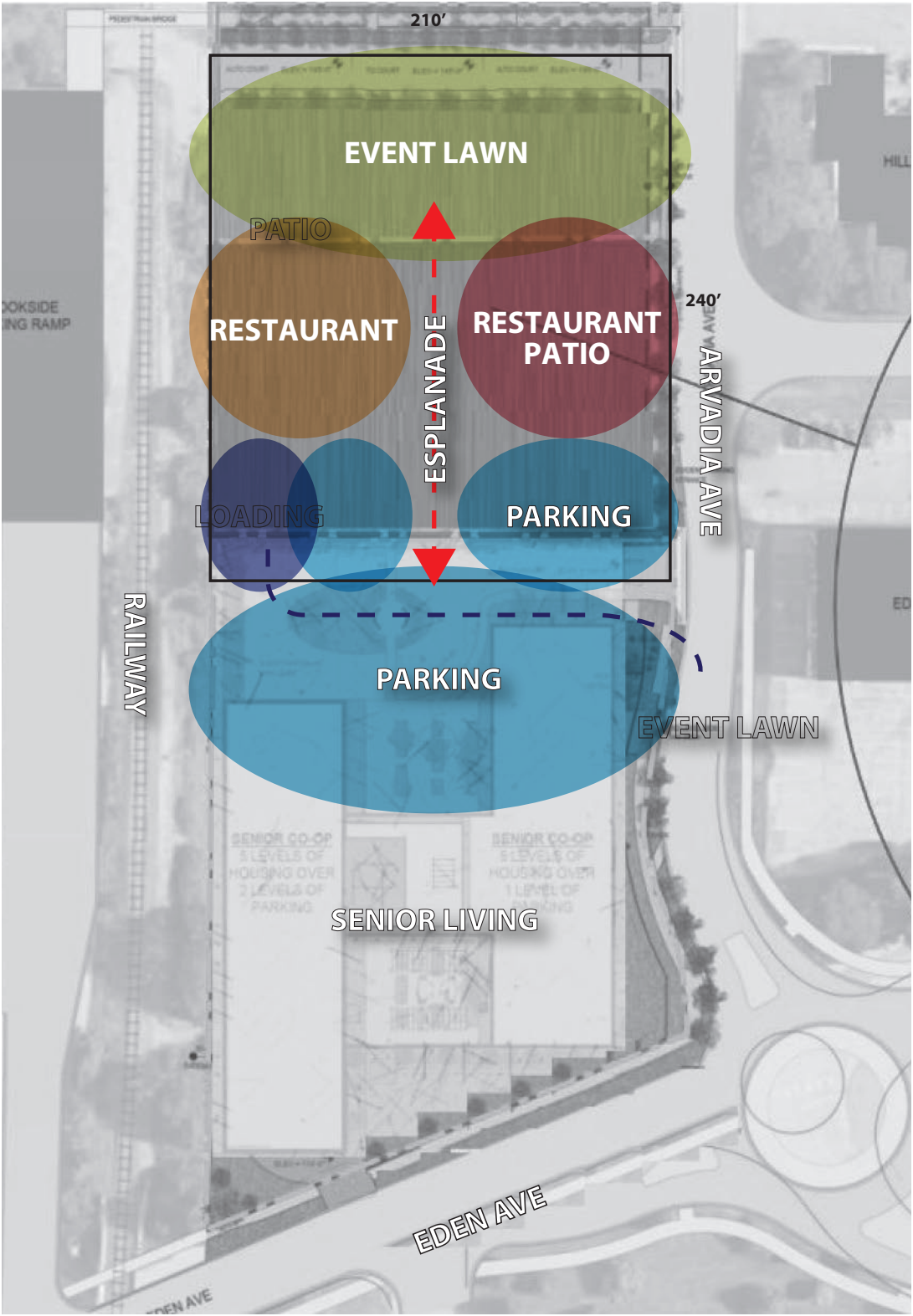


As a resident of western Edina, I am all too familiar with the void of great local eateries to visit. We intend to bring our blend of focused hospitality & unique dining experiences to the City of Edina. So, as a group we believe that an elevated Pizza concept would be warmly welcomed by the city & it's residents. We would highlight an open hearth for cooking pizzas as well as other small plates, entree's & seasonal vegetables. We would implement a craft cocktail program that has become a staple within all of our locations. An amazing wine list is essential as well and we would take an esoteric approach while incorporating the recognizable labels for familiarity. We would pair this concept with a secret/ underground bar perfect for a late night old fashioned, a negroni or a slice of pizza. The top floor would boast a private event space for family gatherings & small businesses while being utilized for overflow dining when events are not booked. An expansive outdoor patio would sit adjacent to the restaurant in which we hope to extend the season and welcome guests during the spring & fall. The patio would open up to the outdoor lawn which gives us an opportunity to welcome all residents in a community gathering space. We would activate the lawn all year round in conjunction with the City. Some ideas may include concerts, movies, farmers markets, fall pumpkin festivals and a winter wonderland complete with a skating rink and a candy/hot cocoa stations.

Brent Frederick (5108 Blake Rd S, Edina, MN 55436)



# Site Plan / Vision & Deal Structure



We would propose building a two story restaurant with and underground basement. A main level consisting of 4,000-5000 sq ft with matching level below and above. The building would be designed in a modern industrial way as well as the landscaping features and patio. We would suggest adding a few more parking stalls within the allotted space to give us access to 60-80 parking stalls. We would achieve this between the shared parking with the senior living, the allocated restaurant parcel and the parking ramp near Jerry's foods accessible by pathway. We will be offering complimentary valet as well to provoke a feeling of comfortability.

Our vision for the restaurant will be multi faceted when determining our customers frequency. We hope to be that go to family spot for dinner, that brunch location for family & friends after church, that date night on the weekend or that watering hole for a mid week cocktail or glass of wine with a friend. Our proposed day parts would be every night for dinner as well as brunch on Saturdays & Sundays.

We believe that an elevated concept here at this location would fit well within the assortment of options on the wester edge of Edina. While we believe we would be at the upper echelon in the restaurant scene of western Edina, we do not plan to be unapproachable to any single resident or neighbor and we will go to great lengths to viewed accessible.

While we are flexible with any deal we would prefer to own the building and land if possible. We would absolutely entertain any deal that the city would prefer though. We would achieve our financing through 3 different ways including bank financing, outside investors and existing Jester capital.



# Sensing Images / Restaurant





# Sensing Images / Restaurant



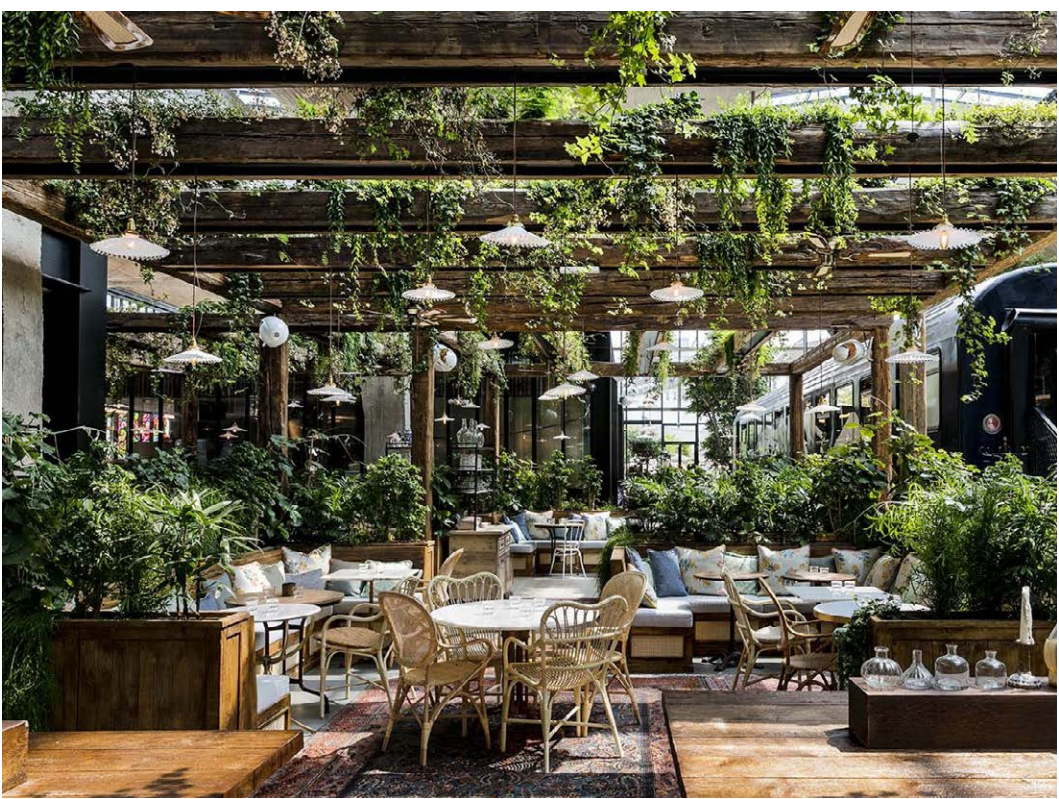


# Sensing Images / Restaurant



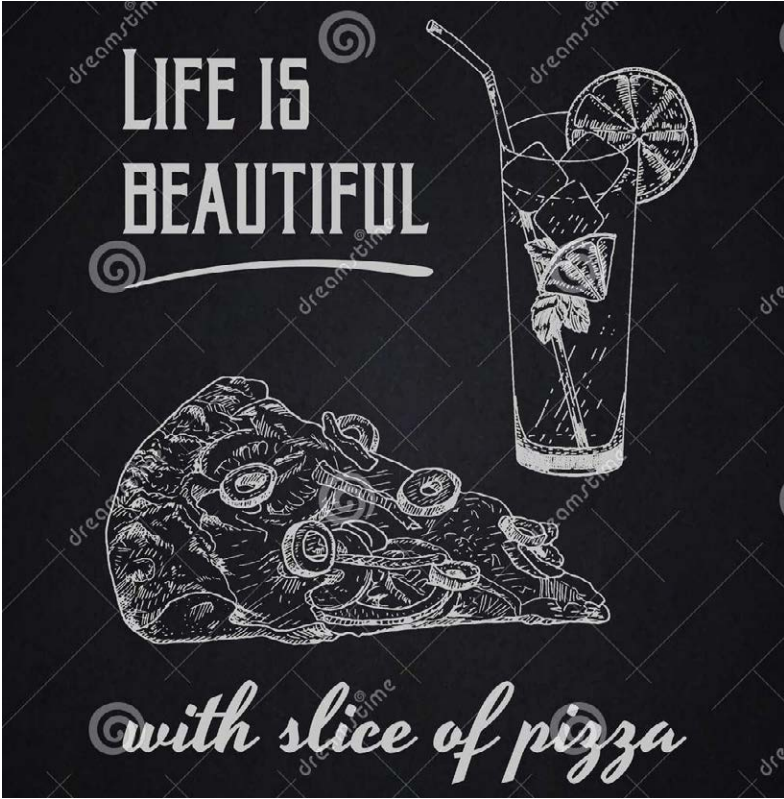
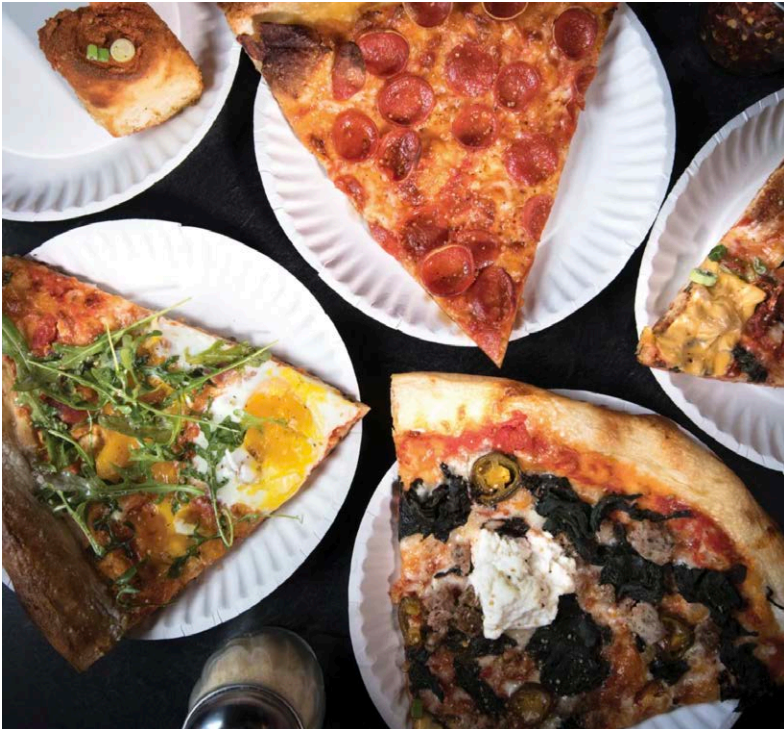


# Sensing Images / Restaurant Patio





# Sensing Images / Secret Underground Bar





# Sensing Images / Event Lawn





# Sensing Images / Green Space





NOTE - This 5-9-2022 draft requires coordination with updates to the Housing Agreement and final legal review. No major changes are anticipated – merely coordination and clarification.

Final draft to be published prior to HRA action on June 2, 2022.

*(reserved for recording information)*

**CONTRACT FOR PRIVATE DEVELOPMENT**

***RESTAURANT/HOSPITALITY FACILITY AT GRANDVIEW YARD***

**THIS AGREEMENT**, made on or as of the \_\_\_\_ day of \_\_\_\_\_, 2022 (“Effective Date”), by and between the **EDINA HOUSING AND REDEVELOPMENT AUTHORITY**, a public body corporate and politic under the laws of the State of Minnesota (the "HRA") and **JESTER CONCEPTS LLC**, a Minnesota limited liability company (the "Developer").

**WITNESSETH:**

**WHEREAS**, the HRA was created pursuant to Minnesota Statutes, Sections 469.001-.047 and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Edina pursuant to Section 469.003 of the Act; and

**WHEREAS**, pursuant to the Act, the HRA is authorized to undertake certain activities to prepare real property for development and redevelopment by private enterprise; and

**WHEREAS**, the HRA is the fee owner of property located in the City of Edina, as legally described in **Exhibit A** attached hereto (“HRA Property”), which the HRA intends to plat as the Grandview Yard Addition prior to Closing (defined herein) into three (3) separate lots: Lot 1, Block 1 (“Senior Cooperative Lot”), Lot 2, Block 1 (“Sale Property”) and Lot 3, Block 1 (“Park Lot”), all as shown on attached **Exhibit B**;

**WHEREAS**, there has been a proposal that the HRA approve the sale of the portion of the HRA Property to be platted as the Sale Property, consisting of approximately 0.72 acres of land (the “Property”) to the Developer for development of a restaurant and hospitality facility with indoor and outdoor dining and activities (“Project”); and



**WHEREAS**, the HRA believes that the Project and fulfillment generally of this Agreement is in the best interest of the HRA and the health, safety, morals and welfare of the residents of the City of Edina and in accord with the public purposes and provisions of the applicable state and local laws and requirements.

**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.** **DEFINITIONS**

In this Agreement, unless a different meaning clearly appears from the context:

**"Act"** means Minnesota Statutes, Sections 469.001-.043, as amended.

**"Agreement" [or "Contract"]** means this Contract for Private Development by and between the HRA and the Developer, as the same may be from time to time modified, amended or supplemented.

**"Articles and Sections"** mentioned by number only are the respective Articles and Sections of this Agreement so numbered.

**"Board"** means the the Board of Commissioners of the HRA.

**"Certificate of Completion"** means the certificate to be issued by the HRA pursuant to the terms of Section 4.6.

**"City"** means the City of Edina, Minnesota.

**"Closing"** means the closing on the transfer of the Property pursuant to Article III.

**"Closing Date"** means the date of closing on the transfer of the Property as provided in Section 3.6.

**"Commence" or "Commencement"** means the first visible improvement to the Property made in furtherance of the construction of the Minimum Improvements (including, specifically, pouring footings and foundations).

**"Completion"** means the Developer's receipt of the Certificate of Completion from the HRA for the Minimum Improvements.

**"County"** means the County of Hennepin, Minnesota.

**"Cure Rights"** means the rights to cure a Default as specified in Section 7.3.



**“Deed”** means a quit claim deed in the Minnesota Uniform Conveyancing Blank Form, subject to the right of first refusal under Section 3.11, the right of reverter provided under Section 4.5, and the restrictive covenant provided under Section 3.7(a)(i).

**"Developer"** means Jester Concepts LLC, or any assigns that have received prior written approval from the HRA.

**"Event of Default"** means an action by the Developer listed in Article VII of this Agreement.

**"HRA"** means the Edina Housing and Revelopment Authority.

**"Minimum Improvements"** means the construction by the Developer on the Property of approximately a 12,000 to 15,000 square foot multi-level restaurant and hospitality facility with indoor and outdoor dining, two (2) exterior restrooms for public use and the elements as generally described and depicted in **Exhibit C** attached hereto, in accordance with all applicable local, state and federal regulations governing such facilities, and in conformance with site plans as the same have been submitted to the HRA.

**"Parties"** means the Developer and the HRA.

**"Party"** means either the Developer or the HRA.

**“Plat”** means the final plat of the HRA Property for the Grandview Yard Addition, consisting of three (3) lots as generally depicted in **Exhibit B**.

**"Project"** means the Property and the completed Minimum Improvements thereon.

**“Property”** means that portion of the HRA Property to be platted as the Sale Property. The parties acknowledge that the Sale Property contains approximately 0.72 acres, but that the legal description of the Sale Property shall be verified by the Survey and the Title Company (both as hereinafter defined) on or before Closing.

**“Purchase Price”** means the sum of Five Hundred Thousand and No/100 Dollars (\$500,000.00), which the Developer shall pay the HRA for the purchase of the Property.

**“Reverter Closing Date”** means thirty (30) days after the Developer’s receipt of the HRA’s notice exercising the HRA’s right of reverter for the Property as set forth in Section 4.5.

**“Reverter Deed”** means the limited warranty deed through with the Developer will convey the Property and any improvements thereon back to the HRA upon the HRA’s exercise of its right of reverter as set forth in Section 4.5.

**"State"** means the State of Minnesota.



**"Title Company" means**

**"Unavoidable Delays"** means delays outside the control of the party claiming its occurrence which are the direct result of strikes, other labor troubles, unusually severe or prolonged bad weather, Acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the HRA) which directly result in delays. Unavoidable delays shall not include delays in the Developer obtaining permits or governmental approvals necessary directly to enable construction of the Minimum Improvements.

## **ARTICLE II.**

### **REPRESENTATIONS AND WARRANTIES**

**Section 2.1. Representations and Warranties by the HRA.** The HRA represents and warrants that:

(a) The HRA is a public body corporate and politic duly organized and existing under the laws of the State. Under the provisions of the Act and the laws of the State, the HRA has the power to enter into this Agreement and carry out its obligations hereunder.

(b) Subject to satisfaction of the terms and conditions of this Agreement, the HRA will convey the Property to the Developer for development in accordance with the terms of this Agreement.

(c) There is not pending, nor to the best of the HRA's knowledge is there threatened, any suit, action or proceeding against the HRA before any court, arbitrator, administrative agency, or other governmental authority that may materially and adversely affect the validity of any of the transactions contemplated hereby, the ability of the HRA to perform its obligations hereunder or as contemplated hereby, or the validity or enforceability of this Agreement.

(d) To the best of the HRA's knowledge and belief, no member of the Board or officer of the Board, has either a direct or indirect financial interest in this Agreement nor will any HRA Board member or officer of the HRA, benefit financially from this Agreement within the meaning of Minnesota Statutes Section 460.009

(e) To the best of its knowledge, the HRA believes that a private wells were located on the Property, but have since been sealed.

(f) To the best of the HRA's knowledge any sewage generated on the Property goes to a facility permitted by the Minnesota Pollution Control Agency and there are no active or abandoned individual sewage treatment systems located on or serving all or any part of the Property.



(g) To the best of the HRA's knowledge, no methamphetamine production has occurred on the Property. This statement is being made pursuant to the disclosure requirements of Minnesota Statutes Section 152.0275.

(h) The HRA has not received notice of default concerning any of its obligations or liabilities regarding the Property;

(i) The HRA has not received written notice of any action, litigation, investigation, condemnation or proceeding of any kind pending or threatened against the HRA or any portion of the Property.

(j) The HRA will reasonably cooperate in the processing of any applications required under this Agreement to be filed with the City by the Developer. The HRA does not hereby warrant or represent that the City will approve an application filed by Developer, except as expressly provided in this Agreement.

(k) The execution, delivery and performance of this Agreement, and any other documents, instruments or actions required or contemplated pursuant to this Agreement by the HRA does not, and consummation of the transactions contemplated therein and the fulfillment of the terms thereof will not conflict with or constitute on the part of the HRA a breach of or default under any existing agreement or instrument to which the HRA is a party or violate any law, charter or other proceeding or action establishing or relating to the establishment and powers of the HRA or its officers, officials or resolutions.

**Section 2.2. Representations and Warranties by the Developer.** The Developer represents and warrants that:

(a) The Developer is a limited liability company organized and in good standing under the laws of the State of Minnesota, is qualified to do business in the State, is not in violation of any provisions of its operating agreement or other organization documents or the laws of the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its members.

(b) The execution and delivery of this Agreement and the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof do not and will not conflict with or result in a breach of any material terms or conditions of the Developer's organizational documents, any restriction or any agreement or instrument to which the Developer is now a party or by which it is bound or to which any property of the Developer is subject, and do not and will not constitute a default under any of the foregoing or a violation of any order, decree, statute, rule or regulation of any court or of any state or Federal regulatory body having jurisdiction over the Developer or its properties, including its interest in the Minimum Improvements, and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of Developer contrary to the terms of any instrument or agreement to which the Developer is a party or by which is bound.



(c) To the best of the Developer's knowledge and belief, the execution and delivery of this Agreement will not create a conflict of interest prohibited by Minnesota Statutes Section 469.009, as amended.

(d) The Developer has the capacity to enter into this Agreement and to perform its obligations hereunder.

(e) When the Property is conveyed to the Developer, the Developer will construct, operate and maintain the Minimum Improvements upon the Property in accordance with the terms of this Agreement, and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(f) The Minimum Improvements will be constructed by the Developer, at its sole expense, in such manner, and at such expense as are necessary to make the Property usable by the Developer, including all such improvements as are necessary to make said facility comply with all applicable federal, state and local rules, regulations, ordinances and laws.

(g) There are no pending or threatened legal proceedings, of which the Developer has notice, contemplating the liquidation or dissolution of the Developer or threatening its existence, or seeking to restrain or enjoin the transactions contemplated by this Agreement or the validity of this Agreement.

(h) The Developer reasonably expects that it will be able to obtain private financing and in an amount sufficient to enable the Developer to successfully acquire and construct the Minimum Improvements, as provided herein.

(i) The Developer will use its best efforts to construct the Minimum Improvements in accordance with all local, state or federal energy-conservation laws or regulations.

(j) The Developer will use its best efforts to obtain, in a timely manner, all required permits, licenses and approvals and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

### **ARTICLE III.** **CONVEYANCE OF PROPERTY**

**Section 3.1. Property.** Subject to the the terms and conditions of this Agreement, the HRA will sell and convey the Property to the Developer and the Developer will purchase and accept the Property from the HRA fee ownership of the Property.

**Section 3.2. Purchase Price.** The purchase price for the Property shall be payable by Developer as follows:



(a) Twenty Thousand and No/100 Dollars (\$20,000.00) as earnest money deposited with the HRA within five (5) days of the Effective Date of this Agreement (the "Earnest Money") which shall not bear interest. The Earnest Money shall be non-refundable except in the event of termination of this Agreement as specifically provided under Section 3.4(i) of this Agreement; and

(b) The balance payable in cash, certified funds or wire transfer paid to the HRA at Closing.

**Section 3.3. Title and Survey.** The Developer shall be responsible for performing any and all title and survey examination or due diligence of the Property that the Developer deems prudent, at the Developer's sole cost and expense, except as otherwise provided for in this Agreement. The HRA will provide marketable title to the Property at Closing, but the the HRA is otherwise not providing any representations or warranties as to the condition of title and Developer expressly waives and claims the Developer may have against the HRA in connection with title defects. Notwithstanding the foregoing, the HRA agrees to reasonably cooperate with the Developer to cure any title defects that may exist before the expiration of the Initial Due Diligence Period (as defined below).

#### **Section 3.4. Due Diligence Period.**

(a) Documents and Materials. Within five (5) business days after the Effective Date, the HRA shall deliver to Developer the following documents in the HRA's possession or control: (1) the most current ALTA survey and prior title policy; (2) Any soils reports, environmental assessment reports, topographical maps, utility information, site studies, engineering reports or other property condition reports (3) Any permits, development engineering plans, correspondence with jurisdictional agencies, utility service agreements, leases, use or licensing agreements, and other such information affecting the Property (collectively, the "Property Documents"); provided, however, that notwithstanding the foregoing, the HRA's internally prepared notes, memoranda or other documents and any other documents or materials which are confidential or proprietary to the HRA will be excluded from the Property Documents.

(b) Due Diligence Period. Developer shall have One Hundred and Eighty (180) days from the Effective Date to: (1) examine the Property Documents; (2) make a physical inspection of the Property; (3) determine anticipated phased construction schedule; (4) complete land use approvals for the proposed development; and (5) review title to the Property (the "Due Diligence Period"), as the same may be extended as provided below. In this regard, Developer and its authorized employees, agents, contractors and representatives (collectively, "Developer's Representatives") shall be entitled to enter upon the Property at all reasonable times during the Due Diligence Period for the purpose of inspecting, investigating, surveying and the conducting of testing of the Property (collectively, "Inspections"), upon reasonable prior oral or written notice to the HRA. All Inspections shall occur at reasonable times agreed upon by the HRA and Developer. Developer shall pay all costs and expenses of all Inspections. Notwithstanding anything herein to the contrary, Developer shall not perform soil tests, asbestos or lead tests, or perform tests of a similarly intrusive nature without the prior written consent of HRA, which



consent shall not be unreasonably withheld, conditioned or delayed; provided, however, Developer shall have the right to complete a Phase I and a Phase II environmental report as part of such Inspections.

(c) Responsibilities During Due Diligence Period. During the Due Diligence Period, the parties will work in good faith to:

- (1) confirm the physical delivery condition of the Property at Closing, including, but not limited to, establishing:
  - (a) the rough grade elevation of the Property to be conveyed at Closing;
  - (b) the approximate location of the new curb line for Arcadia Avenue
  - (c) the location of all sanitary sewer, water and stormwater utility connections serving the Property;
  - (d) the location of entry and access points to the Property (whether directly to public right of way or through separate agreements with adjacent properties); and
  - (e) determining responsibility for maintenance of the public sidewalk serving the Property and establishing any actions necessary to finalize maintenance responsibility.
- (2) finalize the terms and forms of agreements to be delivered at Closing for any easements determined by the parties necessary for their intended uses of their respective lots within the Plat including, but not limited to:
  - (a) an easement for the proposed private road serving the lots within the Plat and operation and maintenance of the private road;
  - (b) an easement for access over the westerly 10 feet of the Property and the Senior Cooperative Lot for the benefit of the Lot and the Park Lot;
  - (c) temporary construction easement(s) over the Property and the Park Lot to serve the Property and the Senior Cooperative Lot for staging grounds for the construction of the improvements on the Property and the Senior Cooperative Lot;
  - (d) an easement for two (2) exterior restrooms for public use and accessory storage room for public use; and
  - (e) temporary construction easement over the Property for construction of the Park Lot.

(d) Financing. Prior to the expiration of the Due Diligence Period, the Developer shall submit to the HRA or provide access thereto for review by HRA staff, consultants and agents, evidence reasonably satisfactory to the HRA that Developer has available funds, or commitments to obtain funds, whether in the nature of mortgage financing, equity, grants, loans, or other sources sufficient for paying the cost of acquiring the Property and developing the



Minimum Improvements, provided that any lender or grantor commitments shall be subject only to such conditions as are normal and customary in the commercial lending industry.

(e) Approvals. During the Due Diligence Period, Developer shall use commercially reasonable efforts to obtain zoning designations, or other zoning and land use approvals required to construct the Minimum Improvements on the Property in an efficient and cost effective manner as determined by Developer in Developer's sole and absolute discretion (the "Approvals"). The HRA shall, at no cost or liability to the HRA, reasonably cooperate and affirmatively assist Developer with Developer's efforts to obtain its Approvals, but does not guarantee the granting of such Approvals. Developer shall be solely responsible for all costs associated with obtaining the Approvals and no such Approvals will be effective prior to the Closing Date unless approved by the HRA.

(f) Plat. During the Due Diligence Period and Post Due Diligence Period the HRA shall use commercially reasonable efforts to obtain final plat approval of the Plat to be recorded at Closing, subject to review and approval by the Developer in relation to the Property.

(g) Indemnification; Manner of Inspections. Developer shall indemnify, defend and hold the HRA and the Property harmless from all loss, damages, costs, claims, liabilities and expenses, including without limitation attorneys' fees, relating to the Inspections or the activities of the Developer and the Developer Representatives. Developer and the Developer Representatives shall perform the Inspections upon the Property (i) in a manner so as not to cause damage to the Property or the death or personal injury to any persons and (ii) in a manner which keeps the Property free of any liens or third-party claims resulting therefrom. Developer shall repair and restore any damage to the Property caused by any of the Developer Representatives or occurring during the Inspections and shall return the Property to substantially the same condition as existed prior to such entry. At the HRA's option, a representative of the HRA may accompany Developer and the Developer Representatives during the Inspections. The HRA and Developer agree that the provisions of this Section 3.4(g) shall survive the closing of the transaction contemplated by this Agreement.

(h) Insurance. Before and during any Inspections, Developer and each Developer Representative shall maintain workers' compensation insurance in accordance with applicable law, and Developer or the applicable Developer Representative, shall secure, maintain and provide evidence to HRA of (i) a commercial general liability insurance with limits of at least \$2,000,000 for bodily or personal injury or death, which policy shall name HRA and its agents as additional insureds, (ii) property damage insurance in the amount of at least \$1,000,000 and (iii) contractual liability insurance. Developer shall deliver to HRA evidence of such workers' compensation insurance and a certificate evidencing the commercial general liability, property damage and contractual liability insurance before conducting any Inspections on the Property.

(i) Termination.

(i) Due Diligence Period. Either Party may terminate this Agreement by giving written notice to the other Party prior to the expiration of the Due Diligence Period, or any



written amendment to this Agreement extending the Due Diligence Period. Upon termination, the Earnest Money shall be refunded to the Developer and the parties shall have no further obligation to the other party upon termination, other than obligations which, by the express terms of this Agreement, survive a termination of this Agreement.

(ii) Post Due Diligence Period. Except as otherwise provided herein, Developer and the HRA agree that this Agreement is contingent upon the closing of the sale of the Senior Cooperative Lot, which is subject to a Contract for Private Development for the Senior Cooperative Lot (“Senior Cooperative Contract”) between the HRA and United Properties Residential, LLC (“Senior Cooperative Developer”). In the event that the Senior Cooperative Developer or the City terminates the Senior Cooperative Contract, the Developer or the HRA may terminate this Agreement by written notice to the other Party, in which event the Earnest Money will be refunded to the Developer. If the Senior Cooperative Developer proceeds to closing on the Senior Cooperative Contract following the Initial Due Diligence Period, the Earnest Money shall be non-refundable, except in the event of a breach by the HRA.

### **Section 3.5. Conditions Precedent to Conveyance of Property.**

(a) The HRA’s obligation to convey the Property shall be subject to the satisfaction of, or waiver in writing by the HRA of, all of the following conditions precedent:

- (i) The Developer shall have performed all of the obligations this Agreement expressly requires the Developer to perform on or before the Closing Date, and the Developer shall not be in default under the terms of this Agreement;
- (ii) The Developer shall have delivered to the HRA all of the documents to be delivered by the Developer and described in Section 3.7(b) on or before the Closing Date;
- (iii) The Developer having secured all governmental permits and approvals in order to permit construction of the Minimum Improvements prior to Closing;
- (iv) The Developer shall have submitted to the HRA and the HRA shall have approved Construction Plans for Minimum Improvements pursuant to Article IV of this Agreement substantially consistent with the concept plan attached as **Exhibit C**;
- (v) The HRA and any adjacent property owners, if applicable, agreeing to easements, covenants and/or restrictions which, in HRA’s sole and absolute discretion, shall meet HRA’s needs for its intended usage of the Property and Park Lot;
- (vi) Developer (i) securing the necessary and appropriate financing to purchase the Property, and (ii) receiving the HRA's approval of the same as required pursuant to Section 6.3.



- (vii) The issues identified in Section 3.4 have been adequately addressed prior to the expiration of the Due Diligence Period, or extension thereof;
  - (viii) The Plat has been approved and is recorded at Closing; and
  - (ix) The closing on the Senior Cooperative Lot under the Senior Cooperative Contract has been completed.
- (b) The Developer shall be obligated to accept title to the Property subject to satisfaction, or waiver in writing by the Developer, of the following conditions precedent:
- (i) The HRA shall have performed all of the obligations required to be performed by the HRA under this Agreement as of the Closing Date and shall not be in default under the terms of this Agreement;
  - (ii) The Developer having secured the HRA's approval of the Construction Plans and all other governmental permits and approvals, including building permits necessary to construct the Minimum Improvements;
  - (iii) Developer (i) securing the necessary and appropriate financing to purchase the Property, and (ii) receiving the HRA's approval of the same as required pursuant to Section 6.3.
  - (iv) The issues identified in Section 3.4 have been adequately addressed prior to the expiration of the Due Diligence Period, or extension thereof; and
  - (v) Developer and any adjacent property owners, if applicable, agreeing to easements, covenants and/or restrictions which, in Developer's sole and absolute discretion, shall meet Developer's needs for its intended usage of the Property
  - (vi) The Plat has been approved and is recorded at Closing; and
  - (vii) The closing on the Senior Cooperative Lot under the Senior Cooperative Contract has been completed.
- (c) HRA and Developer Options. In the event that any of the foregoing contingencies are not satisfied on or before the Closing Date, the Developer or the HRA, as the case may be must:
- (i) terminate this Agreement by written notice to the other party; or
  - (ii) waive such failure and proceed to close.

In the event of termination by either party, the Earnest Money will be non-refundable, except as otherwise provided under Section 3.4(i).



**Section 3.6. Closing.** Subject to the terms and conditions of this Agreement, the Closing shall occur simultaneously with the Closing on the sale of the Senior Cooperative Lot, but no later than December 31, 2023 unless otherwise extended by approval of the Parties. The conveyance will be closed through an escrow arrangement with the Title Company.

**Section 3.7. Closing Documents.**

(a) HRA Documents. At the Closing, the HRA shall execute, where appropriate, and deliver all of the following (collectively, the “HRA Documents”):

- (i) The Deed properly executed on behalf of the HRA conveying the Property to the Developer, containing a restricting that for a period of thirty (30) years from the date of said deed that the Property: (i) may not be used for age-restricted 62 plus housing residential cooperative; or (ii) any other use that does not include food service as the primary use, without the express consent of the HRA;
- (ii) A Minnesota Uniform Conveyancing Blank Form Affidavit Regarding Business Entity;
- (iii) A resolution of the HRA Board authorizing the HRA’s execution and delivery of the Deed;
- (iv) A non-foreign affidavit containing such information as required by Internal Revenue Code Section 1445(b)(9ii) and any regulations relating thereto;
- (v) A Minnesota Well Disclosure Certificate;
- (vi) Such information as required by Developer or Title Company to permit Title Company to file an electronic certificate of real estate value;
- (vii) A settlement statement reflecting the financial provisions of the Closing, consistent with the provisions of this Agreement;
- (viii) The Plat;
- (ix) Easements and any additional documents determined necessary by the parties during the Due Diligence Period, or any extension thereof, by amendment of this Agreement; and
- (x) Any other items required by this Agreement or reasonably requested by the Title Company or the Developer of the Closing.

(b) Developer Documents. At the Closing, the Developer shall execute, where appropriate, and deliver all of the following (collectively, the “Developer Documents”):



- (i) The Purchase Price by wire transfer of immediately available funds to the Title Company;
- (ii) Such affidavits of the Developer or other documents as may be reasonably required by the Title Company (including a Certificate of Real Estate Value) to record the HRA Documents and issue any title insurance policy required by the Developer;
- (iii) A resolution of the members or manager of the Developer authorizing and approving the transaction contemplated by this Agreement, certified as true and correct by an officer of the Developer;
- (iv) A settlement statement reflecting the financial provision of the Closing, consistent with provisions of this Agreement;
- (v) Easements and any additional documents determined necessary by the parties during the Initial Due Diligence Period, or any extension thereof; and
- (vi) Any other items required by this Agreement or reasonably requested by the Title Company or the HRA for the Closing.

**Section 3.8. Taxes and Deferred Assessments.** Except as otherwise provided herein, the HRA shall pay all general real estate taxes and installments of special assessments due and payable in the year prior to the Date of Closing and years prior thereto. The HRA and Developer shall prorate all general real estate taxes due and payable on the Property in the year in which the Date of Closing occurs on a per diem basis. Except as otherwise provided below, HRA shall pay on or before Closing all levied and pending special assessments associated with the Property as of the date of this Agreement.

**Section 3.9. Prorations.** The HRA and the Developer shall make the following prorations and allocations of costs and expenses at Closing:

- (a) the Developer shall pay:
  - (i) the cost of the ALTA Owner's title insurance policy, including the cost of any endorsements or extended coverage provisions, if any;
  - (ii) one-half of the closing fee charged by the Title Company;
  - (iii) the cost for any environmental investigation, tests, or surveys elected to be completed by Developer, including consultants hired by Developer;
  - (iv) all taxes payable in accordance with the terms of this Agreement;
  - (v) its own attorneys' fees; and
  - (vi) recording fees for easements.
- (b) At Closing, the HRA shall pay:



- (i) the cost for issuance of the title commitment;
- (ii) one-half of the closing fee charged by the Title Company;
- (iii) all costs for the creation and recording of the Plat;
- (iv) all costs for recording fees for documents necessary for correction of title;
- (v) state deed tax and conservation fees; and
- (vi) all taxes and assessments payable in accordance with this Agreement.

(c) All costs incidental to the Closing, not otherwise specifically allocated in this Agreement shall be allocated in accordance with the custom and practice for similar transactions.

(d) The HRA and Developer each represent and warrant to the other party that it has dealt with no brokers, finders, or the like in connection with this Agreement or the transactions contemplated hereby. The HRA and Developer agree to indemnify and defend each other against, and hold each other harmless from, all claims, damages, costs, and expenses of or for any fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, if and to the extent the representation and warranty made by such party in the immediately preceding sentence is not true.

**Section 3.10. No Representation by the HRA.** EXCEPT FOR THE HRA'S REPRESENTATIONS AND WARRANTIES MADE IN THIS AGREEMENT, THE DEVELOPER EXPRESSLY ACKNOWLEDGES AND AGREES THAT IT IS PURCHASING THE PROPERTY "AS IS" AND "WITH ALL FAULTS," AFTER SUCH INSPECTION, ANALYSIS, EXAMINATION AND INVESTIGATION THE DEVELOPER CARES TO MAKE AND EXPRESSLY WITHOUT COVENANT, WARRANTY OR REPRESENTATION BY THE HRA AS TO PHYSICAL OR ENVIRONMENTAL CONDITION, TITLE, LEASES, RENTS, REVENUES, INCOME, EXPENSES, OPERATION, FLOOD PLAIN, SHORELAND, WETLANDS, ZONING OR OTHER REGULATION, COMPLIANCE WITH LAW, SUITABILITY FOR PARTICULAR PURPOSES, ALL OTHER MATTERS WHICH THE DEVELOPER DEEMS RELEVANT TO ITS PURCHASE OF THE PROPERTY OR ANY OTHER MATTERS WHATSOEVER, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT.

THE DEVELOPER REPRESENTS TO THE HRA THAT DEVELOPER HAS CONDUCTED, OR WILL HAVE HAD THE OPPORTUNITY TO CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL, ENVIRONMENTAL AND GEOTECHNICAL CONDITIONS THEREOF, AS DEVELOPER DEEMS NECESSARY TO SATISFY ITSELF OF THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES OR MATERIALS ON, WITHIN, UNDER OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF THE HRA.

UPON CLOSING, DEVELOPER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL,



ENVIRONMENTAL AND GEOTECHNICAL CONDITIONS MAY HAVE BEEN REVEALED BY DEVELOPER'S INVESTIGATIONS, AND DEVELOPER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED THE HRA (AND THE HRA'S OFFICIALS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT) LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH DEVELOPER MIGHT HAVE ASSERTED OR ALLEGED AGAINST THE HRA (AND THE HRA'S OFFICERS, DIRECTORS, SHAREHOLDER, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS) AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY; PROVIDED, HOWEVER, THE HRA SHALL NOT MAKE ANY CLAIM RELATING TO A BREACH OF A REPRESENTATION, WARRANTY OR COVENANT IN THIS AGREEMENT OR ANY OTHER CLOSING DOCUMENT

The HRA and Developer agree that the provisions of this Section 3.10 shall survive the closing of the transaction contemplated by this Agreement.

### **Section 3.11. Right of First Refusal.**

(a) Right of First Refusal. Developer hereby grants to the HRA the right of first refusal to purchase the Property upon the terms and conditions set forth in this Section (the "Right of First Refusal"). The terms of this Section shall be incorporated in the Deed and shall survive the Closing.

(b) Conditions. The Developer shall not, without the consent of the HRA, enter into an agreement with any third party to sell or otherwise transfer their interests in the Property without first providing the HRA an opportunity to acquire fee simple title to the Property on the same terms as they proposes to transfer it to said third party. Upon receipt of a bona fide third party offer for the Property, the Buyer shall provide written notice thereof to the Seller, which shall set forth the identity of the proposed third-party purchaser, their offering price, the proposed terms of transfer, and the Seller's purchase price (the "Offer Notice").

(c) Exercise of Right of First Refusal. The HRA shall have 90 days after receiving such Offer Notice (the "Election Period") within which to elect to purchase the Property on the terms set forth in the Offer Notice. Such election shall be made by a written notice of election given to the HRA prior to the expiration of the Election Period stating that the HRA accepts the offer described in the Offer Notice (the "Election Notice"). The HRA's election may be made contingent upon (a) inspection of the Property, (b) environmental assessment of the Property, and (c) the HRA obtaining satisfactory financing.

(d) Failure to Exercise Right of First Refusal. If the HRA fails to deliver the Election Notice prior to the end of the Election Period or if the HRA communicates to the Developer in writing that it will not be exercising its Right of First Refusal prior to the end of the Election Period



(“Failed to Exercise Right”), the Developer shall be free to transfer their interests in the Property at a price equal to or greater than that specified in the Offer Notice. The Developer shall not transfer their interests in the Property at a price lower than that specified in the Offer Notice without providing the HRA another Right of First Refusal as set forth in this Section.

**Section 3.12. Maintenance Assessment District.** The Property is located within the Grandview Commercial Area which is Maintenance Assessment District. This District has been established in accordance with City Code Chapter 24, Article V pursuant to Laws of Minnesota 1983, Chapter 59 to cover the cost of these services provided at a higher level than supported by City property tax levy:

- (1) Removal of snow, ice and refuse, including litter, from sidewalks, streets and parking facilities.
- (2) Elimination of weeds from any and all streets, sidewalks and private property.
- (3) Removal or elimination of any public health or safety hazards from private property.
- (4) Trimming and care of trees and the removal of unsound trees.
- (5) Repair of sidewalks and alleys.
- (6) Operation, including maintenance and repair, of city-owned lighting systems, streets, sidewalks and public parking facilities.

After the Certificate of Completion is issued, the property will be subject to its proportional share of the annual maintenance costs that are assessed to commercial property owners in the Grandview Commercial Area. The Developer agrees to pay the amount due promptly. The Developer further agrees to support the creation of a Business Improvement District or Special Services District should such a district be proposed to replace the Maintenance District within five years of the Closing Date.

#### **ARTICLE IV.**

#### **CONSTRUCTION OF MINIMUM IMPROVEMENTS**

**Section 4.1. Construction of Minimum Improvements.** The Developer agrees that it will construct the Minimum Improvements on the Property in accordance with construction plans approved by the HRA, (the “Construction Plans”) and will operate and maintain, preserve and keep the Minimum Improvements or cause the Minimum Improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof in good repair and condition. Developer acknowledges that, in addition to HRA approval of plans, Developer is required to obtain all necessary HRA approvals for the development.



## **Section. 4.2. Construction Plans.**

(a) On or before **August 5, 2022**, the Developer shall submit to the HRA Preliminary Plans (site plan for the Property and schematic plans for the Minimum Improvements) for review and approval by the HRA for general compliance of the Plans with the terms of this Contract.

(b) Thirty days prior to Closing, the Developer shall provide to the HRA the Construction Plans providing for the construction of the Minimum Improvements for a determination that the Construction Plan are in conformity with this Agreement, the Preliminary Plans, and all applicable state and local laws and regulations, together with the construction budget for the Project. The HRA's Executive Director shall approve the Construction Plans in writing if, in the reasonable discretion of the HRA: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to all applicable federal, state and local law, ordinances, rules and regulations as determined by the City's Building Inspector; (iii) the Construction Plans are adequate to provide for the construction of the subject Minimum Improvements; (iv) the Construction Plans do not provide for expenditures in excess of the funds which will be available to the Developer for the construction of the Minimum Improvements; and (v) no Event of Default has occurred and is continuing. No approval by the HRA under this Section 4.2 shall relieve the Developer of the obligation to comply with the terms of this Agreement, applicable federal, state and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements. No approval by the HRA shall constitute a waiver of an Event of Default. The HRA shall review the Construction Plans within thirty (30) days of submission of a complete set of Construction Plans and either approve the same or provide Developer with a list of specific required changes to be made to the Construction Plans. Upon making the specific changes to the Construction Plans as required by the HRA, the Developer shall submit the Construction Plans with the required changes to the HRA for its approval and if Developer made the required changes, the Construction Plans shall be approved.

(c) If the Developer desires to make any material change in any Construction Plans after their approval by the HRA, the Developer shall submit the proposed change to the HRA for approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 of this Agreement with respect to such previously approved Construction Plans, the HRA shall approve the proposed change and notify the Developer in writing of its approval.

## **Section 4.3. Construction of Minimum Improvements.**

(a) The Developer shall commence construction of the Minimum Improvements within 30 days of the Closing Date. Subject to Unavoidable Delays.

(b) The Developer shall substantially complete construction of the Minimum Improvements, except for minor "punch list items", **within twenty four (24) months** after the Closing Date.



(c) All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Property must be in substantial conformance with the Construction Plans as submitted by the Developer and approved by the HRA. The Developer agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, that the Developer, and its successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be completed within the period specified in this Section 4.3 of this Agreement, subject to Unavoidable Delays. Subsequent to conveyance of the Property, or any part thereof, to the Developer, and until construction of the Minimum Improvements has been completed, the Developer, or its architect or contractor, shall make construction progress reports, at such times as may reasonably be requested by the HRA, but not more than once a month, as to the actual progress of the Developer with respect to such construction.

(d) In constructing the Minimum Improvements, the Developer shall comply with all federal, state and local laws and regulations.

**Section 4.4. Failure to Accept Title to Property.** In the event all conditions precedent herewith are met or waived and the Developer fails to accept title to the Property pursuant to Article III the HRA shall retain the Earnest Money, except as otherwise provided under Section 3.4.

#### **Section 4.5 Right of Reverter.**

(a) If the Developer fails to cause the Commencement of construction of the Minimum Improvements within 30 days of the Closing Date, or such later date that may be established pursuant to the terms of this Agreement if Commencement is subject to an Unavoidable Delay then the HRA may, in addition to such other rights and remedies that are available to the HRA hereunder, require that the Property be transferred back to the HRA. The HRA may, but shall not be obligated to, cause the Developer to reconvey the Property and all improvements thereon to the HRA by giving the Developer notice of the HRA's exercise of its right of reverter pursuant to this Section. Such notice shall be subject to the notice and right to cure provisions in Article VII. The right of reverter under this section shall terminate and no longer of any force and effect upon the Commencement of the Minimum Improvements. The HRA agrees to execute and deliver to the Developer a recordable release of its right of reverter, in a form reasonably acceptable to the Developer, within ten (10) days after request by Developer. The HRA will agree to subject such reversion rights to one or more Mortgages securing one or more loans the proceeds of which are solely used to finance the Developer's acquisition of the Property, construction of the Minimum Improvements, or both, in a form and substance acceptable to the HRA.

(b) On the Reverter Closing Date, the Developer will convey fee title to the Property and all improvements thereon to the HRA by the Reverter Deed, as follows:



- (i) The HRA will pay the Developer \$1.00 as consideration for receiving the Reverter Deed;
- (ii) The Developer will convey the Property and any improvements thereon to the HRA free and clear of all encumbrances other than encumbrances that existed when the HRA conveyed the Property to the Developer and easements or other encumbrances which the HRA previously approved in writing;
- (iii) Upon the recording of the Reverter Deed to the HRA, this Agreement shall terminate, the developer shall have no further rights to the Property or the improvements thereon, and neither the HRA or the Developer will have any rights or obligations under this Agreement other than obligations which, by the express terms of this Agreement, survive a termination of this Agreement;
- (iv) On or before the Reverter Closing Date, the Developer will execute and deliver to the HRA a Minnesota Uniform Conveyancing Blank Form 50.3.1 Affidavit Regarding Business Entity confirming that there has been no labor or materials provided the Property since the HRA's conveyance of the Property to the Developer for which payment has not been made; and
- (v) The Developer shall deliver an updated title insurance commitment to the HRA evidencing the status of title to the HRA consistent with the terms of this Agreement.

#### **Section 4.6. Certificate of Completion.**

(a) Promptly after substantial completion of the Minimum Improvements in accordance with the provisions of this Agreement, the HRA will furnish Developer with a certificate of completion substantially in the form shown at **Exhibit D** (the "Certificate of Completion"). Such certification by the HRA shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations of Developer, and its successors and assigns, to construct the Minimum Improvements, and shall operate to forever waive the HRA's interest in the Property, including the right of reverter.

(b) If the HRA shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.6, the HRA shall, upon demand, provide Developer with a written statement, indicating in adequate detail in what respect Developer has failed to complete the Minimum Improvements in accordance with the provision of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the HRA, for Developer to take or perform in order to obtain such certification. Upon Developer's completion of the items so described by the HRA, the HRA shall deliver a fully executed Certificate of Completion to Developer.



(c) The construction of the Minimum Improvements shall be deemed to be completed when the Minimum Improvements are, as reasonably determined by the HRA, substantially completed in accordance with the Construction Plans and when a certificate of occupancy is issued.

## **ARTICLE V INSURANCE AND CONDEMNATION**

**Section 5.1. Required Insurance.** The Developer agrees to provide and maintain or cause its general contractor to provide and maintain at all times during the process of constructing the Minimum Improvements and, from time to time at the request of the HRA, furnish the HRA with proof of payment of premiums on:

- (a) Builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy;
- (b) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an owner's contractor's policy with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above required limits, an umbrella excess liability policy may be used); and
- (c) Workers' compensation insurance, with statutory coverage.

The policies of insurance required pursuant to clauses (a) and (b) above shall be in form and content reasonably satisfactory to the HRA and shall be placed with financially sound and reputable insurers licensed to transact business in Minnesota. The policy of insurance delivered pursuant to clause (a) above shall contain an agreement of the insurer to give not less than thirty (30) days' advance written notice to the HRA in the event of cancellation of such policy or change affecting the coverage thereunder.

**Section 5.2. Evidence of Insurance.** All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of Minnesota to assume the risks covered thereby. Until the Certificate of Completion is issued, the Developer agrees to deposit annually with the HRA copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V, each policy shall contain a provision that the insurer shall not cancel nor materially modify it without giving written notice to the Developer and the HRA at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Developer shall furnish the HRA evidence satisfactory to the HRA that the policy has been renewed or replaced by another policy conforming to the



provisions of this Article V, or that there is no necessity therefor under the terms of this Agreement. In lieu of separate policies, the Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the HRA a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

**Section 5.3. Condemnation.** In the event that title to and possession of the Property, or any part thereof shall be taken in condemnation or by exercise of the power of eminent domain by any governmental body or other person (except the HRA) the Developer shall, with reasonable promptness notify the HRA as to the nature and extent of such taking.

## **ARTICLE VI PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER; ENCUMBRANCES; AND INDEMNIFICATION**

**Section 6.1. Representation as to Development.** The Developer represents and agrees that its purchase of the Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of redevelopment of the Property and not for speculation in land holding. The Developer further recognizes that, in view of the importance of the redevelopment of the Property to the general welfare of the community and the substantial financing and other public aids that have been made available by the HRA for the purpose of making such development possible, the qualifications and identity of the Developer, and its shareholders, are of particular concern to the community and the HRA. The Developer further recognizes that it is because of such qualifications and identity that the HRA is entering into the Agreement with the Developer, and, in so doing, is further willing to accept and rely on the obligations of the Developer for the faithful performance of all undertakings and covenants hereby by it to be performed relating to the construction of the Minimum Improvements.

**Section 6.2. Limitations on Transfer.** Until the issuance of a Certificate of Completion for the Minimum Improvements:

(a) The Developer will not sell, assign, convey, lease or transfer in any other mode or manner any of its right, title, and interest in and to this Agreement, all or any part of the Minimum Improvements, without the express approval of the HRA.

(b) The HRA shall be entitled to require, as conditions to its approval of any sale, assignment, conveyance, use or transfer of any rights, title and interest in and to this Agreement or the Minimum Improvements that:

(1) Any proposed transferee shall not be exempt from the payment of real estate taxes and shall have the qualifications and financial responsibility, as determined by the HRA, necessary and adequate to fulfil the obligations undertaken in this Agreement by the Developer;



- (2) Any proposed transferee, by instrument in writing satisfactory to the HRA and in form recordable among the land records shall, for itself and its successors and assigns, and expressly for the benefit of the HRA have expressly assumed all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject; and
- (3) The transferee must demonstrate, in a manner satisfactory to the HRA, its ability to perform all assumed obligations in this Agreement.

(c) In the absence of specific written agreement of the by the HRA to the contrary, neither the transfer of the Minimum Improvements prior to the issuance of a Certificate of Completion or the HRA's consent to such a transfer will relieve the Developer or any other party bound in any way by this Agreement from their obligations under the Agreement.

**Section 6.3. Limitation Upon Encumbrance of Property.** Prior to the issuance of the Certificate of Completion, except for financing approved by HRA pursuant to Section 3.5(a)(vi), the Developer agrees not to engage in any financing creating any mortgage or other encumbrance or lien upon the Property or the Minimum Improvements, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Property or the Minimum Improvements, other than the liens or encumbrances directly and solely related to acquisition of the Property, construction of the Minimum Improvements and approved by the HRA, which approval shall not be withheld or delayed unreasonably if the HRA determines that such lien or encumbrance will not threaten its security in the Property.

#### **Section 6.4. Release and Indemnification Covenants.**

(a) The Developer releases from and covenants and agrees that the HRA and the governing body members, officers, agents, servants and employees thereof (collectively, the "Indemnified Parties") shall not be liable for and agrees to indemnify and hold harmless the HRA and the governing body members, officers, agents, servants and employees thereof against 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 Minimum Improvements.

(b) Except for the negligence of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements.

(c) The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the company or its officers, agents, servants or employees or any other person who may be about the Property or Minimum Improvements due to any act of negligence of any person other than the Indemnified parties.



(d) None of the Indemnified Parties shall be liable to the Developer or to any third party for any consequential or other damages that may arise out of delays of any kind relating to activities undertaken pursuant to this Agreement, including but not limited to delays due to environmental conditions, court challenges or elements outside the control of the HRA.

(e) All covenants, stipulations, promises, agreements and obligations of the HRA contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the HRA and not of any governing body member, officer, agent, servant or employee of the HRA in the individual capacity thereof.

(f) Nothing in this Section is intended to waive any municipal liability limitations contained in Minnesota Statutes, particularly Chapter 466.

## **ARTICLE VII**

### **Events of Default**

**Section 7.1. Events of Default Defined.** The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement (unless the context otherwise provides), any one or more of the following events:

- (a) Failure by the Developer to pay when due any payments required to be paid under this Agreement or to pay when due ad valorem taxes on the Property.
- (b) Failure by the Developer to close on the acquisition of the Property;
- (c) The Developer's failure to achieve Commencement and Completion of Minimum Improvements, or portions thereof, pursuant to the terms, conditions and limitations of this Agreement.
- (d) Failure by Developer to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed hereunder.
- (e) The Developer does any of the following prior to completion of construction of the Minimum Improvements: (i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under United States Bankruptcy Laws or any similar federal or state laws; or (ii) make an assignment for the benefit of its creditors; or (iii) admit, in writing, its inability to pay its debts generally as they become due; or (iv) be adjudicated, bankrupt or insolvent.
- (f) If any warranty or representation by the Developer in this Agreement is untrue in any material respect.
- (g) If Developer is in default under any Mortgage and has not entered into a work-out agreement with the holder of the Mortgage.



**Section 7.2. Developer and HRA Events of Default.** Subject to Unavoidable Delays, the failure of the Developer or the HRA to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, and the continuation of such failure for a period of thirty (30) days after written notice of such failure from any party hereto shall be an Event of Default by the Developer or the HRA, as applicable.

**Section 7.3 Cure Rights.** Notwithstanding the foregoing, if a Default reasonably requires more than thirty (30) days to cure, such Default shall not constitute an Event of Default, provided that the curing of the Default is promptly commenced upon receipt by the defaulting party of the notice of the Default, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided the defaulting party keeps the non-defaulting party well informed at all times of its progress in curing the Default; provided in no event shall such additional cure period shall extend beyond sixty (60) days.

**Section 7.4. HRA'S Remedies on Default.** Whenever any Event of Default by Developer referred to in Section 7.1 of this Agreement occurs, subject to the Cure Rights and Unavoidable Delays, the HRA may take any one or more of the following actions:

- (a) Suspend its performance under the Agreement until it receives assurances from the Developer, deemed adequate by the HRA, that the Developer will cure its default and continue its performance under the Agreement.
- (b) Terminate this Agreement;
- (c) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to the HRA to collect any payments due or damages arising under this Agreement or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

**Section 7.5. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the HRA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**Section 7.6. Attorneys' Fees.** Whenever any Event of Default occurs and either the HRA shall employ attorneys or incur expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, the Developer agrees that it shall, within ten (10) days of written demand by the HRA pay to the HRA the reasonable fees of such attorneys and such other expenses so incurred by the HRA; provided, that the Developer shall only be



obligated to make such reimbursement if the other party prevails in such collection or enforcement action.

## **ARTICLE VIII.**

### **ADDITIONAL PROVISIONS**

**Section 8.1. Restrictions on Use.** The Developer agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, that the Developer and such successors and assigns shall devote the Property to, and only to, and in accordance with, the uses specified in the Edina City Code and this Agreement.

**Section 8.2. Equal Employment Opportunity.** The Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in this Agreement it will comply with all applicable federal, state and local equal employment and nondiscrimination laws and regulations.

**Section 8.3. Conflicts of Interest.** No member of the governing body or other official of the HRA shall have any financial interest, direct or indirect, in this Agreement, the Project or any contract, agreement or other transaction contemplated to occur or be undertaken thereunder or with respect thereto, nor shall any such member of the governing body or other official participate in any decision relating to the Agreement which affects his personal interest or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested. No member, official or employee of the HRA shall be personally liable to the Developer or any successors in interest, in the event of any default or breach by the HRA or for any amount which may become due to the Developer or successor or on any obligations under the terms of the Agreement.

**Section 8.4. Waiver and Release by Developer.** The Developer hereby waives, releases and forever discharges the HRA from any claim for costs incurred in preliminary plans, specifications, site testing improvements, professional fees or legal fees in connection with the Project.

**Section 8.5. Titles of Articles and Sections.** Any titles of the several parts, Articles and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

**Section 8.6. Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested or delivered personally; and

- (a) In the case of the Developer, is addressed or delivered personally to:
-





- (b) In the case of the HRA, is addressed or delivered personally to:

Executive Director  
Edina Housing and Redevelopment Authority  
4801 W. 50<sup>th</sup> Street  
Edina, Minnesota 55424

with a copy to:

Andrea McDowell Poehler  
CAMPBELL KNUTSON  
*Professional Association*  
Grand Oak Office Center I  
860 Blue Gentian Road, Suite 290  
Eagan, Minnesota 55121  
Telephone: (651) 452-5000

- (c) Either Party may, upon written notice to the other Party, change the address to which such notices and demands are made.

**Section 8.7. Disclaimer of Relationship.** The Developer acknowledges that nothing contained in this Agreement nor any act by the HRA or the Developer shall be deemed or construed by the Developer or any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner or joint venture between the HRA and the Developer.

**Section 8.8. Covenants Running with the Land.** The terms and provisions of this Agreement shall be deemed covenants running with the Property and shall be binding upon any successors or assigns of the Developer and any future owners or encumbrancers of the Property.

**Section 8.9. Counterparts.** This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.

**Section 8.10. Law Governing.** This Agreement will be governed and construed in accordance with the laws of Minnesota.

**IN WITNESS WHEREOF,** the HRA has caused this Agreement to be duly executed in its name and behalf, and the Developer has caused this Agreement to be duly executed in its name and behalf, on or as of the date first above written.



*[Remainder of page intentionally left blank.]*  
*[Signature pages to follow.]*

DRAFT



**EDINA HOUSING AND REDEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
James B. Hovland  
Its President

By: \_\_\_\_\_  
James Pierce  
Its Secretary

Attested By: \_\_\_\_\_  
Scott Neal  
Its Executive Director

STATE OF MINNESOTA    )  
                                      )ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by James B. Hovland and James Pierce, respectively, the President and Secretary, of the Edina Housing and Redevelopment Authority, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body corporate and politic.

\_\_\_\_\_  
Notary Public



**JESTER CONCEPTS, LLC**

By: \_\_\_\_\_

\_\_\_\_\_  
Its \_\_\_\_\_ [print name]

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the \_\_\_\_\_ of Jester Concepts LLC, a Minnesota limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public

DRAFTED BY:  
**Campbell Knutson**  
***Professional Association***  
Grand Oak Office Center I  
860 Blue Gentian Road, Suite 290  
Eagan, Minnesota 55121  
Telephone: (651) 452-5000



**EXHIBIT “A”**

**LEGAL DESCRIPTION OF HRA PROPERTY**

**INSERT FULL PRE-PLAT LEGAL DESCRIPTION OF 3.3 ACRE SITE HERE**



## EXHIBIT “B”

### DEPICTION OF PROPOSED PLAT



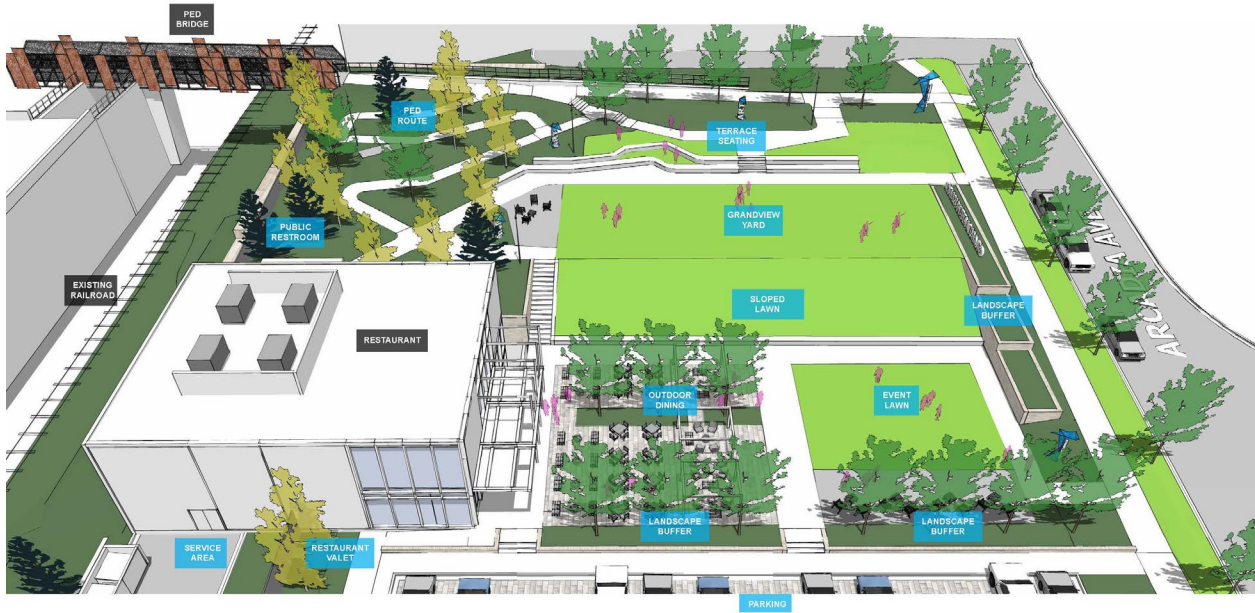
**GRANDVIEW YARD - CONCEPT**  
EDINA, MN

**CONFLUENCE**  
JANUARY 2022



## EXHIBIT "C"

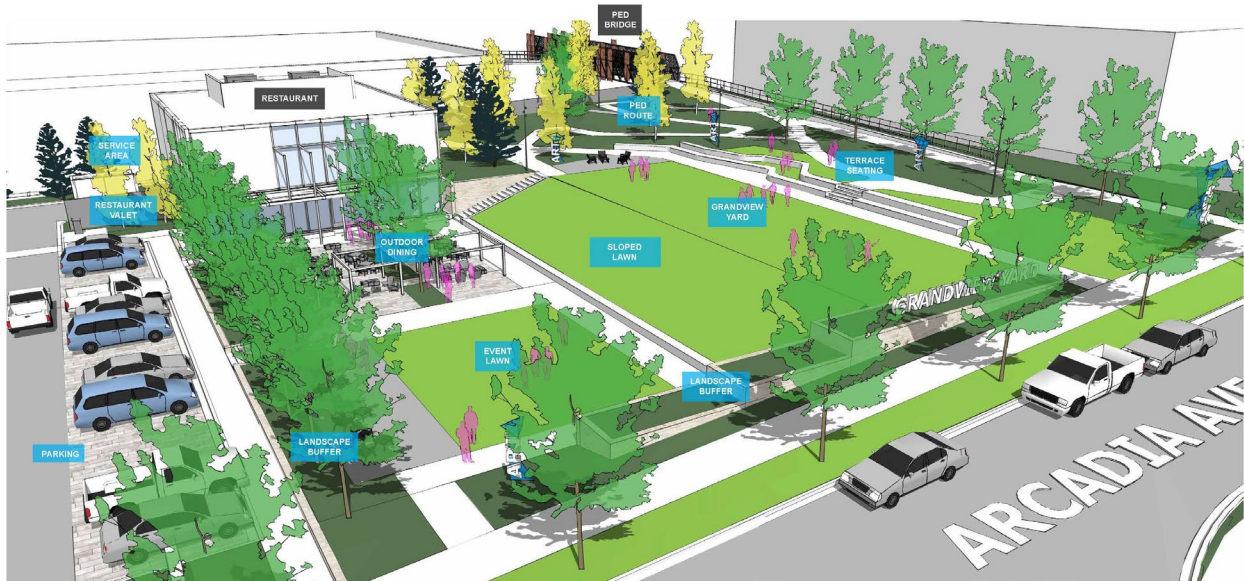
### CONCEPT PLAN FOR MINIMUM IMPROVEMENTS



#### GRANDVIEW YARD - CONCEPT

EDINA, MN

CONFLUENCE  
JANUARY 2022



#### GRANDVIEW YARD - CONCEPT

EDINA, MN

CONFLUENCE  
JANUARY 2022



**EXHIBIT "D"**

**CERTIFICATE OF COMPLETION**

The undersigned hereby certifies that **JESTER CONCEPTS, LLC**, a Minnesota limited liability company ("Developer") has fully complied with its obligations to construct the Minimum Improvements under that document titled Contract for Private Development dated \_\_\_\_\_, 20\_\_, by and between the Edina Housing and Redevelopment Authority in and (the "HRA") and Developer, and that Developer is released and forever discharged from its obligations under the Agreement with respect to the obligations of Developer, and its successors and assigns, to construct the Minimum Improvements, and the HRA waives any right, title or interest it may have in the Property, including a right of reverter. The Hennepin County Recorder's Office is hereby authorized to accept for recording the filing of this instrument, to be a conclusive determination of the satisfaction and termination of the covenants and conditions of the Contract for Private Development described above.

**IN WITNESS WHEREOF**, the HRA has caused this Certificate to be duly executed in its name and behalf on or as of the date first above-written.

**EDINA HOUSING AND REDEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
James B. Hovland  
Its President

By: \_\_\_\_\_  
James Pierce  
Its Secretary

Attested By: \_\_\_\_\_  
Scott Neal  
Its Executive Director

STATE OF MINNESOTA)

COUNTY OF HENNEPIN )ss.  
)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by James B. Hovland and James Pierce, respectively, the President and Secretary, of the Edina Housing and Redevelopment Authority, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body corporate and politic.

\_\_\_\_\_  
Notary Public



# Survey Responses

30 January 2019 - 17 May 2022

## Public Hearing Comments- Sale of Real Estate at 5146 Eden Avenue

### Better Together Edina

Project: Public Hearing: Sale of Real Estate at 5146 Eden Avenue



VISITORS					
2					
CONTRIBUTORS			RESPONSES		
0			0		
0	0	0	0	0	0
Registered	Unverified	Anonymous	Registered	Unverified	Anonymous

No Responses