

Agenda
Edina Housing and Redevelopment Authority
City of Edina, Minnesota
Edina City Hall Community Room
Thursday, March 15, 2018
7:30 AM

- I. Call to Order
- II. Roll Call
- III. Approval of Meeting Agenda
- IV. 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.

- V. 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. APPROVE MINUTES: February 15, 2018 HRA Regular Meeting
- B. Temporary Easement: 3918 Market Street
- C. Temporary Easement: 3945 West 49th Street
- D. REQUEST FOR PURCHASE: Environmental Services for 5146 Eden Avenue
- E. Second Amendment to Private Development Contract: 4416 Valley View Road

- VI. Reports/Recommendations: (Favorable vote of majority of Commissioners present to approve except where noted)
 - A. Edina Affordable Housing Manager Proposal
 - B. Edina Affordable Housing Policy Amendment Proposal

- C. Guidelines for Investing in Affordable Housing

- D. Amendment to Preliminary Development Agreement: 5146 Eden Avenue

- VII. Correspondence

- A. Correspondence

- 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

Date: March 15, 2018

Agenda Item #: IV.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Minutes

From: Sharon Allison, Executive Assistant

Item Activity:
Action

Subject: APPROVE MINUTES: February 15, 2018 HRA
Regular Meeting

ACTION REQUESTED:
Approve minutes as presented.

INTRODUCTION:
Minutes are attached.

ATTACHMENTS:

Draft February 15, 2018 Regular Meeting Minutes

**MINUTES
OF REGULAR MEETING
OF THE EDINA HOUSING AND REDEVELOPMENT AUTHORITY
FEBRUARY 15, 2018
7:30 A.M.**

I. CALL TO ORDER

Chair Hovland called the HRA meeting to order at 7:31 a.m.

II. ROLL CALL

Answering rollcall were Commissioners Brindle, Fischer, Chair Hovland, and Stewart.
Commissioner Staunton arrived at 7:35 a.m.

III. APPROVAL OF MEETING AGENDA

Motion made by Commissioner Fischer seconded by Commissioner Brindle amending the agenda by removing Consent Agenda Items V.C. Approve Temporary Construction Easement for 3948 Market Street, and V.E. Release Agreement with Village Homes of Centennial Lakes Condominium Associations, Inc., and approving the Meeting Agenda.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart
Motion carried.

IV. COMMUNITY COMMENT

No community comment was received.

V. CONSENT AGENDA ADOPTED

Motion made by Commissioner Fischer seconded by Commissioner Brindle approving the consent agenda as revised to remove Items V.C Approve Temporary Construction Easement for 3948 Market Street and V.E. Release Agreement with Village Homes of Centennial Lakes Condominium Associations, Inc., as follows:

V. A. Approve minutes of February 1, 2018, Regular HRA Meeting.

V.B Approve Amendment to Contract for Private Development, Edina Flats 4416 Valley View Road and 6120 Kellogg Avenue.

V.D. Amendment to Real Estate Purchase Agreement, 6120 Kellogg Avenue.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart
Motion carried.

ITEMS REMOVED FROM THE CONSENT AGENDA

V.C. Approve Temporary Construction Easement for 3948 Market Street

Commissioner Brindle said she had safety concerns with the tower crane moving equipment over Market Street while drivers passed under the crane. She suggested monitoring traffic during crane operations or closing Market Street. Economic Development Manager Neuendorf said the crane operation will be ongoing for approximately 18 months and closing Market Street would break a promise to the business owners. The consensus was to stop traffic during those times when the crane was in operation.

Motion made by Commissioner Brindle seconded by Commissioner Stewart approving the temporary construction easement for 3948 Market Street.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart
Motion carried.

V.E. Release Agreement with Village Homes of Centennial Lakes Condominium Associations, Inc.

Chair Hovland asked if legal counsel was sought in the proposed settlement and Finance Director Uram responded yes.

Motion made by Chair Hovland seconded by Commissioner Brindle approving the release agreement with Village Homes of Centennial Lakes Condominium Associations, Inc.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart

Motion carried.

VI. REPORTS/RECOMMENDATIONS – (Favorable vote of majority of HRA Board Members present to approve except where noted).

VI.A. Request for Tax Increment Financing – Aeon 4040 Affordable Apartments

Economic Development Manager Neuendorf said Aeon was interested in doing a couple affordable housing projects in Edina and Aeon has requested financial assistance for their first project at 4040 W. 70th Street. Aeon plans to build 90 units with 80 being affordable, far exceeding the City's policy. The property was in an area where Tax Increment Funding (TIF) could be used, plus other funding sources that Aeon are exploring. Mr. Neuendorf asked if the HRA would consider TIF funding and be first to pledge funds to the project. He said Mr. Jay Lindgren, Dorsey & Whitney, and Mr. Nick Anhut, Ehlers & Associates, have looked at both the legal and financial funding options. Mr. Neuendorf recommended moving forward.

Commissioners discussed funding sources proposed by Aeon, including TIF money and Edina Housing Foundation's interest in participating; how the current TIF legislation works and how TIF money would be expensed; the concept of allowing developers to bank affordable housing credit in one building for exclusion from another; not concentrating affordable housing in one area; understanding how this fits into a larger strategy and the best way to create a structure; how to spend housing credit money already paid by developer; and inviting the Edina Housing Foundation to a meeting to get their feedback. Commissioners gave permission for staff to move forward.

VI.B. HRA Meeting: Reschedule March 1 Meeting

Motion made by Commissioner Brindle seconded by Commissioner Stewart approving rescheduling of the March 1 HRA meeting to March 29.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart

Motion carried.

VI.C. MOTION TO CLOSE MEETING OF THE EDINA HRA AS PERMITTED BY MS. 13D.05 SUBDIVISION 3 TO DISCUSS THE POTENTIAL SALE OF REAL PROPERTY LOCATED AT 5146 EDEN AVENUE

Motion made by Commissioner Staunton seconded by Commissioner Brindle to close the meeting of the Edina HRA as permitted by MS. 13D.05 Subdivision 3, to discuss the potential sale of real property located at 5146 Eden Avenue.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart

Motion carried.

VI.D. CLOSED DISCUSSION OF POTENTIAL SALE OF REAL ESTATE – 5146 EDEN AVENUE

Economic Development Director Neuendorf along with consultants, Jay Lindgren, Dorsey & Whitney and Nick Anhut, Ehlers & Associates, presented an update of the proposed sale of 5146 Eden Avenue, along with associated costs of the redevelopment. The HRA discussed the proposed redevelopment and gave staff direction.

VI.E. MOTION TO MOVE BACK INTO OPEN SESSION

Commissioner Stewart made a motion seconded by Commissioner Staunton to move back into open session.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart

Motion carried.

Commissioner Fischer made a motion seconded by Commissioner Stewart terminating the Preliminary Development Agreement because the HRA has determined that the required and preferred uses were not in alignment with the guiding principles for the site based on the proposed financial structure.

Ayes: Brindle, Fischer, Hovland, Staunton, Stewart
Motion carried.

VII. ADJOURNMENT

There being no further business on the HRA Agenda, Chair Hovland declared the meeting adjourned at 9:11 a.m.

Respectfully submitted,

Scott Neal, Executive Director

DRAFT



Edina Housing and Redevelopment
Authority
Established 1974

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

Date: March 15, 2018

Agenda Item #: IV.B.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:
Action

Subject: Temporary Easement: 3918 Market Street

ACTION REQUESTED:

Approve the Temporary Easement Agreement and authorize staff to reimburse the property owner \$36,727.00 for temporary use of the property.

INTRODUCTION:

The expansion of the North Parking Ramp at 50th and France occurs on a site that is surrounded on three sides by commercial and residential buildings. Temporary easements are required to allow the contractor to safely construct the public parking ramp.

For the property at 3918 Market Street, a temporary easement is required on the shared driveway to ensure that the new foundation system and structure can be built without causing damage to the neighboring commercial building. This work blocks safe access to the private parking lot at the rear of the commercial building.

City staff and the City Attorney have negotiated terms of this temporary easement with the property owners. In addition, the property owners will be reimbursed \$36,727.00 for the temporary use of the property.

Staff recommends that this agreement be approved.

ATTACHMENTS:

Temporary Easement - 3918 Market St.

(reserved for recording information)

GRANT OF TEMPORARY EASEMENT

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered as of the 6th day of March, 2018, by and between the **HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA**, a public body corporate and politic of the State of Minnesota (“HRA”) and **49.5 KM2, LLC**, a Minnesota limited liability company (“Grantor”).

RECITALS

- A. HRA is the fee owner of the real property at 3930 Market Street, which property is legally described on Exhibit A (“HRA Property”);
- B. Grantor is the owner of the property abutting the HRA Property at 3918 Market Street, which property is legally described on Exhibit B (“Grantor Property”);
- C. HRA and Grantor enjoy cross-access easements for the shared alley that straddles the property lines of the HRA Property and Grantor Property;
- D. In connection with the improvements located on the HRA Property, including construction of additional public parking as part of City Public Works Project 18-001, the HRA desires access over the westerly and northerly portions of the Grantor Property legally described in



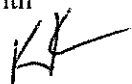
Exhibit C ("Access and Construction Easement Premises") and will also need to locate a crane swing in the aerial portion of the Grantor Property as legally described in Exhibit D ("HRA Aerial Easement Premises") in connection with the construction work on the HRA Property;

NOW, THEREFORE, in consideration of the sum of One and No/100 Dollars (\$1.00) and other good and valuable consideration to it in hand paid by the HRA, the receipt and sufficiency of which is hereby acknowledged by Grantor:

1. Access and Construction Easement. Grantor does hereby grant unto the HRA, its successors and assigns, a temporary easement over, across, on and through the Access and Construction Easement Premises for the following limited purposes:

- i. The right of ingress to and egress from the portions of the Access and Construction Easement Premises identified herein for construction of the HRA Property;
- ii. Temporary construction of the HRA Property which will require temporary closure of the alley and temporary loss of access to six parking stalls located within the Access and Construction Easement Premises.
- iii. The right to temporarily relocate an Xcel Energy power pole within the Access and Construction Easement Premises identified herein. The HRA must remove the Xcel Energy power pole from its temporary location on or before the end of term (as defined in Section 4 herein) and permanently relocate the same in the area partially on the Grantor Property and within the HRA driveway easement located on Grantor Property, as close to the retaining wall as possible, not to extend onto the parking area on Grantor Property, and aligned to maintain six (6) parking stalls on Grantor Property. All costs and fees relating to the temporary and permanent relocation of the Xcel Energy power pole will be paid for entirely by the HRA.

2. HRA Aerial Easement. Grantor does hereby grant unto the HRA, its successors and assigns, a temporary easement over the HRA Aerial Easement Premises for the location of a crane swing within the Aerial Easement Premises, at least 30 feet above-grade in connection with construction of improvements located on the HRA Property.



3. Use of Easement Premises.


Use of the Access and Construction Easement Premises and the HRA Aerial Easement Premises during the term of this Agreement shall be at the will of the HRA, its successors and assigns; it being the intention of the parties hereto that the Grantor hereby grants the uses herein specified without divesting itself of the right to use and enjoy the Access and Construction Easement Premises and the HRA Aerial Easement Premises, subject only to the HRA's right to use the same for the purposes herein expressed.

4. Term of Easement. The term of this Agreement shall commence upon execution of this Agreement and shall expire upon the earlier of: (i) completion of the improvements on the HRA Property or (ii) October 31, 2018.

5. Repair and Restoration.

A. The HRA shall be responsible for the repair and restoration of any damage done by the HRA, its employees, agents or contractors during the term of this Agreement. During the term of the HRA construction work and HRA use of easement areas granted under this Agreement, the HRA shall provide alternative parking for the six parking stalls displaced by the construction work at ramps located a reasonable distance from the Grantor Property, as determined by the HRA. The HRA shall also provide locations for the trash dumpster during the period that the alley is inaccessible to waste hauler within a reasonable distance of the Grantor Property, as determined by the HRA. The HRA shall restore the alley and parking lot within the Access and Construction Easement Premises to a condition that is as good as or better than the condition existing prior to the date of this Agreement.

6. Indemnification. Subject to the statutory limits under Minnesota Statutes chapter 466, the HRA will indemnify, defend, and hold Grantor harmless from any and all claims,



liabilities or causes of action, including attorneys' fees and costs, arising out of the use of the easements by the HRA, except to the extent caused by the negligence or willful misconduct of Grantor or its successors or assigns. Nothing herein shall be deemed a waiver by the HRA of the limits of liability set forth in Minnesota Statutes, Chapter 466 and the HRA shall not be obligated to indemnify the Grantor for any amounts in excess of the limits set forth therein, less any amounts that the City is required to pay on behalf of itself, its officers, agents and employees for claims arising out of the same occurrence.

7. Grantor's Covenant. The above named Grantor, for itself, its successors and assigns, does covenant with the HRA, its successors and assigns, that it is well seized in fee title of the above described Grantor Property; that it has the sole right to grant and convey the easements identified in this Agreement to the HRA; that there are no unrecorded interests in the Grantor Property; and that it will indemnify and hold the HRA harmless for any breach of the foregoing covenants.

8. Miscellaneous.

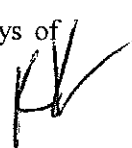
a. Reasonable access to the building located on the Grantor Property shall not be hindered or interrupted at any time during the term of this Agreement.

b. The HRA shall provide Grantor with evidence of an adequate performance bond of any contractor hired by the HRA to perform work within the easement areas prior to granting such contractor access to the easement areas.

c. The HRA shall provide Grantor with a copy of valid insurance certificates in adequate amounts of any contractor hired by the HRA to perform work within the easement areas prior to granting such contractor access to the easement areas.

d. The HRA shall require all waste, materials, rubbish, and other debris to be cleared daily from the temporary easement areas, or alternately, to adequately screen the temporary easement areas from the building located on the Grantor Property.

e. The HRA agrees to reimburse Grantor for reasonable costs and fees incurred, including attorneys' fees, reviewing and finalizing this Agreement, and related agreements in an amount not to exceed \$3,000.00, which reimbursement shall be paid within thirty (30) days of delivery of an invoice from Grantor to the HRA.

A handwritten signature in black ink, appearing to be 'RV' with a checkmark-like flourish.

[remainder of page intentionally blank]

[signature pages to follow]

IN TESTIMONY WHEREOF, the Grantor hereto has signed this document this 6th
day of March, 2018.

GRANTOR:
49.5 KM2, LLC

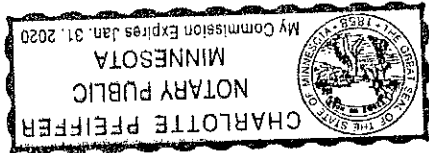
By: [Signature]
Kurt Krumenauer

Its: Manager

STATE OF Mn)
)ss.
COUNTY OF Hennepin

The foregoing instrument was acknowledged before me this 6 day of
March, 2018, by Kurt Krumenauer, the Manager of 49.5 KM2,
LLC, a limited liability company, on behalf of said corporation.

[Signature]
NOTARY PUBLIC



[Signature]

IN TESTIMONY WHEREOF, the HRA hereto has signed this document this _____ day of _____, 2018.

**HRA:
HOUSING AND REDEVELOPMENT
AUTHORITY OF EDINA, MINNESOTA**

By: _____
James B. Hovland, Its Chair

And: _____
Robert J. Stewart, Secretary

Attested By: _____
Scott Neal, Executive Director

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by James B. Hovland, Robert J. Stewart, and Scott Neal, the Chair, Secretary and Executive Director of the HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA, a public body corporate and politic of the State of Minnesota, 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"
TO
GRANT OF TEMPORARY EASEMENT

Legal Description of HRA Property (3930 Market Street)

Lot 1, Block 1, Edina Market Street, according to the recorded plat thereof, Hennepin County, Minnesota.

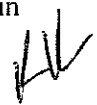


EXHIBIT "B"
TO
GRANT OF TEMPORARY EASEMENT

Legal Description of Grantor Property (3918 Market Street):

The South 177.5 feet of Lot 31, Auditor's Subdivision No. 172, except the South 42.5 feet thereof, Hennepin County, Minnesota.

and

Together with a driveway easement over the East 7 feet of the South 177.5 feet of Lot 32, Auditor's Subdivision No. 172 as set forth in Document No. 2542948.



(Abstract Property)

EXHIBIT "C"
TO
GRANT OF TEMPORARY EASEMENT

Legal Description of Access and Construction Easement Premises:

A temporary easement for access and construction purposes over, across, on and through the westernmost ten (10) feet of the following described property as measured from the west property line, but not extending east of the existing masonry wall; and the northernmost forty (40) feet of the following described property as measured from the north property line but not extending south of the existing masonry wall:

The South 177.5 feet of Lot 31, Auditor's Subdivision No. 172, except the South 42.5 feet thereof, Hennepin County, Minnesota.



EXHIBIT "D"
TO
GRANT OF TEMPORARY EASEMENT

Legal Description of HRA Aerial Easement Premises:

A temporary easement for aerial crane purposes over, across, on and through the following described property:

The South 177.5 feet of Lot 31, Auditor's Subdivision No. 172, except the South 42.5 feet thereof, Hennepin County, Minnesota.



Edina Housing and Redevelopment
Authority
Established 1974

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

Date: March 15, 2018

Agenda Item #: IV.C.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:
Action

Subject: Temporary Easement: 3945 West 49th Street

ACTION REQUESTED:

Approve the Temporary Easement Agreement and authorize staff to implement the terms of the mitigation letter if there is damage resulting from the construction project.

INTRODUCTION:

The expansion of the North Parking Ramp at 50th and France occurs on a site that is surrounded on three sides by commercial and residential buildings. Temporary easements are required to allow the contractor to safely construct the public parking ramp.

For the residential property at 3945 West 49th Street, a temporary easement is required along the shared property line to ensure that the new foundation system and structure can be built safely. While the contractors will do their best to prevent damage to existing trees and fence, agreement has been reached regarding repairs and compensation should the trees be damaged or removed.

City staff and the City Attorney have negotiated terms of this temporary easement with the property owners. In addition, the property owners will receive new trees if the existing trees do not survive five years after completion of the construction project.

Staff recommends that this agreement be approved.

ATTACHMENTS:

Temporary Easement - 3945 West 49th Street
3945 West 49th Mitigation Letter

(reserved for recording information)

GRANT OF TEMPORARY EASEMENT

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered as of the ____ day of _____, 2018, by and between the **HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA**, a public body corporate and politic of the State of Minnesota (“HRA”), and **MITCHELL J. MONSON and JAN Y. MONSON**, husband and wife (“Grantors”).

RECITALS

A. HRA is the fee owner of the real property located at 3930, 3936, 3940 and 3944 Market Street, which property is legally described on Exhibit A (“HRA Property”);

B. Grantors are the fee owners of the property abutting the HRA Property at 3945 49th Street West, which property is legally described on Exhibit B (“Grantor Property”);

C. In connection with the improvements located on the HRA Property, including construction of additional public parking as part of City Public Works Project 18-001, the HRA requires a temporary construction easement over the southerly portion of the Grantor Property legally described in Exhibit C (“Construction Easement Premises”) and will also need to locate a

crane swing in the aerial portion of the Grantor Property as legally described in Exhibit D (“Aerial Easement Premises”) in connection with the construction work on the HRA Property;

NOW, THEREFORE, in consideration of the sum of One and No/100 Dollars (\$1.00) and other good and valuable consideration to it in hand paid by the HRA, the receipt and sufficiency of which is hereby acknowledged by Grantors:

1. Construction Easement. Grantors do hereby grant unto the HRA, its successors and assigns, a temporary easement over, across, on and through the Construction Easement Premises for the following purposes:

- a. construction on the HRA Property;
- b. the right of ingress to and egress from the portions of the Construction Easement Premises identified herein for construction of the HRA Property;
- c. possible excavation and grading of soil within the Construction Easement Premises to create safe working conditions and prevent landslide in connection with the work on the HRA Property.

2. Aerial Easement. Grantors do hereby grant unto the HRA, its successors and assigns, a temporary easement over the Aerial Easement Premises for the purpose of locating a crane swing within the Aerial Easement Premises, at least 30 feet above grade, in connection with construction of improvements located on the HRA Property.

3. Use. Use of the Construction Easement Premises and the Aerial Easement Premises during the term of this Agreement shall be at the will of the HRA, its successors and assigns; it being the intention of the parties hereto that the Grantors hereby grant the uses herein specified without divesting itself of the right to use and enjoy the Construction Easement Premises

and the Aerial Easement Premises, subject only to the HRA's right to use the same for the purposes herein expressed.

4. Scope of Easement. The term of this Agreement shall commence upon execution of this Agreement and expire upon the earlier of: (i) completion of the improvements on the HRA Property or (ii) October 31, 2018.

5. Repair and Restoration. The HRA shall be responsible for the repair and restoration of any damage done in the temporary easement areas by the HRA, its employees, agents or contractors during the term of this Agreement.

6. Indemnification.

A. Subject to the statutory limits under Minnesota Statutes chapter 466, the HRA will indemnify, defend and hold Grantors harmless from any and all claims, liabilities or causes of action, including attorneys' fees and costs, arising out of the use of the easements by the HRA, except to the extent caused by the negligence or willful misconduct of Grantors or their successors or assigns. Nothing herein shall be deemed a waiver by the HRA of the limits of liability set forth in Minnesota Statutes, Chapter 466 and the HRA shall not be obligated to indemnify the Grantors for any amounts in excess of the limits set forth therein, less any amounts that the City is required to pay on behalf of itself, its officers, agents and employees for claims arising out of the same occurrence.

B. Grantors will indemnify, defend and hold the HRA harmless from any and all claims, liabilities or causes of action, including attorneys' fees and costs, arising out of the use of the easements by the Grantee, except to the extent caused by the negligence or willful misconduct of HRA or its successors or assigns.

7. Grantors' Covenant. The above named Grantors, for themselves, their successors and assigns, do covenant with the HRA, its successors and assigns, that they are well seized in fee title of the above described Grantor Property; that they have the sole right to grant and convey the easements identified in this Agreement to the HRA; that there are no unrecorded interests in the Grantor Property; and that they will indemnify and hold the HRA harmless for any breach of the foregoing covenants.

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[signature pages to follow]

IN TESTIMONY WHEREOF, the Grantors hereto have signed this document this _____ day of _____, 2018.

GRANTORS:

Mitchell J. Monson

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Mitchell J. Monson, spouse of Jan Y. Monson.

NOTARY PUBLIC

Jan Y. Monson

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of
_____, 2018, by Jan Y. Monson, spouse of Mitchell J. Monson.

NOTARY PUBLIC

IN TESTIMONY WHEREOF, the HRA hereto has signed this document this _____ day of _____, 2018.

**HRA:
HOUSING AND REDEVELOPMENT
AUTHORITY OF EDINA, MINNESOTA**

By: _____
James B. Hovland, Its Chair

And: _____
Robert J. Stewart, Secretary

Attested By: _____
Scott Neal, Executive Director

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by James B. Hovland, Robert J. Stewart, and Scott Neal, the Chair, Secretary and Executive Director of the HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA, a public body corporate and politic of the State of Minnesota, 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”
TO
GRANT OF TEMPORARY EASEMENT**

Legal Description of HRA Property (3930 to 3944 Market Street):

Lot 1, Block 1, Edina Market Street, according to the recorded plat thereof, Hennepin County, Minnesota.

**EXHIBIT “B”
TO
GRANT OF TEMPORARY EASEMENT**

Legal Description of Grantor Property (3945 49th Street West):

That part of Lot 1, Block 1, V.H Adams Addition, Hennepin County, according to the recorded plat thereof, lying East of the West 8 feet of Lot 1.

**EXHIBIT “C”
TO
GRANT OF TEMPORARY EASEMENT**

Legal Description of Construction Easement Premises:

The temporary construction easement shall extend northerly fifteen (15) feet as measured from the south property line of the following described property but shall not extend into the existing walls of the residence or garage:

That part of Lot 1, Block 1, V.H. Adams Addition, Hennepin County, Minnesota, according to the recorded plat thereof, lying East of the West 8 feet of Lot 1.

**EXHIBIT “D”
TO
GRANT OF TEMPORARY EASEMENT**

Legal Description of Aerial Easement Premises:

That part of Lot 1, Block 1, V.H. Adams Addition, Hennepin County, Minnesota,
according to the recorded plat thereof, lying East of the West 8 feet of Lot 1.



March 15, 2018

Jan and Mitchell Monson
3945 West 49th Street
Edina, Minnesota 55424

**RE: City of Edina Project No. PW18-001 (North Ramp Expansion)
Construction Easement and Mitigation for 3945 W. 49th Street**

Dear Mr. and Mrs. Monson,

Thank you for your patience as we have been working through the details of this new public improvement project at 50th and France.

As you know, the City is expanding the North Parking Ramp located immediately to the south of your property. This project is funded by the Edina Housing and Redevelopment Authority (HRA). The project includes the addition of a new fourth level of public parking on top of the existing structure and comparable four-level additions on the east and west ends of the Ramp. The new additions will also include new retail space to enliven the District and to provide new opportunities for you and your neighbors.

In a neighborly effort, the Board of the HRA has authorized additional improvements to screen the new parking ramp from your back yard. Based on early input from you and your neighbors, the project design includes the following:

- Rear wall follows the same line as the existing Ramp to avoid getting too close to the property line.
- Height limited to three full stories with rooftop parking and stair/elevator towers.
- Elevators and stairways located along Market Street to avoid stair towers near the property line.
- Exterior wall painted with earth tone colors to blend in rather than stand out.
- Wall openings filled with louvers to enhance privacy to you and minimize light spill out of the Ramp.
 - These louvers replace the decorative panels that were not preferred by neighbors and also replace the original green vines which did not prove to be feasible in this shady location.
- Reduced height of rooftop light poles to minimize light spill from the highest level.

In addition to these passive measures, the HRA is also offering to provide new screening along the property line – fencing and landscaping. Due to the unique conditions that occur on the shared property line with your property at 3945 W. 49th Street, the Edina HRA is pleased to extend the following mitigation strategies at no expense to the property owner:

- I) **IMPACT ON EXISTING TREES LOCATED ALONG THE PROPERTY LINE** - The contractor will exercise due care while excavating soil on City property and in the temporary construction easement area in an effort to minimize damage to the roots of your trees that have migrated onto City property.
 - a. The excavation work is scheduled to occur between April and July 2018. The City will advise you when the schedule becomes more precise.

- b. It is noted that the evergreen trees along the fence line are mature but overcrowded on the site. Many of the lower branches have already been removed and most of the upper level branches are only thriving on parts of the trees located away from the adjacent elm tree on your property.
- c. The City will provide inspection of tree roots during the excavation process to reasonably predict if the construction activity will have a significant impact on your trees.
- d. The City will alert you of the beginning of excavation and will tour the site with you or share photos of the construction site if required due to timing or safety concerns.
- e. Regardless of 1a, in the event that the City's construction project causes significant damage to the root structure of the existing trees on your side of the shared property line, and one or more of these trees dies prior to November 1, 2023 (5 full years after completion of the construction project), the City will remove the impacted trees at City expense and provide replacement landscaping as described below.
 - i. If there is mutual consent by the City and property owner after the excavation work has occurred that the trees will not survive for more than two years, the City will remove and replace the trees by November 1, 2018.
 - ii. If in the opinion of the City Arborist and mutually agreeable with the property owner, the excavation has done minimal impact to the existing trees, no further work will be done unless one or more of the existing trees fail prior to November 1, 2023.
- f. If replacement plantings are necessary as a result of the City's construction project, the City will install up to ten upright shrubs or four trees along the new fence line on your property
 - i. Shrub or tree variety to be mutually agreed upon up to an installed cost not to exceed \$4,000. The total cost shall be increased for inflation at 2 percent annually up to 2023. This is the cost of new plantings only and does not include the cost to remove any existing tree that died as a result of this construction project.
 - ii. Replacement plantings shall be of a size that allows them to be carted through the private property. The placement of the house, garage and trees does not allow trees to be 'spaded' into the back yard.
 - iii. Type and spacing of plantings to be confirmed as appropriate for location by landscaper supplier
 - iv. Portions of the property owners grass or yard that is disturbed by the removal or installation process shall be restored with grass seed.
 - v. Plantings require frequent watering by the property owner for the first full season
 - vi. Plantings will come with 1-year full replacement guarantee by the landscape contractor
 - vii. If the new plantings fail before November 1, 2022 (four full years), please contact the City for replacement at City Expense

- 2) TEMPORARY FENCE - Installation of a 4 to 6 ft. high temporary fence to allow your dog to remain in the fenced back yard during construction activity:
- a. The temporary fence will include mesh and/or screening to increase privacy and collect large debris particles generated by the construction activity.
- 3) NEW FENCE - Installation of new fence on the City side of the property line:
- a. New fence to be 8 ft. tall (nominal) of a similar style as your existing fence, sealed to prevent weathering with decorative caps on the posts.
 - b. New fence to extend on the eastern side of your property up to the shed in the back yard.
 - c. You are welcome to have the contractor install additional lengths of fencing elsewhere in your yard, but that would be at your personal expense.
 - d. Removal of the rear portions of your 6 ft. wooden fence.
 - e. The new fence on your property will have a 1-year warranty from the installer. Please contact the City if this fence needs attention during the warranty period.
 - f. If the new fence on City property requires maintenance or repair in the future, please contact the City for corrective action.
- 4) EXISTING SHRUBS – The City will remove the dead arbor vitae shrubs on City property near the south eastern corner of your property
- a. As requested, the City's grassy area on the north side of the existing structure will remain in substantially the same condition as currently exists and will not be re-graded as part of this PW18-001 project.
 - b. Please contact the City if the remaining shrubs need attention in the future.

Please indicate your acceptance of this mitigation package by signing the temporary construction easement. A fully executed copy will be returned to you and recorded for a permanent record. If you have any questions, please feel free to contact me or the City's Economic Development Manager Bill Neuendorf, at 952-826-0407.

Thank you again for your patience as the City makes another major investment to improve the neighborhood.

Regards,

Scott Neal
City Manager and HRA Executive Director

c. Brian Olson, Public Works Director
Bill Neuendorf, Economic Development Manager



Edina Housing and Redevelopment
Authority
Established 1974

CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY

4801 West 50th Street
Edina, MN 55424
www.edinamn.gov

Date: March 15, 2018

Agenda Item #: IV.D.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation, Request For
Purchase

From: Bill Neuendorf, Economic Development Manager

Item Activity:
Action

Subject: REQUEST FOR PURCHASE: Environmental
Services for 5146 Eden Avenue

ACTION REQUESTED:

Approve the Request for Purchase.

INTRODUCTION:

This item pertains to redevelopment of vacant property.

ATTACHMENTS:

Request for Purchase - Braun

Environmental Service Proposal 5146 Eden Avenue

Request for Purchase



Date: March 15, 2018

To: Chair & Commissioners of the Edina HRA

From: Bill Neuendorf, Economic Development Manager

Subject: REQUEST FOR PURCHASE: Environmental Services for 5146 Eden Avenue

Purchase Subject to:
☐ List Quote/Bid
☐ State Contract
☒ Service Contract

The Recommended Bid is:
☒ Within Budget
☐ Not Within Budget

Date Bid Opened or Quote Received:
March 7, 2018

Bid or expiration Date:
May 7, 2018

Company:
Braun Intertec Corporation

Amount of Quote or Bid:
\$28,382.00

Recommended Quote or Bid:

Braun Intertec Corporation

\$28,382.00

Request for Purchase



Budget Impact

The cost of this site investigation is within the range anticipated for the redevelopment of the site. Funds will come from #9232 – Centennial Lakes Fund with anticipated reimbursement from Grandview 2 Fund.

Environmental Impact

This work is required so that the vacant site can be returned to productive use. The focus of this work is to identify the degree of environmental contamination on the site (if any) so that it can be remediated.

Community Impact

This work is necessary so that the vacant site can be returned to productive use. It is anticipated that approximately 60 percent of the site will be dedicated to a community use.

Department Director Authorization: _____

City Council Authorization Date: _____ (for purchases over \$20,000 only)

March 7, 2018

Revised Proposal QTB072914

Mr. Bill Neuendorf
Edina Housing & Redevelopment Authority
Edina City Hall
4801 West 50th Street
Edina, MN 55424

Re: Revised Proposal for Preliminary Geotechnical Evaluation and Environmental Evaluation
The Grandview
Eden Avenue at Acadia Avenue
Edina, Minnesota

Dear Mr. Neuendorf:

We are pleased to present this proposal to perform a preliminary geotechnical evaluation and environmental evaluation services for the referenced site in Edina, Minnesota.

Project Information

We understand this project will include the construction of The Grandview multi-use development on the northwest corner of Eden and Acadia Avenues in Edina, Minnesota. The development will include an Art Center, parking ramp, townhomes, and a multi-unit residential tower. The Art Center and parking ramp will have 3 levels and occupy the southern 3/4 of the site. The residential tower will have 17 stories above the 3-story parking ramp. We note that this project is still in conceptual planning stages, thus, project components are subject to change. Structural details are also not available at this time.

Background Information

In preparation of this proposal, we have reviewed several sources of information obtained during previous projects that we have worked on both at this site and on sites in the vicinity of this project. It is apparent that this site has previously undergone several stages of industrial and commercial development over the past 100 years. It is unknown at this time, what the extent of removal was for any previous structures or storage tanks on this site. We anticipate that relict foundations or debris could be present in areas of this site from the previous development. It is also apparent that a substantial excavation was performed on the northern portion of the property to achieve present grades.

We also anticipate that the subgrade at this site will generally consist of generally granular soils, with various depths of existing fill overlying native glacial deposits. Groundwater will likely be present at depths of 40 feet or greater; however, perched water conditions could also be encountered. Due to high foundation loads, we anticipate that deep foundations may be needed for support of the residential tower; however, this will be dependent on actual subgrade conditions encountered.

Scope of Services

Due to the anticipated site conditions and project timeline, we recommend this project be performed in a phased approach. The following tasks are proposed to help us meet our project goals for the following tasks: 1) the Preliminary Geotechnical Evaluation, 2) the Preliminary Environmental Evaluation, and 3) the Phase I Environmental Site Assessment. If unfavorable or unforeseen conditions are encountered at any point during the completion of tasks that lead us to recommend an expanded scope of services, we will contact you to discuss those conditions before resuming work. Please indicate which of these services you would like to pursue at this time.

Task 1 – Preliminary Geotechnical Evaluation

Task 1 of this project would include performing a preliminary geotechnical evaluation including a few soil borings drilled across the site. The following sections provide a summary of the proposed services to be included in this task.

The purpose of this preliminary geotechnical evaluation is to generally characterize subsurface geologic conditions at select exploration locations, evaluate their impact and provide preliminary geotechnical recommendations for use in the conceptual design and construction planning for the proposed multi-use development.

We note that additional geotechnical evaluation and borings will be needed later in the project process to provide final design geotechnical recommendations for this project.

Site Access, Staking and Utility Clearance

We understand the site is accessible to our truck-mounted or ATV-mounted drill rigs. Snow removal to facilitate access to the site is not included in our scope of services. If snow removal is required, it will be performed by others prior to our arrival.

We will stake prospective subsurface exploration locations and obtain surface elevations at those locations using GPS (Global Positioning System) technology. For purposes of linking the GPS data to an appropriate reference, we request that you provide CAD files indicating location/elevation references appropriate for this project, or give us contact information for the consultant that might have such information.

Prior to drilling or excavating, we will contact Gopher State One Call and arrange for notification of the appropriate utility vendors to mark and clear the exploration locations of public underground utilities. You, or your authorized representatives, are responsible to notify us before we begin our work of the presence and location of any underground objects or private utilities that are not the responsibility of public agencies. We will hire a private locator (Hance Locating) to assist in the location of underground utilities near the borings.

Soil Borings

We will obtain preliminary subsurface information to evaluate subsurface conditions with the requested 4 standard penetration test (SPT) borings spread across the site. The borings will be extended to depths of 40 to 100 feet for a total of 220 linear feet of drilling. The deeper borings will be performed in the northern parts of the site. Standard penetration tests will be performed at 2 1/2-foot vertical intervals to a depth of about 15 feet, 5-foot intervals to a depth of 50 feet, then at 10-foot intervals at greater depths.

If groundwater is encountered in the boreholes, the depth where it is observed will be recorded on the boring logs.

If existing fill, organic materials or other structurally unfavorable soils are not penetrated above the intended boring termination depths, we will contact you to discuss the potential need for deeper borings. If warranted to extend the borings beyond their intended termination depths, we would charge an additional \$30 per linear foot beyond the originally intended termination depth; however, we will contact you prior to incurring additional costs for increasing our total estimated drilled footage.

MDH Notification

This proposal contains provisions for characterizing subsurface conditions to depths of 15 feet or deeper. Auger borings advanced to such depths, whether instrumented for monitoring or not, are considered environmental wells by the Minnesota Department of Health (MDH), and need to be made known as such to the MDH *before they are completed*. This requires that applicable MDH notification forms be signed by the well owner, or representative/agent, and returned to us. *Braun Intertec cannot mobilize equipment and crews until an MDH notification form has been signed and submitted*. An MDH notification form is attached to this proposal for this purpose.

The MDH notification fees that accompany Environmental Well sealing may include site, individual well, well combination, and maintenance fees based on the depths and purpose of the “wells.” The fees applicable to this project are described in further detail below.

Borehole Abandonment

Minnesota Well Code requires sealing of any boring or core that encounters groundwater and is either greater than 15 feet deep or penetrates a confining layer. Based on our proposed subsurface characterization depths, we will seal about 220 linear feet of borings with grout and prepare associated sealing records which must also be submitted to the MDH. The fees associated with the MDH sealing process are included in the scope of this proposal.

Over time, subsidence of borehole backfill may occur, requiring surface grades to be re-leveled. Braun Intertec is not assuming responsibility for re-leveling or re-patching subsequent to initial backfilling long term. Our drilling activities may also impact the vegetation and may rut the surface to access boring locations. Restoration of vegetation and turf is not part of our scope of services.

Sample Review and Laboratory Testing

Soil samples will be returned to our geotechnical laboratory, where they will be visually classified and logged by a geotechnical engineer. To help classify the materials encountered and estimate their engineering properties, lab testing may include moisture content, organic content, unit weight, Atterberg limits, and/or grain-size analysis. The actual schedule of lab testing will be determined by the engineer based on the subsurface conditions encountered.

Geotechnical Reporting

Data obtained from the borings and laboratory tests will be used to evaluate the subsurface profile and groundwater conditions, perform a preliminary engineering analyses related to structure design and performance, and prepare a *Preliminary Geotechnical Evaluation Report* including:

- A sketch showing the boring locations.
- Logs of the borings describing the materials encountered and presenting the results of our groundwater measurements and laboratory tests.
- A summary of the subsurface profile and groundwater conditions.
- Discussion identifying the site conditions that will impact structure design and performance, qualifying the nature of their impact, and outlining alternatives for mitigating their impact.
- Discussion regarding the reuse of on-site materials during construction and the impact, if any, of groundwater on construction.
- Preliminary recommendations for preparing structure subgrades, including excavation support if applicable, and the selection, placement and compaction of excavation backfill and other structural fill.
- Preliminary recommendations and considerations for use in the design and construction of foundations, floor slabs, below grade walls, utilities, and pavements at this site.

Upon completion a digital (PDF) copy of our report will be submitted to you.

We note that additional geotechnical evaluation and borings will be needed later in the project process to provide final design geotechnical recommendations for this project.

Task 2 – Preliminary Environmental Evaluation

Task 2 of this project will include sampling and screening of the geotechnical soil borings for environmental purposes.

Field Screening

Soil samples retrieved will be examined by field personnel for unusual staining, odors, and other apparent signs of contamination. In addition, the soil samples will be screened for the presence of organic vapors using a photoionization detector (PID). The PID will be equipped with a 10.6-electron-volt lamp and calibrated to an isobutylene standard. The PID will be used to perform direct measurement and a headspace method of field analysis, as recommended by the Minnesota Pollution Control Agency (MPCA) in Petroleum Remediation Program Guidance Document 4-04 (September 2008).

Soil samples will be collected from the soil borings for laboratory analyses. Soil samples will be collected from depth intervals in the unsaturated zone where indications of contamination are observed in the field. If no indications of contamination are observed in the field, soil samples will be collected from depths most likely to be encountered during proposed redevelopment activities based on information provided by the client at the time this proposal was prepared.

Analytical Testing

The budget for this task assumes that a total of 4 soil samples will be submitted to Pace Analytical Laboratories in Minneapolis, Minnesota, and analyzed for a combination of the following parameters:

- Volatile organic compounds (VOCs) using United States Environmental Protection Agency (EPA) Method 8260
- Polycyclic aromatic hydrocarbons (PAHs) using EPA Method 8270
- Polychlorinated biphenyls (PCBs) using EPA Method 8082
- Diesel range organics (DRO) using the Wisconsin Department of Natural Resources (WDNR) Method
- Gasoline range organics (GRO) using the WDNR Method
- Resource Conservation and Recovery Act (RCRA) metals using EPA Methods 6020 and 7471

Temporary monitoring wells will be installed in 2 of the soil borings to evaluate groundwater conditions at the Site. The wells will be permitted with the MDH.

Groundwater Sampling and Testing

Prior to sampling, static groundwater levels in each well will be measured and recorded. Groundwater samples will be collected using a length of tubing equipped with a check ball valve. Groundwater samples will be placed directly into laboratory-supplied containers, preserved appropriately, and submitted to the laboratory for chemical analyses.

The budget for this task assumes that a total of 2 groundwater samples will be collected from the temporary wells and submitted to Pace Analytical Laboratories in Minneapolis, Minnesota and analyzed for a combination of the following parameters:

- VOCs using EPA Method 8260
- PAHs using EPA Method 8270
- Dissolved RCRA metals using EPA Methods 6010 and 7470

Soil Vapor Probes

A total of 5 soil vapor probes will be advanced on the Site to a depth of approximately 10 feet bgs and then retracted to a depth of 8 feet bgs. New, inert tubing will be attached to the top of the downhole sampler and the sampling point and tubing will be purged with a hand pump to remove two volumes of air prior to sample collection. Following purging, organic vapor concentrations will be screened with a PID and the value recorded. The soil vapor samples will then be collected using laboratory-supplied negative pressure air-sample collection canisters (6-liter canisters) equipped with 200 milliliter per minute (mL/min) flow restrictors in accordance with the MPCA guidelines. Following sample collection, the temporary sampling point will be removed from the borehole and the borehole will be sealed in accordance with MDH guidelines.

The soil vapor samples will be submitted to Pace Analytical Laboratories in Minneapolis, Minnesota and analyzed for VOCs using EPA Method TO-15.

Environmental Results

Verbal results of the environmental evaluation will be provided to you as they become available. Upon completion of the on-Site work and receipt of laboratory analytical results, a report will be prepared detailing the methods, results, and conclusions/recommendations. A draft copy of the report will be forwarded to you prior to report finalization.

Only an electronic copy of the Braun Intertec report will be submitted to you unless you request otherwise.

Task 3 – Phase I Environmental Site Assessment

The objective of a Phase I Environmental Site Assessment (ESA) is to evaluate the site for indications of recognized environmental conditions and to assist in satisfying All Appropriate Inquiries (AAI) criteria and requirements. The Phase I ESA will be conducted in general conformance with the scope and limitations of ASTM International Practice E 1527-13 (ASTM Practice E 1527-13) and 40 CFR Part 312. The following sections provide a summary of the services to be completed for Task 4.

Site History Review

The Phase I ESA will summarize reasonably ascertainable information pertaining to former and current land-use activities at the site. Our summary will include a review of aerial photographs, fire insurance atlases, city directories, property tax files, building records, topographic maps, and/or other historical documents to satisfy the historical-use requirements of the ASTM Practice E 1527-13 and 40 CFR Part 312.

Regulatory Information Review

We will request that a national regulatory information vendor, such as Environmental Data Resources, Inc., conduct a limited file evaluation of the site. If readily available and practically reviewable, the file evaluation will include, at a minimum, a review of the following databases within the corresponding approximate minimum search distance indicated in the ASTM Practice E 1527-13 and 40 CFR Part 312:

- Federal National Priorities List (NPL)
- Federal Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS)
- Federal Institutional and Engineering Controls
- Federal Resource Conservation and Recovery Act (RCRA) Transport, Storage and Disposal (TSD) facilities
- Federal RCRA TSD facilities that have received RCRA corrective action activities
- Federal RCRA generators
- Federal Emergency Response Notification (ERNS) sites
- State NPL and CERCLIS equivalents
- State landfill and/or solid waste disposal sites
- State Voluntary cleanup programs
- State leaking underground and aboveground storage tank (LUST/LAST) sites
- State registered underground and aboveground storage tank (UST/AST) sites
- State Brownfield programs
- State Institutional and Engineering Controls
- State spills list

We will review and summarize this information, and comment on known and potential environmental hazards that may impact the site. The scope of work does not include a detailed review of file information of identified facilities listed on the regulatory databases. However, if in our opinion a file review is warranted to evaluate the existence of a recognized environmental condition, historical recognized environmental condition, controlled recognized environmental condition, or a *de minimis* condition, we will contact you to discuss expanding the assessment to include a file review and the associated costs.

Site Reconnaissance and Interviews

The Phase I ESA will include a reconnaissance of the site. During the reconnaissance, we will note, if observed, the type of vegetation, exposed soils, open excavations or depressions, and site topography. Visible indications of underground and aboveground storage tanks, dumping, spills of petroleum and chemicals, and other obvious potential sources of contamination will be noted. In addition, we will conduct interviews with site representatives and governmental officials regarding past and current land-use activities.

Phase I ESA Reporting

A draft Phase I ESA report will be sent to you for review and comment. The Phase I ESA report will remain in draft status until we are notified by you to proceed with issuance of the final Phase I ESA reports. If we encounter indications of existing or potential sources of contamination during our assessment, we will notify you to discuss how the assessment may proceed. You may wish to discontinue the Phase I ESA or you may consider expanding the assessment to further evaluate the contamination sources that are identified. If contamination at the site is confirmed, the property owner may be required to notify proper governmental authorities.

User-Provided Information

As part of Phase I ESA, the "User" should provide available information to Braun Intertec as the Environmental Professional to help identify the possibility of recognized environmental conditions in

connection with the Site. A “User” is the party seeking to use ASTM Practice E 1527-13 to complete an environmental site assessment and may include, without limitation, a potential purchaser, tenant or owner of the property, a lender, or a property manager.

The attached User questionnaire should be completed in its entirety by the User(s) and returned with the signed authorization. If multiple Users are requesting reliance on the Phase I ESA, please provide us with a questionnaire completed by each of the appropriate entities.

Assessment Limitations

Upon completion of the Phase I ESA, Braun Intertec does not guarantee qualification for Landowner Liability Protections (LLP). Our proposed scope of work is consistent with “good commercial and customary practices” (as defined by ASTM Practice E 1527-13) conducted in an effort to evaluate recognized environmental conditions at a site in this area.

The assessment will not include vapor encroachment screening as defined in ASTM Practice E2600-15, *Standard Guide for Vapor Encroachment Screening on Property Involved in Real Estate Transactions*. ASTM Practice E2600-15 is not a requirement or component of AAI, and its results are not determinative of whether hazardous substances from a release are or may be present at the property for the sake of AAI or ASTM E1527-13. However, vapors present or likely present from hazardous substances or petroleum products will be considered no differently than hazardous substances or petroleum products present or likely present as a result of a release to the environment. Therefore, while a vapor encroachment screening per the ASTM Practice E2600-15 standard will not be conducted as part of this proposal, the potential for impacts to the property from vapor migration that is a result of a release of hazardous substances and/or petroleum products to the environment will be considered when assessing for the presence of a recognized environmental condition as defined by ASTM E1527-13.

Costs

We will furnish the services described in this proposal on a time and materials basis at the rates identified on the attached cost breakdown. A summary of these costs by tasks is provided in Table 1 below. Please indicate which of these you would like to complete by checking the boxes to the left.

Table 1. Proposed Cost Summary

Services to Complete	Task	Cost
<input type="checkbox"/>	Task 1 – Preliminary Geotechnical Evaluation	\$11,665
<input type="checkbox"/>	Task2 – Preliminary Environmental Evaluation	14,197
<input type="checkbox"/>	Task 3 – Phase I ESA	2,520
<input type="checkbox"/>	Total of All Phases	\$28,382

Schedule

Preliminary Geotechnical Evaluation

We anticipate that field exploration for the soil borings can begin within approximately 3 weeks of written authorization and should be completed in approximately 4 days. Sample classification and laboratory testing will likely take an additional 3 to 5 days. We will pass along the soil boring results as they are obtained and received. We anticipate we can submit our final geotechnical evaluation report approximately 2 weeks after completion of the borings.

Preliminary Environmental Site Assessment

Environmental field screening will take place concurrently with the geotechnical soil borings. The field work is estimated to take 5 business days to complete. Typical turnaround time on laboratory analysis is approximately 8 business days for all samples. A draft report will be forwarded to you within 2 weeks after receipt of laboratory analytical results.

Phase I ESA

We anticipate the draft Phase I ESA report will be completed within three weeks from the date of your written authorization. The Phase I ESA report will remain in draft status until we are notified by you to proceed with issuance of the final Phase I ESA report.

General Remarks

Please note the Scope of Services for the proposed investigation, in conjunction with the existing data, is designed to further evaluate impacts at the Site. However, because there is a fixed number of sampling locations proposed, the Scope of Services proposed herein may not fully define the extent of contamination that may be present at the Site.

If our proposed scope of services cannot be completed according to this schedule due to circumstances beyond our control, we may need to revise this proposal prior to completing the remaining tasks.

Braun Intertec appreciates the opportunity to present this proposal to you. It is being sent in an electronic version **only**. A hard copy of the proposal will be supplied upon request. ***Please return a signed copy of the proposal in its entirety.***

The proposed fee is based on the scope of services described and the assumption that our services will be authorized within 30 days and that others will not delay us beyond our proposed schedule.

We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

We appreciate the opportunity to provide professional services for you on this project. If you have questions regarding the contents of this proposal, please feel free to contact Brad McCarter at 952.995.2268 or Jason Kunze at 952.995.2436.

Sincerely,

BRAUN INTERTEC CORPORATION



Bradley J. McCarter, PE
Principal – Senior Engineer



Jason J. Kunze
Associate Principal – Senior Scientist

Attachments:
Cost Estimate
MDH Notification Form
Client Information Request Form
ASTM Practice E 1527-13 User Questionnaire
General Conditions (1/1/2018)

The proposal is accepted, and you are authorized to proceed.

Authorizer's Firm

Authorizer's Signature

Authorizer's Name (please print or type)

Authorizer's Title

Date

Project Proposal

QTB072914

The Grandview

Client:

Edina Housing & Redevelopment Authority
Bill Neuendorf
Edina City Hall
4801 West 50th Street
Edina, MN 55424
(952) 826-0407

Work Site Address:

Eden Ave at Arcadia Ave
Edina, MN 55410

Service Description:

Preliminary Geotechnical and Environmental Assessment

	Description	Quantity	Units	Unit Price	Extension
Phase 1	Preliminary Geotechnical Evaluation				
Activity 1.1	Locating				\$885.00
205	Site layout and utility clearance	3.00	Hour	85.00	\$255.00
288	Project Assistant	1.00	Hour	80.00	\$80.00
371	CADD/Graphics Operator	1.50	Hour	100.00	\$150.00
SUB-BILL	Subcontractor Billable	1.00	Each	220.00	\$220.00
5099	Trimble R8 Rover (horizontal and vertical), per hour	3.00	Each	50.00	\$150.00
1862	Utility Trip Charge	1.00	Each	30.00	\$30.00
Activity 1.2	Drilling				\$6,040.00
9000	Truck Mounted Drilling Services, per hour	20.00	Each	270.00	\$5,400.00
1073	Sealing Records, each	2.00	Each	75.00	\$150.00
9732	Grout with neat cement, materials per foot	220.00	Each	1.50	\$330.00
288	Project Assistant	2.00	Hour	80.00	\$160.00
Activity 1.3	Lab Testing				\$530.00
1166	200 wash (ASTM C 117), per sample	4.00	Each	65.00	\$260.00
1174	Organic content (ASTM D 2974), per sample	2.00	Each	50.00	\$100.00
1152	Moisture content (ASTM D 2216), per sample	12.00	Each	10.00	\$120.00
1154	Moisture Content and Density (ASTM D 2937)	2.00	Each	25.00	\$50.00
Activity 1.4	Engineering				\$4,210.00
138	Project Assistant	6.00	Hour	80.00	\$480.00
118	Staff Engineer	6.00	Hour	125.00	\$750.00
126	Project Engineer	12.00	Hour	145.00	\$1,740.00
128	Senior Engineer	6.00	Hour	175.00	\$1,050.00
125	Project Manager	2.00	Hour	95.00	\$190.00
Phase 1 Total:					\$11,665.00
Phase 2	Preliminary Environmental Site Assessment				
Activity 2.1	Drilling Services				\$1,000.00
SUB-BILL	Drilling Subcontractor	1.00	Each	1,000.00	\$1,000.00
Activity 2.2	Field Work				\$4,040.00
310	Environmental Technician III	30.00	Hour	105.00	\$3,150.00
1868	ENV Trip Charge	3.00	Each	30.00	\$90.00
5036	PID w/10.6 eV lamp, per day	3.00	Each	100.00	\$300.00
6912	Water sampling tubing & consumables, per foot	80.00	Each	2.00	\$160.00
5099	Trimble R8 Rover (horizontal and vertical), per hour	2.00	Each	50.00	\$100.00
6914	Soil gas sampling tubing & expendable tip, per sample	4.00	Each	60.00	\$240.00

Project Proposal

QTB072914

The Grandview

Activity 2.3		Laboratory Analysis			\$3,757.00
SUB-BILL	Analytical Testing	1.00	Each	3,757.00	\$3,757.00
Activity 2.4		Project Management & Reporting			\$5,400.00
360	Project Assistant	2.00	Hour	80.00	\$160.00
371	CADD/Graphics Operator	1.50	Hour	100.00	\$150.00
363	Project Manager	2.00	Hour	95.00	\$190.00
340	Senior Scientist	28.00	Hour	175.00	\$4,900.00
Phase 2 Total:					\$14,197.00
Phase 3		Phase I ESA			
Activity 3.1		Field Work			\$300.00
320	Staff Scientist	3.00	Hour	100.00	\$300.00
Activity 3.2		Expenses			\$380.00
1868	ENV Trip Charge	1.00	Each	30.00	\$30.00
SUB-BILL	Historical Information	1.00	Each	350.00	\$350.00
Activity 3.3		Project Management & Reporting			\$1,840.00
320	Staff Scientist	12.00	Hour	100.00	\$1,200.00
340	Senior Scientist	2.00	Hour	175.00	\$350.00
360	Project Assistant	1.50	Hour	80.00	\$120.00
363	Project Manager	1.00	Hour	95.00	\$95.00
371	CADD/Graphics Operator	0.75	Hour	100.00	\$75.00
Phase 3 Total:					\$2,520.00
Proposal Total:					\$28,382.00

March 7, 2018

Revised Proposal QTB072914

Mr. Bill Neuendorf
Edina Housing & Redevelopment Authority
Edina City Hall
4801 West 50th Street
Edina, MN 55424

Re: Minnesota Department of Health Well Sealing Notification Form
The Grandview
Eden Avenue at Acadia Avenue
Edina, Minnesota

Dear Mr. Neuendorf:

Please complete the "Well Owner" section only of the Minnesota Department of Health (MDH) Well Sealing Notification form below and return it to Braun Intertec along with the signed proposal. We will complete the remainder of the form and submit it to the MDH.

NOTE: This form must be completed and returned to Braun Intertec prior to us scheduling the mobilization of our equipment and crews to the project site.

WELL SEALING NOTIFICATION-WELL SEALING NOTIFICATION IS VALID FOR 18 MONTHS Send notification form and payment (check, money order, or credit card information) to: Minnesota Department of Health, Well Management Section, P.O. Box 64502, St. Paul, Minnesota 55164-0502. ATTN: CASHIER Well Management Section Fax Number: (651) 201-4599.						Minnesota Unique Well No. or W-series No. <small>(Leave blank if not known)</small> <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		Minnesota Well and Boring Sealing No. <div style="border: 1px solid black; padding: 5px; text-align: center; font-size: 24px; font-weight: bold;">H</div>	
<input type="checkbox"/> Well Sealing Notification (269) Check Box If: Check Well Type: <input type="checkbox"/> Well is Multiple Cased <input type="checkbox"/> Larger than 8-inch Inside Diameter						Card Type: <input type="checkbox"/> Visa <input type="checkbox"/> Mastercard <input type="checkbox"/> Discover Exp. Date _____ Print Cardholder Name _____			
<input type="checkbox"/> Water-Supply Well <input type="checkbox"/> Monitoring Well <input type="checkbox"/> Other _____						Card Number _____ 3-Digit Security Code <small>(Printed on back side of card.)</small>			
Authorized Signature _____									
WELL LOCATION	County	Township Name	Township No.	Range No.	Section No.	Fraction (sm. → lg.) 1/4 1/2 3/4			
	Well Location Address		City		State	Zip Code	Est. Depth Casing Diameter		
WELL OWNER	Well Owner Name (Print)					Daytime Telephone Number () - - -			
	Well Owner Street Address					City	State Zip Code		
	Well Owner Signature					Date			
WELL CONTRACTOR	Well Contractor Company Name (Print) Braun Intertec Corporation		Certified Rep. Signature			Date	Company License No. 1323		
	<small>Failure to provide proper identification and fee prior to the beginning of well sealing is a violation of Minnesota Statutes, Chapter 103I, and may result in the assessment of an administrative penalty. Notification is not required to seal a boring.</small>								

Environmental Site Assessment

Project/Site Name The Grandview

So that we may serve you better, please answer the following questions concerning the project Site. If a question does not apply to the Site, answer with "NA." If you do not know the answer, reply "unknown." Please return the completed form along with one copy of the signed authorization letter.

Client Objectives

A. What is your interest in the Site? Circle all that apply.

Buying Property

Refinancing

Selling Property

Development

Redevelopment

Other _____

B. For reliance purposes, who would you like to be addressed on the report?

Name _____ Telephone _____

Address _____ E-mail/Fax _____

C. How many copies? _____ Unless otherwise requested, the Braun Intertec standard is two.

To whom? _____

D. Is there anyone not already listed on the report that requires a copy of the final report?

Name _____ Telephone: _____

Address _____ E-mail/Fax _____

E. What is the desired completion date for this project?

F. Do you wish to receive a verbal report before the written report is received? YES NO

G. Is a draft report requested prior to submittal of the final report? Once a report is issued final, changes can be made, but additional fees will apply and will require that the original copies of the report be sent back.

YES NO E-mail/Fax _____

H. Is confidentiality requested? YES NO

If so, to whom is it limited? _____

Site-Specific Information

A. Who is the current property owner?

Name _____ Telephone _____

B. Has any previous environmental work been performed on the Site? Circle all that apply.

Geotechnical/Soil Borings

Phase I/Phase II Site Assessments

Asbestos Evaluations

Hazardous Materials Testing

Unknown

No

Other: _____

If yes:

When was it performed?

By whom? Name and telephone number?

Name _____ Telephone _____

What were the results?

Are report copies available? YES NO

C. Where is the Site located?

Address _____

Legal description _____

D. Is a current Site plan available? If so, please provide. YES NO

E. Who will provide access to the property and/or who is the Site contact?

Name: _____ Telephone: _____

F. Are there any special concerns regarding the property?

G. How large is the property (total acreage)?

H. How is the property currently used? Circle all that apply.

Undeveloped Commercial	Agricultural	Residential	Parking Lot
Industrial	Retail	Office Building	Warehouse
Other _____			

I. What is the proposed use of the property?

J. Are there existing buildings on the property? YES NO

If yes:

How many buildings? _____

What year was each building built? _____

What is the total square footage of each building? _____

Are you aware of any asbestos-containing building materials in any building? _____

Give a brief description and use of each building.

K. What was the property used for in the past?

L. Has the property ever been used for dumping or landfilling in the past?

M. How are the adjacent properties used?

N. Are there currently or previously any aboveground or underground storage tanks located on the property?

YES NO

If yes:

Where are they located?

What is the size and contents of the tanks? (ex: 500-gallon diesel)

When were the tanks installed?

Are there any maintenance records available for the tanks?

Are the tanks currently being used? YES NO

If No: When were the tank(s) closed? _____

Was the MPCA notified? _____

O. Have hazardous chemicals or petroleum products ever been stored at the Site? YES NO

If yes, which ones? _____

P. Utilities

Are there any wells or septic systems formerly or currently located at the Site? YES NO

Is it connected to city sewer and water? YES NO

What types of utilities service the Site? Circle all that apply.

Gas Electric Propane Other _____

ASTM Practice E 1527-13 User Questionnaire

Site: The Grandview
Eden Avenue at Acadia Avenue
Edina, Minnesota

Name: _____ **Date:** _____

Company: _____

In order to qualify for one of the Landowner Liability Protections (LLPs) offered by the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (the “Brownfields Amendment”, the User must conduct the following inquiries. The User should provide the following information to the environmental professional. Failure to conduct these inquiries could result in a determination that “all appropriate inquiries” is not complete.

(1) Environmental cleanup liens that are filed or recorded against the *property*.

The types of title reports that may disclose environmental liens include Preliminary Title Reports, Title Commitments, Condition of Title, and Title Abstracts. Chain-of-title reports will not normally disclose environmental liens. Did a search of *recorded land title records* (or judicial records where appropriate) identify any environmental cleanup liens filed or recorded against the *property* under federal, tribal, state or local law?

(2) Activity and use limitations (AULs) that are in place on the *property* or that have been filed or recorded against the *property*.

The types of title reports that may disclose AULs include Preliminary Title Reports, Title Commitments, Condition of Title, and Title Abstracts. Chain-of-title reports will not normally disclose AULs. Did a search of *recorded land title records* (or judicial records where appropriate) identify any AULs, such as *engineering controls*, land use restrictions, or *institutional controls* that are in place at the *property* and/or have been filed or recorded against the *property* under federal, tribal, state or local law?

(3) Specialized knowledge or experience of the person seeking to qualify for the LLP.

Do you have any specialized knowledge or experience related to the *property* or nearby properties? For example, are you involved in the same line of business as the current or former *occupants* of the *property* or an adjoining *property* so that you would have specialized knowledge of the chemicals and processes used by this type of business?

(4) Relationship of the purchase price to the fair market value of the *property* if it were not contaminated.

Does the purchase price being paid for this *property* reasonably reflect the fair market value of the *property*? If you conclude that there is a difference, have you considered whether the lower purchase price is because contamination is known or believed to be present at the *property*?

(5) Commonly known or *reasonably ascertainable* information about the *property*.

Are you aware of commonly known or *reasonably ascertainable* information about the *property* that would help the *environmental professional* to identify conditions indicative of releases or threatened releases? For example,

(a) Do you know the past uses of the *property*? If so, please explain.

(b) Do you know of specific chemicals that are present or once were present at the *property*? If so, please explain.

(c) Do you know of spills or other chemical releases that have taken place at the *property*? If so, please explain.

(d) Do you know of any environmental cleanups that have taken place at the *property*? If so, please explain.

(6) The degree of obviousness of the presence or likely presence of contamination at the *property*, and the ability to detect the contamination by appropriate investigation.

Based on your knowledge and experience related to the *property*, are there any *obvious* indicators that point to the presence or likely presence of contamination at the *property*? If so, please explain.

Section 1: Agreement

1.1 Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

1.2 The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

1.3 In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

Section 2: Our Responsibilities

2.1 We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

2.2 In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

2.3 We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and further that site conditions may vary over distance or change over time.

2.4 Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

2.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

2.6 You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

2.7 Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

Section 3: Your Responsibilities

3.1 You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

3.2 You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

3.3 You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, losses, penalties and expenses (including attorney fees) involving buried objects that were not properly marked or identified or of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others furnished to us.*

3.4 You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site or in a sample provided to us. You agree to provide us with information in your possession or control relating to such materials or samples. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

3.5 Neither this Agreement nor the providing of Services will operate to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous substances. *You agree to hold us harmless, defend, and indemnify us from any damages, claims, damages, penalties or losses resulting from the storage, removal, hauling or disposal of such substances.*

3.6 Monitoring wells are your property, and you are responsible for their permitting, maintenance, and abandonment unless expressly set forth otherwise in this Agreement.

3.7 You agree to make all disclosures required by law. In the event you do not own the project site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, penalties, or losses and expenses, including attorney fees, related to failures to make disclosures, disclosures made by us that are required by law, and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.*

Section 4: Reports and Records

4.1 Unless you request otherwise, we will provide our report in an electronic format.

4.2 Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

4.3 If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

4.4 Samples and field data remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your property. They may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

4.5 Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

Section 5: Compensation

5.1 You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

5.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

5.3 If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

5.4 Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

5.5 If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

5.6 You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

5.7 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

5.8 If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

Section 6: Disputes, Damage, and Risk Allocation

6.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s)

attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

6.2 *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of business opportunity, loss of profit or revenue, loss of product or output, or business interruption.*

6.3 You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

6.4 *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken.* This increased fee is not the purchase of insurance.

6.5 *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

6.6 This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

6.7 No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

Section 7: General Indemnification

7.1 *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

7.2 To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

7.3 You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

Section 8: Miscellaneous Provisions

8.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

8.2 You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

8.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

8.4 This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

8.5 If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8.6 No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.



Edina Housing and Redevelopment
Authority
Established 1974

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

Date: March 15, 2018

Agenda Item #: IVE.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:
Action

Subject: Second Amendment to Private Development
Contract: 4416 Valley View Road

ACTION REQUESTED:

Approve the Second Amendment to the Contract for Private Development and approve the related Subordination Agreement with the developer's lender.

INTRODUCTION:

This item pertains to the sale of property for redevelopment purposes. The developer has requested two changes to address the conditions of sale and requirements of the lender.

Staff recommends that this Second Amendment be approved.

ATTACHMENTS:

Second Amendment: Staff Report

Second Amendment - 4416 Valley View Rd

Subordination Agreement: 4416 Valley View Rd



Date: March 15, 2018

To: Board of the Edina Housing and Redevelopment Authority

From: Bill Neuendorf, Economic Development Manager

Subject: Second Amendment to Private Development for Contract: 4416 Valley View Road

Information / Background:

In November 2017, the HRA entered into a contract to sell two properties for redevelopment purposes at 4416 Valley View Road and 6120 Kellogg Avenue. This contract was amended in February 2018.

Two of the key conditions of the contract require the developer to assemble all properties at the same time and secure final zoning approvals. The developer has made significant progress on the other real estate transactions and has submitted plans for final rezoning. The transaction will be scheduled as soon as the final conditions are met.

Additional revisions to the contract have been requested to recognize the time required to secure final rezoning and to satisfy financing requirements of the lender. The City Attorney has prepared the attached Amendment to address these concerns and to allow for the transaction to occur as soon as all conditions are satisfied.

Staff recommends that the Second Amendment be approved.

(reserved for recording information)

SECOND AMENDMENT
TO
CONTRACT FOR PRIVATE DEVELOPMENT

THIS AMENDMENT TO CONTRACT FOR PRIVATE DEVELOPMENT (“AMENDMENT”), made on or as of the _____ day of _____, 2018, by and between the **HOUSING AND REDEVELOPMENT AUTHORITY**, a public body corporate and politic under the laws of the State of Minnesota (the "HRA") and **EDINA FLATS L.L.C.**, a Minnesota limited liability company (“Developer”).

WITNESSETH:

WHEREAS, the HRA and Developer entered into a Contract for Private Development dated November 8, 2017 (“Contract”) concerning the real property located in the City of Edina and legally described in Exhibit A attached hereto and incorporated herein; and

WHEREAS, the parties desire to amend the Contract to provide flexibility to the units required for the Minimum Improvements;

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:

1. AMENDMENT TO THIRD WHEREAS CLAUSE. The third Whereas clause of the Contract is amended to read as follows:

WHEREAS, there has been a proposal that the HRA approve the sale of two parcels of real property described as Parcel 1 and Parcel 2 (individually referred to herein as “Parcel” and

collectively, as “Parcels”) in Exhibit “A” attached hereto (the “Property”) to the Developer for development of the following in the City of Edina:

- (i) a 3 story condominium building with at least 13,800 square feet of livable space and a maximum of six units, together with 4,600 square feet of underground parking, appropriate landscaping and a 600 square foot plaza; and
- (ii) a 2 story condominium building with at least 4,870 square feet of livable space and a maximum of three units, together with appropriate landscaping.

(the "Project"), as depicted in Exhibit “B”; and

2. AMENDMENT TO ARTICLE I. The definition of Minimum Improvements in Article I of the Contract is amended to read as follows:

“**Minimum Improvements**” means at least the following improvements:

- (i) a 3 story condominium building with at least 13,800 square feet of livable space and a maximum of six units, together with 4,600 square feet of underground parking, appropriate landscaping and a 600 square foot plaza; and
- (ii) a 2 story condominium building with at least 4,870 square feet of livable space and a maximum of three units, together with appropriate landscaping.

3. EFFECT OF AGREEMENT. The Contract shall remain in full force and effect except as specifically amended herein.

IN WITNESS WHEREOF, the HRA and Developer have caused this Amendment to be duly executed 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: _____
Robert J. Stewart
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 _____, 2018, by James B. Hovland and Robert J. Stewart, 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

EDINA FLATS L.L.C.

By: Patrick McGlynn
Chief Executive Officer and President

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Patrick McGlynn, the Chief Executive Officer and President of Edina Flats L.L.C., 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 THE PROPERTY

Parcel 1

Lots 8 and 9, Block 21, Fairfax, Hennepin County, Minnesota, according to the recorded plat thereof.

Parcel 2

Lot 6, Block 21, Fairfax, Hennepin County, Minnesota, according to the recorded plat thereof.

[ABOVE SPACE RESERVED FOR RECORDING INFORMATION]

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "**Agreement**") is made and entered into as of _____, 2018, by and among the EDINA HOUSING AND REDEVELOPMENT AUTHORITY, a public body corporate and politic under the laws of the State of Minnesota (the "**HRA**"), EDINA FLATS L. L. C., a Minnesota limited liability company (the "**Borrower**"), and PREMIER BANK MINNESOTA, a Minnesota corporation ("**Premier**").

RECITALS:

- A. The HRA and the Borrower have entered into that certain Contract for Private Development dated November 8, 2017, as amended by that certain Amendment to Contract for Private Development dated February 15, 2018 and Second Amendment to Contract for Private Development dated _____, 2018 (collectively and together with any other amendment or modification thereto, the "**Development Agreement**"), pertaining to the construction of (i) a 3 story condominium building with at least 13,800 square feet of livable space and a maximum of six units, together with 4,600 square feet of underground parking, appropriate landscaping and a 600 square foot plaza; and (ii) a 2 story condominium building with at least 4,870 square feet of livable space and a maximum of three units, together with appropriate landscaping (collectively, the "**Minimum Improvements**") on part of the real property located in the City of Edina, County of Hennepin, State of Minnesota and legally described on Exhibit A attached hereto and incorporated herein by reference (the "**Property**").
- B. The Development Agreement provides for certain reversioning rights in favor of the HRA which are set forth in the Development Agreement, and which are also set forth in the Limited Warranty Deed from the HRA to the Borrower dated on or about the date of this Agreement, which is to be recorded with the Office of the Registrar of Titles, Hennepin County, Minnesota and with the Office of the County Recorder, Hennepin County, Minnesota, pursuant to which the Property was conveyed from the HRA to the Borrower (the "**Deed**").

- C. The Borrower has requested and Premier has agreed to make a loan (the "**Land Loan**") to the Borrower in the original principal amount of \$3,160,000.00 pursuant to the terms of that certain Land Loan Agreement dated as of _____, 2018 (together with any amendment, modification, replacement, or restatement thereof, the "**Land Loan Agreement**"), which Land Loan is evidenced by that certain Promissory Note from the Borrower to Premier in the original principal amount of \$3,160,000.00 dated _____, 2018 (together with any amendment, modification, extension, renewal, replacement or restatement thereof, the "**Land Note**").
- D. The Borrower has also requested and Premier has agreed to make two (2) revolving line of credit loans to the Borrower, the first of which shall be a revolving line of credit loan in the maximum principal amount of \$2,390,000.00 ("**Building Loan No. 1**") and the second of which shall be a revolving line of credit loan in the maximum principal amount of \$1,015,000.00 ("**Building Loan No. 2**"), pursuant to the terms of that certain Revolving Loan Agreement dated as of _____, 2018 (together with any amendment, modification, replacement, or restatement thereof, the "**Revolving Loan Agreement**"). Building Loan No. 1 is evidenced by that certain Revolving Promissory Note from the Borrower to Premier in the original principal amount of \$2,390,000.00 dated _____, 2018 (together with any amendment, modification, extension, renewal, replacement or restatement thereof, the "**Building Note No. 1**"). Building Loan No. 2 is evidenced by that certain Revolving Promissory Note from the Borrower to Premier in the original principal amount of \$1,015,000.00 dated _____, 2018 (together with any amendment, modification, extension, renewal, replacement or restatement thereof, the "**Building Note No. 2**").
- E. The Borrower's obligations under the Land Loan Agreement and the Land Note are secured in part by that certain Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from the Borrower, as mortgagor, to Premier, as mortgagee, dated _____, 2018 and to be recorded in the Office of the Registrar of Titles, Hennepin County, Minnesota and the Office of the County Recorder, Hennepin County, Minnesota (together with any amendment, modification, replacement, or restatement thereof, the "**Premier First Mortgage**"), encumbering the Property.
- F. The Borrower's obligations under the Revolving Loan Agreement, Building Note No. 1 and Building Note No. 2 are secured in part by that certain Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from the Borrower, as mortgagor, to Premier, as mortgagee, dated _____, 2018 and to be recorded in the Office of the Registrar of Titles, Hennepin County, Minnesota and the Office of the County Recorder, Hennepin County, Minnesota (together with any amendment, modification, replacement, or restatement thereof, the "**Premier Second Mortgage**"), also encumbering the Property.
- G. In connection with the Land Loan, Building Loan No. 1 and Building Loan No. 2 (collectively the "**Premier Loans**"), the Premier First Mortgage and the Premier Second Mortgage, Premier may file one or more Uniform Commercial Code Financing

Statements naming the Borrower, as debtor and Premier as secured party (whether or not filed, collectively, the "**Premier Financing Statements**").

- H. Premier requires the execution of this Agreement pursuant to the terms and conditions of the Land Loan Agreement, the Land Note, the Revolving Loan Agreement, Building Note No. 1, Building Note No. 2, the Premier First Mortgage, the Premier Second Mortgage, the Premier Financing Statements and the other documents entered into in connection with the Premier Loans (collectively, the "**Premier Loan Documents**").

NOW, THEREFORE, in consideration of the premises and of the sum of One Dollar (\$1.00) each to the other in hand paid, receipt of which is hereby acknowledged, and for other good and valuable consideration, the parties hereto agree as follows:

1. Subordination. The HRA hereby agrees that all of its rights in and to the Property pursuant to the Development Agreement and the Deed, including without limitation, its revesting rights under Article VI of the Development Agreement and the Deed (whether now or hereafter acquired) are and shall be at all times subject, subordinate and inferior to the liens and all of the terms of each of the Premier Loan Documents and all renewals or replacements thereof, including, without limitation, any increase in the amount of the indebtedness secured thereunder, it being the intent of the HRA that the rights, interests and liens of Premier in and to the Property under the Premier Loan Documents shall at all times be prior and superior to all right, title and interest of the HRA in and to the Property as provided in the Development Agreement and the Deed, notwithstanding the order of recording or any other priority requirements which may otherwise exist. The HRA hereby agrees and confirms that all rights of reversion or revesting of the Property to the HRA, as provided in the Development Agreement and/or the Deed are subject to the Premier Loan Documents and that any such revesting of title shall not defeat, render invalid, or limit in any way the liens of the Premier First Mortgage, the Premier Second Mortgage, the Premier Financing Statements, or the rights and remedies of Premier under the Premier Loan Documents. The subordination effected hereby shall extend to any and all advances heretofore or hereafter made pursuant to the terms of the Premier Loan Documents referenced therein. It shall also extend to any amendment, modification, extension, replacement or renewal of the Premier Loan Documents, including, without limitation, those amendments or modifications which increase the principal amount secured by any of the Premier First Mortgage, the Premier Second Mortgage or the other Premier Loan Documents or those amendments or modifications which change payment terms of any of the Premier Loans. The HRA further agrees that Premier may modify or amend the terms and conditions of the Premier Loan Documents without the consent of the HRA. The HRA hereby further agrees to execute and deliver to Premier any such further documents and instruments which may be necessary to subject and subordinate the Development Agreement and the Deed to the Premier Loan Documents and all renewals or replacements thereof. From and after any such time that (a) Premier has acquired the Property by foreclosure of the Premier First Mortgage or the Premier Second Mortgage and all redemption rights available to the Borrower from such foreclosure have expired, or (b) Premier has acquired the Property by deed in lieu of foreclosure, then the rights retained by the HRA under the Development Agreement and the Deed, including without

limitation, any rights of reversion or reversioning in favor of the HRA shall no longer affect the Property, and the HRA agrees upon request of Premier to execute all documents necessary to discharge from the real estate records of the Property the restrictions reserved by the HRA under the Development Agreement and the Deed.

2. Default under Development Agreement. The HRA agrees to provide written notice to Premier of any default by the Borrower under the Development Agreement and agrees that the HRA shall not exercise any of its rights or remedies under the Development Agreement or the Deed so long as Premier is diligently attempting in good faith to perform or secure the Borrower's performance of the terms and conditions of the Development Agreement; provided that unless agreed to in writing by the HRA, any default must be cured by Premier within one hundred eighty (180) days of the date Premier receives notice of such default under the Development Agreement from the HRA. Upon completion of the Minimum Improvements (as defined in the Development Agreement), the HRA shall issue a certificate of completion as contemplated by the Development Agreement, notwithstanding the existence of any default or event of default of the Borrower under the Development Agreement. Nothing contained herein or in the Development Agreement shall be construed to create any obligation of Premier to perform any of the Borrower's obligations under the Development Agreement, or to cure or remedy any default of the Borrower under the Development Agreement.
3. Approval of Plans. The HRA acknowledges and agrees that it has approved the construction plans for the Minimum Improvements as required by Section 4.2 of the Development Agreement.
4. Amendment. The Borrower and the HRA covenant and agree with Premier that they will not amend or modify the terms of the Development Agreement or the Deed, nor shall any such amendment or modification be or become effective, without the prior written consent of Premier, which consent shall not be unreasonably withheld, conditioned or delayed so long as such amendment or modification does not impair Premier's rights under this Agreement.
5. Premier not a Party. The Borrower and the HRA acknowledge and agree that Premier is not a party to the Development Agreement or the Deed and Premier shall not, by executing this Agreement or by exercising its rights and remedies hereunder or under the Premier Loan Documents, incur any obligations of any kind or otherwise be or become liable to the Borrower, the HRA or any other party, whether under the Development Agreement, the Deed or otherwise.
6. No Commitment to Extend Credit. Nothing herein creates, or implies the existence of, any commitment on the part of Premier to extend credit to the HRA.
7. Successors and Assigns. This Agreement is binding not only upon the Borrower, the HRA and Premier, but upon the successors and assigns of each of them, and is enforceable not only by the parties to this Agreement, but also by the successors and

assigns of each of them, including the purchaser of the Property or any part thereof through foreclosure or deed in lieu of foreclosure.

8. Notices. All notices or other communications required, permitted, or desired to be given hereunder shall be in writing sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by hand or reputable overnight courier addressed to the party to be so notified at its address hereinafter set forth (or to such other address as such party may hereafter specify in accordance with the notice provisions of this Section 8):

To Borrower: Edina Flats L. L. C.
 5316 Kellogg Avenue
 Edina, Minnesota 55424
 Attn: President

With a copy to: Chestnut Cambronne PA
 17 Washington Avenue North, Suite 300
 Minneapolis, Minnesota 55401
 Attn: Sarah B. Bennett and Wynn C. Curtiss

To HRA: Edina Housing and Redevelopment Authority
 4801 West 50th Street
 Edina, Minnesota 55424
 Attn: Executive Director

With a copy to: Campbell Knutson PA
 860 Blue Gentian Road, Suite 290
 Eagan, Minnesota 55121
 Attn: Andrea McDowell Poehler

To Premier: Premier Bank Minnesota
 101 East 10th Street
 Hastings, Minnesota 55033
 Attn: Casey O. Regan

With a copy to: Leonard, O'Brien, Spencer, Gale & Sayre, Ltd.
 100 South Fifth Street, Suite 2500
 Minneapolis, Minnesota 55402
 Attn: Peter J. Sajevec, III

9. Miscellaneous. This Agreement may be amended only by an agreement in writing signed by all of the parties hereto. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. The Recitals in this Agreement are true and correct in all respects.

10. Counterparts. This Agreement may be executed in any number of counterparts and by any combination of the parties hereto in separate counterparts, each of which counterparts shall be an original and all of which taken together shall constitute one and the same agreement.

[Remainder of this page intentionally left blank]

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EDINA HOUSING AND
REDEVELOPMENT AUTHORITY

Its: _____

Its:

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____ and _____, the _____ and _____, respectively, 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

[Signature Page to Subordination Agreement]

PREMIER:

PREMIER BANK MINNESOTA

By: _____
Casey O. Regan
Its: President and CEO

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by **Casey O. Regan**, the President and CEO of **Premier Bank Minnesota**, a Minnesota corporation, on behalf of said corporation.

Notary Public

THIS DOCUMENT WAS DRAFTED BY:
Peter J. Sajevic, III, Esq.
Leonard, O'Brien, Spencer, Gale & Sayre, Ltd.
100 South Fifth Street, Suite 2500
Minneapolis, Minnesota 55402
(612) 332-1030

[Signature Page to Subordination Agreement]

EXHIBIT A
LEGAL DESCRIPTION

Lots 8 and 9, Block 21, Fairfax, Hennepin County, Minnesota.

Torrens Property

AND

Lot 6, Block 21, Fairfax, Hennepin County, Minnesota.

Abstract Property.



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

Date: March 15, 2018

Agenda Item #: V.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Scott Neal, Executive Director

Item Activity:

Subject: Edina Affordable Housing Manager Proposal

Action

ACTION REQUESTED:

Review the proposal and consider approving a new fulltime employee completely devoted to affordable housing issues in Edina.

INTRODUCTION:

If the proposal is approved, I believe the City could recruit and select a person to fill this new position by mid-June 2018. This position would help us make meaningful progress on our affordable housing goals very soon thereafter.

The Housing Foundation is supportive of this proposal and voted 5-0 in favor of it.

ATTACHMENTS:

Affordable Housing Manager Proposal
Presentation



Date: March 15, 2018

To: Board of the Edina Housing and Redevelopment Authority

From: Scott Neal, Executive Director

Subject: Edina Affordable Housing Manager Proposal

Information / Background:

In the City's 2017 biennial Quality of Life Survey, residents were asked to write in their own words what they felt was the most serious issue facing Edina. 31% of the comments were related to housing concerns, including tear downs, overdevelopment, affordability, etc. This was the highest ranked serious concern offered by Edina residents in the 2017 survey. The next highest ranked serious concern was traffic and infrastructure at 17%.

We don't need a community survey to tell us that the lack of affordable housing in Edina is a threat to the community's future quality of life. We already know that. I believe it's time that we - the City of Edina and the Edina Housing Foundation – decide to make Edina's most serious issue a more serious organizational priority.

The Foundation and the City have considerable human and fiscal resources that, if properly coordinated and managed, could make considerable progress to solving this issue in Edina. Both the City and the Foundation can look back in time and find past examples of affordable housing success. But, as long as affordable housing is not at the top of someone's day-to-day prioritized work plan, we will not succeed in making sufficient progress in resolving it today.

During the past five years, the City has experienced success in several specified policy areas by pursuing a strategy of identifying a revenue stream from the policy area in question and then using that dedicated revenue stream to employ a dedicated City staff person for whom the specified policy area is their highest, if not only, priority. This strategy has led to success in specific policy areas of economic development, pedestrian and cyclist transportation, conservation and sustainability planning and residential redevelopment management. I believe we should employ this same strategy for affordable housing.

There is an existing agreement between the City and the Foundation that has been in place for over 30 years that describes the terms under which the City provides services to the Foundation. The agreement has enabled the City and the Foundation to maintain a close, positive working relationship over those thirty years; provide significant housing benefits to Edina residents; and, has allowed the Foundation to accomplish its mission without the administrative burdens and costs of having its own employees. I propose the City and the Foundation reaffirm their mutual dedication to the mission of resolving the housing

affordability issue is Edina by doubling down on the strengths of its past relationship by agreeing to the following:

1. The City will hire a new fulltime employee to be completely devoted to affordable housing issues in Edina. The employee will be a division manager level employee within the City's organizational hierarchy and report directly to the Community Development Director.
2. The new employee will serve as lead City staff member for the Foundation and will coordinate all City support services to and for the Foundation, including administrative and fiscal management services.
3. The Foundation will provide fiscal support to the City for this new position that will phase out as the City has time to establish new revenue stream(s) to support the new position into the future.
4. The City will designate the Foundation to act as the official policy advisory body to the City Council/Housing & Redevelopment Authority for all housing related issues in the City. The Council/HRA will meet jointly with the Foundation on a quarterly basis to facilitate the relationship and mission.
5. The Foundation and the City will agree to jointly create, adopt and implement a community housing strategy.

I envision the essential duties of the new employee position as follows:

- Serve as the primary housing policy advisor to the City Council/HRA and Housing Foundation
- Facilitate all City staff services to the Housing Foundation
- Represent the City to federal, state, regional and county government on housing related issues
- Represent the City to builders, developers, lenders, NGOs and other housing sector organizations
- Monitor state and federal affordable housing legislation
- Manage the City's affordable housing administrative, contractual and compliance obligations and responsibilities
- Manage the City's Affordable Housing Fund, Southdale II TIF District and future Affordable Housing TIF Districts

I'm thinking the minimum desired qualifications:

- Bachelor's degree or higher; ability read, write, talk, etc.
- Experience with the creation of affordable housing
- Public engagement and speaking experience
- Previous experience with LIHTC, TIF and other affordable housing finance tools
- Legislative or policy development experience
- Demonstrated knowledge and understanding of the housing sector

The financial pro forma of this proposal looks like this:

Proposed Budget

- | | |
|-------------------|-----------|
| • Personnel Costs | \$119,400 |
| • Operating costs | \$20,000 |
| • Capital Setup | \$ 8,000 |
| • Other | \$ 2,000 |

TOTAL	\$149,400
-------	-----------

*For the purposes of this proposal, I applied an annual cost inflator of 4% to each year going forward. To create this new position and to make meaningful, persistent progress toward our affordable housing goals, the City will need the financial support of the Housing Foundation. The City's budget position for 2018 and 2019 does not allow for the City to unilaterally fund this position. However, the City could phase in its fiscal support over a five-year time frame. If we, City and HF, want to get started on this new affordable housing initiative right now, I propose the following cost sharing formula:

Year	Budget	Cost Share	HF	City
2018	149,400	90/10	134,000	14,940
2019	155,376	80/20	124,300	31,075
2020	161,591	50/50	80,795	80,795
2021	168,054	50/50	84,027	84,027
2022	174,776	20/80	34,995	139,920
2023>	181,767	10/90	18,176	163,590
			476,693	514,347


The proposed cost share over five-year introductory period is 48% HF and 52% City. The cost sharing proposal recognizes that the City needs HF's help in 2018 and 2019 because our budget is set for those two years, but reflects the fact that the City can plan to absorb a larger share of the costs in 2020, 2021 and beyond.



The CITY of
EDINA

Affordable Housing Manager Proposal

March 15, 2018




The CITY of
EDINA

Affordable Housing: What Is The Problem?

- Lack of Supply
- Vulnerability of NOAH
- Community Defined Problem
- Community Asking for Solution

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Affordable Housing: Defining The Problem

- High Land Costs
- High MSFH Values
- Increasing Rents
- Profit Potential

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The CITY of
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Affordable Housing: Identifying Our Assets

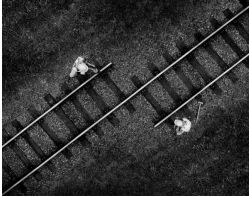
- Edina Housing Foundation
- HRA
- Community Support
- Resources

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Our Problem Is Alignment



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5

Affordable Housing: Aligning Our Resources



The CITY of
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- New Fulltime Employee
- HRA-HF Partnership
- Activate Resources
- Activate Community

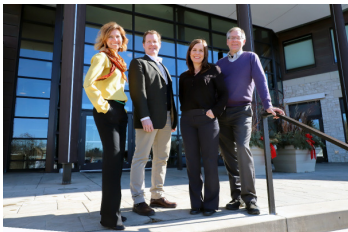
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6

Best Predictor of Future Success...



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7

Next Steps



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- HRA Endorsement
- Amendment Four
- Formal Approval by HF and City Council
- Organizational Ramp-Up
- Hire

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The CITY of
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Discussion



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4801 West 50th Street
Edina, MN 55424
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Date: March 15, 2018

Agenda Item #: V.B.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Scott Neal, Executive Director

Item Activity:
Action

Subject: Edina Affordable Housing Policy Amendment
Proposal

ACTION REQUESTED:
No action, discussion only.

INTRODUCTION:
See attached staff report.

ATTACHMENTS:

Edina Affordable Housing Policy Amendment Proposal



Date: March 15, 2018

To: Board of the Edina Housing and Redevelopment Authority

From: Scott Neal, Executive Director

Subject: Edina Affordable Housing Policy Amendment Proposal

Information / Background:

The City's affordable housing policy includes a provision that allows housing developers to pay a cash payment to the City in lieu of providing affordable housing units, or a "Buy-In". At the moment, the Buy-In amount was intentionally left vague in the policy to allow the City and housing developers to be more creative in finding solutions to the City's affordable housing needs.

City staff who are directly involved in discussions around the issue of the Buy-In have reached a consensus that leaving the amount of the Buy-In undefined in the affordable housing policy has not led to more creative solutions. Rather, it leads to vague and unproductive discussions and, ultimately, to the decision being left to the political sphere on a case by case basis.

City staff propose the City Council/HRA amend the Affordable Housing Policy by requiring the Council to establish an official Buy-In each year at the Council's second meeting in January. The Buy-In would be based on advice from Housing Foundation, staff, and market conditions.

As a start, staff recommend that Council establish an initial Buy-In of \$100,000 at the Council's March 15, 2018 meeting. Further, staff also recommends the following be added to the policy:

1. A housing developer's affordable housing obligation (AHO) remains at a minimum of 10% of the total units proposed for developments exceeding 20 units. The Total Buy-In (TBI) is the product of the developer's affordable housing obligation multiplied by the Buy-In.
2. The TBI is due in cash or certified funds in full to the City at the time of the issuance of the building permit. A building permit will not be issued unless the TBI is paid in full.
3. The City Council may allow housing developer to pre-pay a TBI to satisfy a future AHO, on a case-by-case basis.



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Date: March 15, 2018

Agenda Item #: V.C.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:
Action

Subject: Guidelines for Investing in Affordable Housing

ACTION REQUESTED:

Approve the proposed guidelines.

INTRODUCTION:

This item recommends guidelines for the HRA to use as it considers whether to provide financial support for affordably-priced housing projects in Edina. This topic was discussed at the September 19, 2017 work session. The attached proposal has been prepared by staff based the work session discussion and best practice. Staff recommends that these guidelines be approved.

ATTACHMENTS:

Guidelines for Investing in Affordable Housing



Date: March 15, 2018

To: Board of the Edina Housing and Redevelopment Authority

From: Bill Neuendorf, Economic Development Manager

Subject: Guidelines for Investing in Affordable Housing

Information / Background:

The Housing and Redevelopment Authority (HRA) has a variety of financial resources to advance the goal of delivering more affordably-priced housing in Edina. These resources are derived from three primary sources:

- Southdale 2 TIF District – approximately \$4.1 million to invest prior to December 2019
- New TIF Districts – established on an as-needed basis to achieve community goals
- Contributions from developers held in the Affordable Housing Fund, currently \$1.2 million

The HRA has discretion in how and where these monies are directed. Please note that TIF monies can only be invested within the boundaries of the Southeast Edina Redevelopment Project Area. This includes the entire city except for the far southwestern portion as depicted in the attached map.

The following guidelines are proposed as the HRA determines how these monies are invested.

- 1) Investments should be made in the more intensive zoning districts (commercial, mixed-use, etc) and not in zones guided for single-family or two-family housing:
 - a. Multi-family housing is preferred to create or retain more units
 - b. Preferred districts include: Greater Southdale, Grandview, 50th & France, 44th & France Pentagon Park and 70th & Cahill.
 - c. Over time, investments should be made to projects located in each of the city's four quadrants; concentration of affordably-priced units should be avoided.
 - d. Preferred sites should include convenient access to mass transit and employment opportunities.
- 2) Investment should support more than one project, preferably 2 or 3 different projects prior to December 2019.

- 3) The term of affordability should be as long as possible. 15-years is the minimum term but 40 years to permanent is preferred.
- 4) Affordable units should be delivered at a variety of price points and in a variety of sizes - from studio to 3-bedrooms. The target population should have no restrictions – from singles to families to seniors.
- 5) HRA/TIF monies should be used to leverage support from non-HRA resources including: private philanthropy, Edina Housing Foundation, Hennepin County, Metropolitan Council, State of Minnesota and other resources.
- 6) Investments using incremental taxes generated from within new TIF Districts should take the form of pay-as-you go notes in accordance with Edina's TIF policy.
- 7) Investments using pooled funds from TIF Districts should take the form of loans, if possible so that the monies can be replenished to support additional projects in the future.
- 8) Investments could take many forms including:
 - a. acquisition of land
 - b. acquisition of naturally-occurring multi-family affordable housing
 - c. direct financial support of developments that have at least 10 percent of the units affordably-priced (Affordable Housing Fund only)
 - d. direct financial support of developments that have at least 20 percent of the units affordably-priced (TIF monies only)
- 9) Investment decisions should occur on a case-by-case basis with the goal of maximizing the number and type of affordably-priced units created or retained.



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4801 West 50th Street
Edina, MN 55424
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Date: March 15, 2018

Agenda Item #: V.D.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:
Action

Subject: Amendment to Preliminary Development Agreement:
5146 Eden Avenue

ACTION REQUESTED:

Approve the amendment to the Preliminary Development Agreement and authorize staff to implement.

INTRODUCTION:

This item pertains to a redevelopment study for vacant land owned by the HRA.

ATTACHMENTS:

Amendment to 5146 PDA: Staff Report
5146 Eden - amended PDA



Date: March 15, 2018

To: Board of the Edina Housing and Redevelopment Authority

From: Bill Neuendorf, Economic Development Manager

Subject: Amendment to Preliminary Development Agreement: 5146 Eden Avenue

Information / Background:

In December 2017, the Edina Housing and Redevelopment Authority (HRA) entered into a Preliminary Development Agreement (PDA) with Frauenshuh Inc. to explore a mixed-use redevelopment of the City's former Public Works site located at 5146 Eden Avenue. Frauenshuh was engaged after the HRA conducted a competitive selection process in 2014.

Based on a review of the past community input, the preferred elements on the 3.3 acre site include a combination of indoor and outdoor public facilities such as a new Art Center and Marketplace, market-rate housing, affordably-priced housing and a shared parking facility with the potential to serve as a park-and-ride.

The scope of the PDA is rooted in the community input collected over the past ten years. While different stakeholders have different preferences for the vacant site, the PDA explores a combination of public and private uses that work synergistically together. A residential tower with a small footprint is included so that more of the site can be devoted to public uses.

The developer and City staff determined that additional time is needed to fully explore the financial feasibility of the mixed-use concept that includes the preferred public and private elements.

Some of the initial assumptions for site development have resulted in a gap in the financial pro forma that cannot be bridged without changes. The concept needs to be re-scoped so that the public and private portions of the project are feasible. The developer proposes to further study a slightly revised concept that includes:

- Redesign of underground parking that serves the residential tower
- Shared use of the public ramp so that some stalls are available to tower residents in the nighttime and available to general public in the daytime
- Re-sizing of the civic building to focus on the Art Center only

- Re-sizing of the public ramp to reduce costs
- Elimination of commuter parking due to lack of Metro Transit funding
- Deferred construction of vehicle bridge over the train tracks with a single pedestrian bridge included as part of this project
- City ownership of civic building (e.g. Art Center) instead of lease to purchase
- Developer ownership of residential tower and artist lofts
- Joint ownership of public ramp and rooftop green space using a condominium-like arrangement
- Land entitlement as a single development with one architect and one contractor
- Market rate tower stands on its own financially with land value and incremental taxes used to reduce the debt associated with the civic building, public parking structure and/or environmental remediation

The City Attorney has prepared an Amendment to the Preliminary Development Agreement to address these recommendations and to clarify the terms of reimbursement in case the HRA chooses not to move forward with a full Development Agreement.

Based on the revised approach, staff recommends the following actions:

- 1) Extend the time limit for the HRA to make a “go” or “no-go” decision from February 28 to April 30:
 - a. If the HRA does not proceed with the project by April 30, the HRA will reimburse Frauenshuh for approximately 50 percent of the predevelopment costs.
 - b. If the HRA gives the go-ahead by April 30, a full Development Agreement will be prepared and the predevelopment costs will be allocated to the respective public and private elements. There are several tasks (identified in Exhibit B Phase 2) that will require clarification and scheduling.
 - c. If a full Development Agreement is not approved post April 30, the HRA will reimburse Frauenshuh for 100 percent of the predevelopment costs.
- 2) HRA to apply for modifications to the City’s Comprehensive Plan to allow high rise tower construction on 1-acre of the site:
 - a. This modification process should begin immediately so that the Metropolitan Council’s June 30, 2018 deadline can be satisfied.
 - b. A formal rezoning and site plan approval would be pursued jointly with the developer later in the year.

###

AMENDMENT TO PRELIMINARY DEVELOPMENT AGREEMENT

THIS AMENDMENT TO PRELIMINARY DEVELOPMENT AGREEMENT

("Amendment") is dated as of _____, 2018, by and between Edina Housing and Redevelopment Authority, a public body corporate and politic under the laws of the State of Minnesota (the "Authority") and Frauenshuh, Inc., a Minnesota corporation (the "Developer").

RECITALS

WHEREAS, the Authority and Developer entered into a Preliminary Development Agreement dated December 11, 2017 ("Agreement"), for the preliminary work and review of development issues in advance of development of the Property and potential sale of portions of the Property identified in the Agreement;

WHEREAS, Developer has requested an amendment of certain time-frames identified in the Agreement;

WHEREAS, the Authority is agreeable to the amendment to time-frames as provided in this Amendment, provided certain payment terms are also modified;

NOW, THEREFORE, in consideration of the covenants and undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Authority and Developer agree as follows:

1. ACKNOWLEDGMENT – PHASE I; SKETCH PLAN REVIEW.

Developer and Authority acknowledge and agree that Developer has complied with the timelines and deliverables for Phase I and that Phase I is complete.

2. AMENDMENT TO PARAGRAPH 1(e) OF THE AGREEMENT.

Paragraph 1, subsection (e) of the Agreement is amended to read as follows:

(e) Developer and Authority shall determine whether the Required Uses and Preferred Uses can be accommodated on the Property in a manner that is consistent with the Guiding Principles by April 30, 2018, or such later date as agreed to by the parties. If the Required Uses cannot be accommodated as provided herein, no further work will be done pursuant to this Agreement after the date of such determination and this Agreement shall terminate, unless otherwise approved by the parties. The Authority will reimburse Developer for only the actual costs incurred by Developer allocated to the Authority reimbursement as identified in Exhibit C.

3. AMENDMENT TO PARAGRAPH 1(h) OF THE AGREEMENT.

Paragraph 1, subsection (h) of the Agreement is amended to read as follows:

4. **AMENDMENT TO PARAGRAPH I OF THE AGREEMENT.** Paragraph I is amended to add a new subsection (k) to read as follows:

(k) On or before April 30, 2018, or such other date agreed to by the parties pursuant to Paragraph I(e), the Parties shall amend Exhibit B of this Agreement to provide appropriate dates for completion of the deliverables in Phase II.

5. **AMENDMENT TO EXHIBIT B OF THE AGREEMENT.** Exhibit B of the Agreement as amended is attached hereto.

6. **AMENDMENT TO EXHIBIT C OF THE AGREEMENT.** Exhibit C of the Agreement as amended is attached hereto.

7. **FULL FORCE AND EFFECT.** Except as provided in this Amendment, all terms and provisions of the Agreement shall remain in full force and effect.

8. **AMENDMENT TO PARAGRAPH I OF THE AGREEMENT.** Paragraph I is amended to add a new subsection (l) to read as follows:

(l) HRA will use good faith efforts to sponsor an amendment to the comprehensive plan regarding height limits on the site by the June 30, 2018 deadline.

IN WITNESS WHEREOF, the City and Authority have caused this Agreement to be duly executed in their name and behalf and their seal to be duly affixed hereto and the Developer has caused this Agreement to be duly executed as of the date and year first above written.

FRAUENSHUH, INC.:

By: _____

Its: _____

**EDINA HOUSING AND
REDEVELOPMENT AUTHORITY:**

By: _____
James B. Hovland, Its Chair

And By: _____
Robert J. Stewart, Its Secretary

Exhibit B

Grandview- Former Public Works Site Preliminary Development Agreement 2017/2018 Schedule & Process Edina Housing and Redevelopment Authority and Frauenshuh

Phase I – Sketch Plan

- December 11 (week of): Organizational Meeting/Workshop with City staff and Developer's team, including Developer's architectural, civil and landscape consultants.
- December 11th or 18th (week of): Workshop with City Staff and Developer's team.
- January 8th (week of): Developer presentation of first draft of Sketch Plan to Joint workshop with Parks & Rec Board and Arts & Culture Commission representatives.
- January 10th: Developer submission of Sketch Plan Application.
Developer submission of preliminary market study concerning private development and the Preferred Use
- January 24th: Planning Commission; Sketch Plan review.
- January 24th (week of): Developer schedule and participate in neighborhood meeting concerning draft Sketch Plan.
- February 7th: City Council; Sketch Plan review.

Phase II – Contract for Private Redevelopment and Necessary Land Use Approval

- DATE TBD: Developer completion of traffic study
- DATE TBD: Developer application for Tax Increment Financing, Developer Submission of Development Payment Agreement; Developer application for preliminary zoning approval and any necessary comprehensive plan amendments required for development.
- DATE TBD: Developer, Authority and City negotiation of Contract for Private Redevelopment and Tax Increment Financing Agreement.
- Date TBD: City to develop a business plan/strategy for the new finished building for the Edina Civic Center

- DATE TBD: Planning Commission review of preliminary zoning and comprehensive plan application.
- DATE TBD: Contract for Private Redevelopment and Tax Increment Financing Agreement submitted to the Authority and City Council together with final approval of any Comprehensive Plan Approvals necessary for development and preliminary zoning approval.

**Pre-Development Budget
Preliminary Development Agreement
Grandview**

Project Activity		Project Cost*	Cost Allocation		
			Frauenshuh Portion Expense During PDA	City Portion Expense During PDA	City to Reimburse - PDA Termination or Expiration
Architectural					
	Sketch Plan - Architect	\$ 39,500			
	Res. Tower		\$ 13,167		
	District Parking/Community Space		\$ 13,167		\$ 13,167
	Art Center		\$ 13,167		\$ 13,167
Civil/LA					
	Sketch Plan - Civil/Landscape Consultants	\$ 17,500			
	Res. Tower		\$ 5,833		
	District Parking/Community Space		\$ 5,833		\$ 5,833
	Art Center		\$ 5,833		\$ 5,833
Site Evaluation					
	Preliminary Soil & Environmental	\$ 30,000		\$ 30,000	
	High level traffic	\$ 5,000	\$ 5,000		\$ 2,500
	Preferred Use Market Study	\$ 5,000		\$ 5,000	
	Preliminary Res. Market Study	\$ 5,000	\$ 5,000		\$ 2,500
Financial and Legal					
	TIF Analysis	\$ 2,500	\$ 2,500		
	Legal - TIF	\$ 5,000	\$ 5,000		
	Legal - Real Estate, General	\$ 7,500		\$ 7,500	
	Authority - PDA	\$ 30,000		\$ 30,000	
	Frauenshuh - PDA Development	\$ 60,000	\$ 60,000		\$ 30,000
	Legal	\$ 5,000	\$ 5,000		\$ 2,500
		\$ 212,000	\$ 139,500	\$ 72,500	\$ 75,500

*If the Project proceeds with Frauenshuh as master developer, the costs above will be incorporated as project costs allocated to each phase on a prorated basis. Adjustments to be made at closing.

If the PDA is terminated by April 30th or at such a later date as agreed to by both parties, the Authority's reimbursement obligation is detailed in the above column "City to Reimburse PDA Termination or Expiration". If the PDA is terminated after April 30th or at such a later date as agreed to by both parties, the Authority's reimbursement obligation is detailed in the above column "Frauenshuh Portion Expense During PDA".



Edina Housing and Redevelopment
Authority
Established 1974

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

Date: March 15, 2018

Agenda Item #: VI.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Other

From: Sharon Allison, Executive Assistant

Item Activity:
Information

Subject: Correspondence

ACTION REQUESTED:

INTRODUCTION:

Attached is correspondence received since the last meeting.

ATTACHMENTS:

Correspondence



City of Edina Correspondence Submission

Correspondence Selection Mayor & City Council

Data Practices Advisory:

Any information submitted through this form will be emailed to all City Council Members and submitted for inclusion in the next public "Council packet." Council packets are permanent records of materials prepared for City Council meetings. Council packets are public documents that are available in print, published on the City's website and maintained in permanent electronic records.

You are not required to complete any fields of this form. However, if you do not provide your name and street or email address, your comments will not be included in the Council packet.

Open Meeting Law

City Council Members receive and consider all feedback sent through this form. Because of the open meeting law, Council Members cannot engage in back-and-forth emails involving a quorum of three or more members. For that reason, you might not receive a response from them. You might also receive a response from a City staff member.

Email City Council:

If you only want to email the City Council and not send your comments for publishing, contact members at CityCouncil@EdinaMN.gov. Contact Executive Assistant Sharon Allison, at SAllison@EdinaMN.gov, if you have any questions or require assistance.

Council Packet Deadline

Correspondence must be received by noon the Thursday prior to a City Council meeting in order to ensure it is published in the packet prior to the Council meeting. Submissions after that time may be included in a future Council packet.

Name * Jennifer Janovy

Street Address

City

State

Zip Code

Phone Number no dashes or spaces

Email jjanovy@outlook.com

Comments * Please see attached.

File Upload Attachments allowed: pdf, jpg, png
Janovy Correspondence March 10 2018.pdf

36.33KB

By submitting this form, I have read and agree to the Data Practices Advisory above.

3/10/2018

Dear City Council/HRA Board,

Last month, I wrote to you about the attitudes and reflexive beliefs that can get in the way of accurately seeing, hearing and understanding residents' perspectives. As with my January email to you, I asked for a response. Thank you to Council member Stewart for his reply.

In a city of around 52,000 residents, it seems safe to say that most have little reason to engage with their City government. Some who do engage may not have a clear idea how the City works. There are common misconceptions, such as the City and school district are one; the City collects sales tax at the liquor stores; the mayor has significantly more authority than other Council members; and the City Council must abide by the comp plan, City policies, and City code.

The last misconception can be especially vexing for residents who rely on officials to adhere to City plans, policies and ordinances without what can look like convenient interpretation or complete dismissal.

The rules applying to who must follow City code can be uneven. On the one hand, if a resident fails to follow City code—for example, parks for more than six hours on a City street—they may be penalized. But if the Council fails to follow City code in some aspect of its decision making, or fails to direct enforcement of City code, the City Council applies no penalty to its conduct.

“The Council doesn’t follow the comp plan.”

“The Council doesn’t follow City code.”

“The City manager doesn’t enforce City code.”

These and similar statements have been expressed many times over the years, especially related to development and the impacts of residential construction. I have seen residents band together to try to persuade the Council to follow the comp plan and City code. I have seen residents get angry, harbor resentments, give up. In a handful of cases, I have seen them appeal to state agencies or the courts. The unfortunate truth is that the City Council largely can do as it chooses to, regardless of the plans and policies it has adopted.

That is a hard thing for residents who trust in the authority of these documents to believe, and even harder to accept. Often, they entreat:

“The comp plan says....”

“The zoning code says....”

“The policy says....”

“Yes, but,” the Council can seem to say back, “We have flexibility and discretion in decision making, and while the words and illustrations in these documents do bear on our decisions, we can exercise flexibility and discretion as we think best.”

If flexibility and discretion guide the applicability of plans, policies, and ordinances (and not the other way around), then what guides the applicability of flexibility and discretion?

In my last email, I asked whether the Council attends to its own culture and operations and suggested that some self-reflection and sharpening of Council policies would be helpful.

What does it mean to attend to Council culture and operations? Consider:

- Is there an ethics policy and a culture of adherence?
- Is there a City Council policy manual? Is it complete, organized, and current? Is there a schedule for policy review and updates?
- Do City Council/HRA board members receive ongoing/repeat training?
- Does the City Council seek review of its own performance? Does it set goals for improvement that Council members and the Council as a whole are accountable to?
- Does the Council have a mission statement, expressing the values that it embodies?

Flexibility and discretion need guiding stars: strong character, preparedness, and deference to common standards (i.e., adopted plans, policies, written procedures, ordinances).

Perhaps a village council could put discretion and flexibility at the apex of its decision making, but Edina is a city of around 52,000 residents whose diverse interests and perspectives demand that our Council function with greater objectivity, reliability and accountability.

Please let me know your thoughts. Thanks for reading and, as always, my sincere thank you for your service to our community.

Jennifer Janovy
Edina